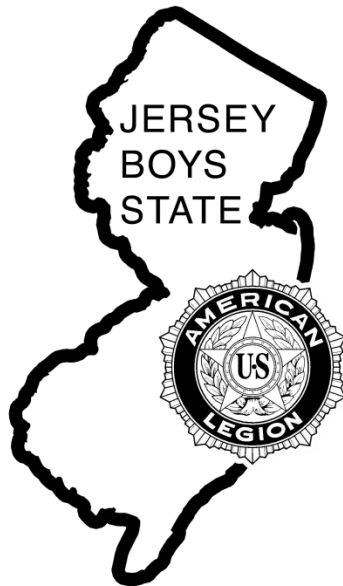


# THE GOVERNMENT OF NEW JERSEY

A Handbook Prepared for and by

## AMERICAN LEGION JERSEY BOYS STATE

“A Week That Shapes the Future”



[www.aljbs.org](http://www.aljbs.org) [www.boysstate.com](http://www.boysstate.com)

Sponsored by  
**THE AMERICAN LEGION DEPARTMENT OF NEW JERSEY**

Proudly established in 1946

“If Men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.

In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and the next place, oblige it to control itself.”

James Madison  
Statesman, Diplomat, Founding Father,  
and 4th President of the United States

# AMERICAN LEGION JERSEY BOYS STATE

## FOREWORD

Congratulations on becoming a statesman at American Legion Jersey Boys State (ALJBS), a week that we know will shape your future. In participating fully in this program, you are commencing your preparation for civic leadership in New Jersey and the country.

The contents of this Handbook, which sets forth the essentials of our form of government (Local, County, and State), will act as a guide as you embark on this adventure. Obviously, this work is of importance to you for there exists no higher vocation or calling than that of a leader of one's fellow citizens.

Moreover, it is important to your country, because there is nothing more vital to the United States of America than to maintain a government "of the People, by the People and for the People." Only if that is the case will our government reach the ideal envisioned by our founding fathers. Only if our citizens take an active and intelligent interest in their government, and rule themselves through their duly elected representatives will we have a true American form of government, a government recognized for the past two and a half centuries as a world leader for democracy and humanitarianism. We must strive to continue this tradition..

In view of the importance to yourself and to our state and nation of you becoming an active, intelligent leader, this Handbook is dedicated to you, the Boys Statesmen, and to the American Legion, which has made Boys State a reality throughout our land.

The Staff, Officers, and Trustees of American Legion Jersey Boys State want to thank the many members of our Staff who have throughout the years dedicated their time and effort to educating the youth of New Jersey by maintaining this Handbook.

David S. Bagatelle  
Executive Director,  
American Legion Jersey Boys State

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## DEDICATION

The first Director of ALJBS was Harold A. Eaton. Mr. Eaton (known as “Chief” to everyone ever connected with ALJBS) was born in Oswego, New York on June 1, 1899. He married Lillian McFadden in 1922. He and Lillian had two children (Harold, Jr. and Constance), five grandchildren, and three great grandchildren.

He attended New York State University and Rutgers University.

He taught in both Irvington and at Hastings-on-the-Hudson in New York, and was the Director of the Bonnie Brea School from 1927 to 1929. He taught at the Oranges and at Morristown High Schools from 1930 to 1952. While at Morristown, he coached basketball and served as Vice-Principal. He served as Dean of Admissions at Rutgers University in Camden from 1952 to 1963.

His scouting activities included serving as Scoutmaster of Troop No. 50 and Troop No. 20 -- which set world records in the Obstacle Course while he was its Scoutmaster. He served as President of the Morris-Sussex Boy Scout Council. He was a Commissioner for the Boy Scouts of America. He served on the National Executive Board of the Boy Scouts of America. He received the Silver Beaver and the Silver Antelope awards.

He was a member of the Exchange Club of Morristown and its President for two years. He was a member of the Lions Club in Riverton, New Jersey and in Dunedin, Florida. He was selected “Man of the Year” in 1959 by the Riverton Lions Club. He was a Director of Camp Kill Kare in the State of Vermont. He was honored by the State of Kentucky and given the title of “Kentucky Colonel.”

His American Legion activities included membership in Post 59 in Morristown, New Jersey wherein he was elected Post Commander in 1945. He was honored by Post 59 with a Life Membership. He was also honored as “Veteran of the Year” in 1980 by the Morristown Township Memorial and Veteran’s Day Association.

Chief Eaton was appointed the first Director of ALJBS in 1946 and served as the Director through 1984. During his Directorship, more than 25,000 young men of New Jersey attended ALJBS. Under his Directorship, ALJBS grew into one of the finest Boys State programs in the Nation.

Chief Eaton was also instrumental in founding Boys Nation (indeed, he is known as the “Dean” of American Legion Boys Nation), and served as its Director from 1946 through 1970.

Chief Eaton died on November 4, 1984.

This edition of the American Legion Jersey Boys State Handbook is dedicated to the memory of our dear “Chief” and to the members of the American Legion Department of New Jersey and the hundreds of dedicated men and women who have served on the ALJBS Staff since the inception of this outstanding program.

### ALJBS Directors

| <u>Name</u>         | <u>Tenure</u>  |
|---------------------|----------------|
| Harold A. Eaton     | 1946 - 1984    |
| Stanley McGraw, Jr. | 1985 - 1986    |
| Kenneth Groome      | 1987 - 1988    |
| W. Robert Bohn      | 1989 - 1990    |
| William T. Wilkins  | 1991 - 2005    |
| David S. Bagatelle  | 2006 - Present |

# INTRODUCTION TO BOYS STATE

## **What is Boys State?**

Today, the American Legion Boys State is one of America's most prestigious and respected government educational programs for American high school students. It is a week-long citizenship training program which addresses such areas as Americanism, patriotism, and the responsibilities of citizenship through involvement in the electoral process. Boys State is sponsored by the National Americanism Commission of The American Legion national organization.

The genesis of the American Legion Boys State program can be found in the depths of the Great Depression. With the deepening despair triggered by the stock market crash in October 1929, and the ensuing employment, financial, and social problems, many Americans began questioning the very democracy under which they lived. Some Americans were becoming "hungry" for a better, more prosperous way of life. In answer to their needs, a number of fascist and socialist organizations mushroomed including The American Nazi Party (a fascist organization) and a socialist organization known as the Communist International (COMINTERN) which established the American Communist Party exploited this weakening loyalty by promising better, more equitable, social, and financial systems. Consequently, each of these organizations saw an opportunity to, perhaps, reach their goals of gaining a foothold in American politics by indoctrinating American young people through their various youth programs.

The national program in the United States known as Boys State is a program of citizenship training sponsored by the National Americanism Commission of The American Legion. The creation of the concept of the Boys State program is credited to Professor Hayes Kennedy who, in 1935, taught at the Loyola University School of Law in Chicago and was the Americanism Chairman of the Illinois Department of the American Legion.

Professor Kennedy was concerned with the growing "Young Pioneer Camps," which were sponsored by the Communist Party to show young Americans the uselessness of democracy and advocated the virtues of the communist system. Professor Kennedy felt that a counter movement should be mounted among the ranks of the nation's youth to stress the importance and value of our democratic form of government and maintain an effort to preserve it.

The Illinois Department of the American Legion approved Professor Kennedy's suggestion for such a program. In June 1935, the very first "Boys State" in the nation was held in the State of Illinois. From that beginning, the program swiftly spread among other American Legion Departments. By 1941, 34 states were conducting a Boys State program. Today, The American Legion conducts a Boys State program in 49 states and the District of Columbia. Hawaii is the only state that does not have a Boys State program.

## **The History of the American Legion Jersey Boys State**

Boys State came to New Jersey in 1946 thanks to Harry Groome who learned about the program at a national convention in 1945. From the beginning of Jersey Boys State, Harold "Chief" Eaton was the Director until his death in 1984. Under Chief Eaton's direction, Jersey Boys State developed into one of the preeminent Boys State programs in the country. Our format has been copied by many other states.

ALJBS has evolved in many ways since its first session in June of 1946. It was first held at Douglass College with only 250 delegates. When ALJBS was expanded due to more New Jersey American Legion posts agreeing to sponsor delegates, the annual session moved to Rutgers University. Rutgers offered many upgraded facilities such as multiple high-rise dorms, more classrooms and lecture halls, and athletic fields. Located in the center of New Brunswick, Rutgers offered some unique problems. Many of the facilities were located across a four-lane

highway from the dorms. All of the delegates had to line up in their cities on the sidewalks, the police stopped traffic, and all of the delegates crossed at one time. This was done multiple times each day.

After the completion of the 1968 session, Rutgers University said they no longer wanted to host ALJBS due to the protests taking place around the country concerning the Viet Nam war. After an extensive search for a new location, Rider University was selected. Rider offered many advantages over Rutgers and Rider wanted ALJBS to be on their campus. Rider is a suburban campus that is self-contained and its dorms are better suited for each city because a city can be contained in one wing of a building. Thus, an entire city can meet in the dorm. The facilities are newer and the University is continually expanding and updating their facilities.

The move to Rider allowed ALJBS to increase the number of delegates, the number of cities, the number and variety of seminars, and made it easier for delegates and staff to move around the campus more freely and safely. Rider's proximity to Trenton affords other opportunities like allowing the ALJBS Legislature to visit the New Jersey State House as well as making it easier for state government officials to participate during our sessions without a major disruption to their schedule.

ALJBS has encouraged almost sixty thousand (60,000) delegates to learn about the workings of all levels of government through the dedication of the American Legion and scores of volunteer staff over the years. ALJBS has been and will continue to be a highly significant education program. Through this dedication, participation in ALJBS has been accepted at many New Jersey colleges and universities as a college credit earning course.

### **The Principles of Jersey Boys State**

ALJBS is *not* a recreational camp. Only boys with outstanding qualifications in character and leadership are selected. Consequently, it is assumed that all boys who are accepted and report for the annual session will give their wholehearted cooperation and support to the program of instruction and functional citizenship made available to them. The civic and fraternal organizations as well as the Legion Posts which sponsor our boys do so with the expectation that those who accept ALJBS citizenship will fully participate in the program. It is a hope of the American Legion that, once you complete the ALJBS program, you will continue to be an involved citizen within your community, state, and nation.

The American Legion Jersey Boys State (ALJBS) educates our youth in the duties, privileges, rights and responsibilities of American citizenship. The program endeavors to provide a foundation for understanding self-government, a rational approach toward the solution of public questions, and a live faith in the ideals and processes of democracy. The program of training and instruction consists of extending the boy-citizen's acquaintance with the background of American ideals, expanding his knowledge of the underlying principles of government organization, and helps him to set up constructive ideals toward all phases of representative government by actively participating in the ALJBS government.

The ALJBS program is delivered through a series of seminars, functional activities, and general assemblies. Seminars are held in general subjects such as government, law enforcement, leadership, and legislative and election procedures. At the heart of the instructional program is the functional activity of citizenship practice, such as the operations of the courts, legislative assemblies, administration of law enforcement, public welfare, etc. These activities represent a significant portion of the time allotted for instructional purposes and constitute the chief means through which citizens "learn to do by doing." From the first day and throughout the program, general assemblies of all citizens are held. These assemblies provide the citizen lectures on subjects which are pertinent to the program. The timetable for all of these activities is found in the daily schedule.

As much as possible, the form and mechanics of ALJBS are patterned after the established agencies of the city, county, and state governments found in the State of New Jersey, although there are some procedures and policies found only at ALJBS. For all practical purposes, the "state" formed at ALJBS may be regarded as a mythical

fifty-first state with a constitution, a body of laws, and practices peculiar to it alone. ALJBS provides a complete program of educational and recreational activity. A newspaper is published daily. A concert is performed. A portion of each afternoon is given over to an organized program of intramural sports activities under supervision and opportunities for individual physical training. Finally, outstanding speakers and specialists in various fields help to round out the annual sessions.

ALJBS is a pure democracy. All of its citizens may vote and are eligible to hold office. Its government is operated "of, by, and for the people." It aims at all times to make its program of training in functional citizenship effective by creating a wide range of opportunities for participation by its citizens in all phases of governmental operation. The goal of the program is to teach functional citizenship by creating a wide range of opportunities for citizens at all levels of government. How much each citizen gets from the program is limited only by his attitude and willingness to participate in the wide range of opportunities made available at ALJBS. From the point of view of the young citizen, the success of the week's work will be determined very largely by the boy himself and his level of immersion in the program.

If our form of government is to continue to best serve our people, it is necessary for our citizens to look to its origins, understand its operation, appreciate the opportunities it offers, and understand our individual and collective obligations to it.

Since its inception, ALJBS has had a positive effect on the young men who have participated. In ALJBS, good citizenship necessitates participation, loyalty, good sportsmanship, cooperation, dependability, responsiveness, good sportsmanship, and a keen interest in the week's activities.

Most citizens attend ALJBS at no cost to him or his family through a sponsoring organization. The vast majority of sponsoring organizations are American Legion who subsidize ALJBS tuition through annual fundraising. The tuition covers the cost of food, housing, and other materials for each citizen during the week. There is no cost to the delegate after he arrives at ALJBS except what he might want to spend for personal items. A complete detailed annual report of all income and expenditures is made annually by the Board of Trustees to The American Legion, Department of New Jersey.

# POLITICAL PARTIES

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Outline the functions of a political party
- Describe how each of the Municipal, County, and State party committees structured
- Outline what a party platform is
- Summarize the role of party membership
- Summarize the function of conventions
- Discuss the various ways of financing elections in New Jersey
- Explain the reasons why the voter registration rolls need to be maintained

## POLITICAL PARTIES IN NEW JERSEY

According to [New Jersey election statute NJSA 19:1.1](#), a "Political party" means a party which, at the election held for all of the members of the General Assembly next preceding the holding of any primary election held pursuant to this Title, polled for members of the General Assembly at least 10% of the total vote cast in this State. Only the Democratic and Republican parties in New Jersey meet these statutory requirements. Their nominees are entitled to a party column on the official ballot. It is relatively easy, however, for a candidate of a minor political party, or even an ambitious independent individual, to get their name on the ballot by presenting a petition in keeping with the statutory requirements.

Political parties are the mechanism through which candidates are nominated, elections are conducted, party policies and platforms promulgated, and, most importantly, the instrument through which an orderly change of government following elections is accomplished. These activities happen at the local, county, state, and national levels. Since nominees in the primary election are, for the most part, selected or recommended by political clubs and county committees, the selection of those who make these decisions is extremely important.

Often, one of the keys to winning an election is the work done by the local party and the members of its committee. You believe in the principles of the party, you believe in the qualifications of the party candidates for office, and you believe the party must win the election at the polls. It is with these beliefs you take on the task of representing the party in your district. This is a responsibility that all too frequently is taken lightly, and yet, the local party worker is often one of the major keys to victory.

This is practical politics: the essential business of persuading others that their best interests are aligned with the party. An election campaign is made up of many things, but these are useless without you, the party member, to make personal contacts. The party needs you because YOU are the party.

### **Political Party Structure and Organization**

[NJSA Election statute 19:5.2-4](#) stipulates the rules for determining members of the Municipal, County, and State party committees.

**COUNTY AND MUNICIPAL PARTY COMMITTEES.** Members of the County Party Committee are elected at a specified primary election, usually held on the first Tuesday after the first Monday in June. The County Committee is composed of one male and one female from each district or "unit" of the County. These members must reside in the unit which they represent. The members of the Municipal Party Committee are the members of the County Party Committee that reside in that municipality.

Under state law, the County Committee determines the units into which the county is to be divided for purposes of representation in the County Committee. In general, the election districts within the county are used as a basis of representation; in other words, each election district elects one man and one woman from each party to serve on their respective County Committees. In some counties, the basis may be the municipality. Thus, it is possible for one municipality with a population of 250 and another with a population of 10,000 to have the same representation on the County Committee. Not only may there be variations in the basis of representation from county to county, but there may also be variations within the county between the two parties.

**STATE PARTY COMMITTEE.** Membership on the State Party Committee, like the County Party Committee, is determined through an election. Elections for membership on the State Party Committee occur during the primary election in the same year that the Governor is elected, again usually taking place in June.

State law provides methods by which members of the State Party Committee can be apportioned among the counties in the state, but the Committee may adopt by-laws specifying a different method of apportionment, provided the amendment is adopted by a majority of the members at a duly convened meeting of the Committee with at least 40% of the membership present.

### **Leadership**

State law requires that municipal, county, and state party committees meet, organize, and elect a chairperson and vice-chairperson of the opposite gender at a specified time following the primary election. The law stipulates that the chairperson be "some suitable person." They need not be an elected member of the committee of which they are chairman.

### **Officers and Membership**

**COUNTY CHAIRPERSON.** The annual meeting of the County Committee is held on the first Tuesday following the primary election. At this time, the **members elect a chairperson** for a one-year term "or until his successor is elected." Usually, the post is held by one person for several years, as this is a highly coveted position and once it is achieved, it is not lightly surrendered. The office of the County Chairperson in New Jersey is one of great power for a number of reasons. The **county political organization is the vehicle for nominations** to elected county, state, and congressional offices. The County Committee:

- Collects and provides funds for campaigns
- Organizes and directs campaigns, and
- Staffs the polls with party election board members and party challengers

It works through the Municipal Committees or political clubs (depending on the community), which maintain party cohesion, stimulate registration, get out the vote, and maintain contact with voters.

The county chairperson's most important base of power is their control of patronage. Because of their influence over the selection of candidates for elective office, they are consulted on virtually all appointments of individuals from their county, including those that are made by the Governor with the approval of the Senate. Posts ranging

from state board and commission members and county judges to assistant county attorneys are within the County Chairperson's domain.

County Chairpersons or political leaders are able to use their political influence in other ways. In counties where their authority is entrenched, the County Chairperson—through the use of their power to select candidates for the state Legislature—may in effect dictate legislators' votes on key issues. For example, during the legislative battle over the enactment of a state income tax in 1966, the incumbent Governor, a Democrat, failed to get Democratic county leaders in Hudson and Essex to release "their" legislators to vote as they wished on the bill. None of the legislators dared to defy the county leaders' orders.

**PARTY MEMBERSHIP.** Political party membership in New Jersey operates on two distinct levels. The great majority of people who belong to a party are passive members who declare their affiliation in order to qualify for voting in a primary election. This is the full extent to which most citizens take part in partisan politics.

On the other hand, participation in what has been termed the "gladiatorial activities"—that is, working for a party, joining a political club, and attending political meetings, is engaged in by only two to three percent of all citizens of voting age. It is these few party activists who pick candidates, raise campaign funds, and run the campaigns and the elections.

### **Other Functions of the Political Parties**

**STATE PARTY CONVENTIONS.** According to [NJSA Election statute 19:5-6](#), State Party Conventions are to be held in the years in which all members of the General Assembly are elected. The conventions are called by the State Party Committees and are held in Trenton on the second Tuesday after the primary election. Delegates, according to law, are all party nominees for U.S. Congress and state office, party members who hold such offices, members of the State Committee, members of the National Committee from New Jersey, and the County Chairperson. There are no elected delegates.

Unlike the national party conventions, the only business of the State Conventions is the drafting and adopting of the party platform. A party platform is a set of principles, goals, and strategies designed to address pressing political issues. After the introduction of all proposed planks, the convention adjourns to reconvene in no more than 90 days. In those 3 months, the resolutions committee, having prepared a tentative platform, must hold a minimum of three public hearings throughout the state, with the goal of providing the greatest possible opportunity for people to express their views on the platform. The convention then reassembles at the designated time to vote on the adoption of the platform.

**FINANCING CAMPAIGNS.** Campaign financing at all levels of government is an ever-growing problem owing to steeply rising costs and the increasing use of sophisticated campaign techniques. This is especially so for statewide gubernatorial and congressional candidates who must choose from an increasing set of methods for targeting and reaching potential voters. Both major political parties have made attempts to broaden the base of their financial support by soliciting small contributions from the public, but their efforts have seen mixed success. Most campaign funds are raised by the political organization through solicitation of its membership, elected and appointed public office-holders, persons having government contracts, labor unions, business corporations, and wealthy individuals. New Jersey law forbids campaign contributions by railroads, public utilities, banks, and insurance companies. The high-dollar campaign dinner is a favorite device for raising funds and as a means to grant access to potentially influential political figures.

So great is the need for funds that pressure is frequently put upon the party nominees to make generous contributions, although such pressure is prohibited by law. Candidates may even be selected because they are able to contribute or get others to contribute on their behalf.

A significant amount of campaign contributions comes from special interest groups that form political action committees called "PACs." PACs exist to raise money to influence elections or legislation.

**REPORTING REQUIREMENTS.** As specified in [NJS 19:44A-8](#), it is required that all sources of campaign funds collected by candidates are reported to the New Jersey Election Law Enforcement Commission (ELEC). The campaign treasurer of the political committee reporting is required to certify to the correctness of each report.

More information on the New Jersey ELEC can be found [here](#). In addition, there are many resources available that outline the rules for political contributions, for example this "[Guide to Political Contributions in New Jersey](#)."

**MAINTAINING THE VOTER REGISTRATION ROLLS.** Registration rolls are kept up to date to some extent with the help of monthly reports from health officers, who report deaths of persons over 18 within their jurisdiction, and county prosecutors, who report names of persons convicted of crimes that could disqualify those persons as voters. In addition, county election officials may, preceding each general election for members of the United States House of Representatives, contact each registrant who failed to vote at the previous election to determine if that voter still resides there, or to obtain his new address if he has moved. There are other requirements designed to facilitate this requirement.

# POLITICAL PARTIES AT ALJBS

## LEARNING OBJECTIVES

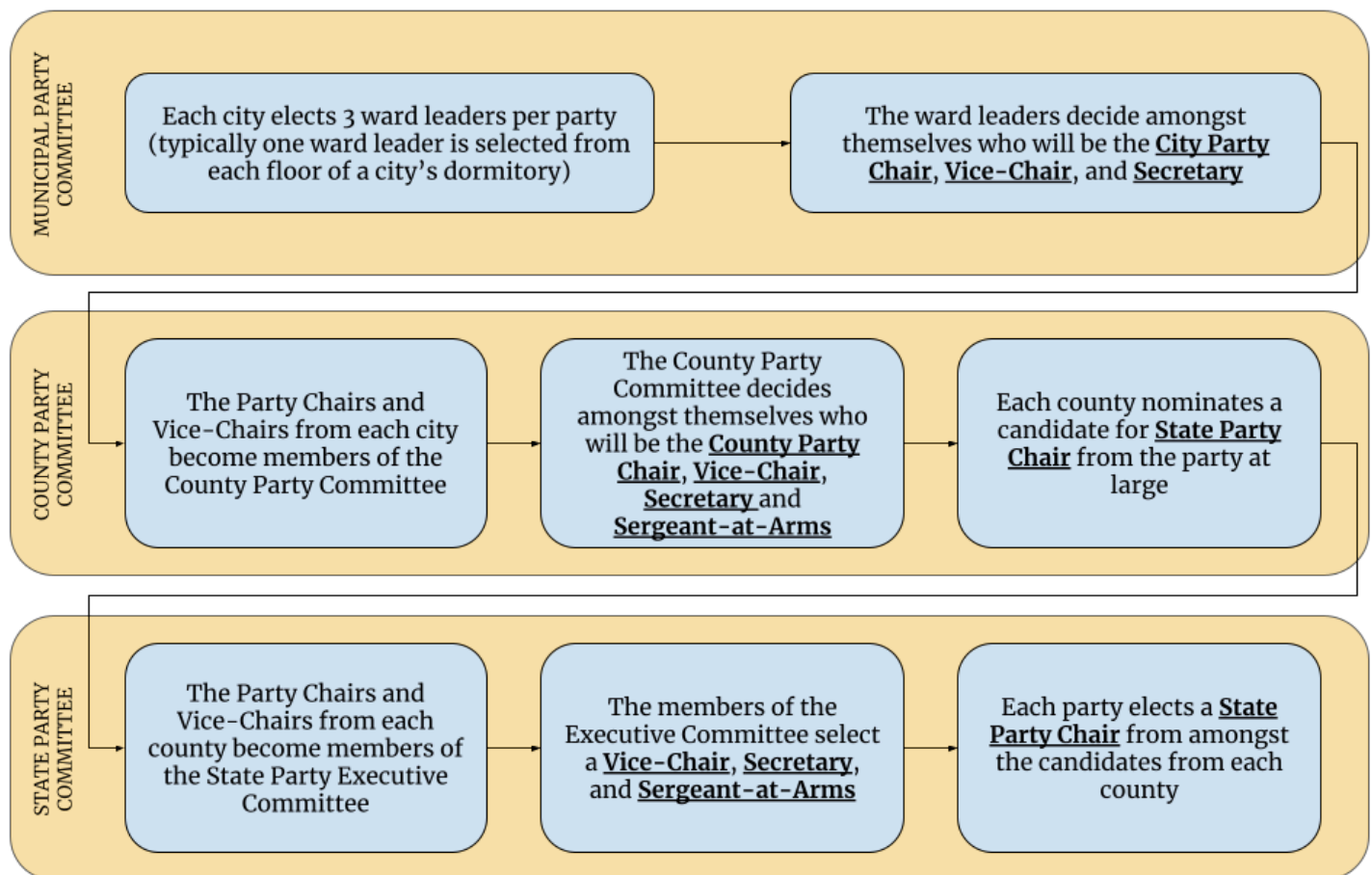
After reading this section, you should be able to:

- Name the two ALJBS political parties
- Summarize how the ALJBS political parties differ from the major parties found in New Jersey
- Summarize how the ALJBS political parties are organized

There are 2 political parties at ALJBS: the National Party and the Federal Party. One of the two parties is randomly assigned to each statesman at registration. The platform of each party at ALJBS is a reflection of its constituents, and changes from session to session.

The leadership of each political party is organized and selected as described below.

### ALJBS TABLE OF PARTY ORGANIZATION



# ELECTIONS IN NEW JERSEY

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Discuss the role of political parties in the election process
- Outline the voter qualifications in the New Jersey
- Explain the process for running for an office in New Jersey
- Discuss the process for voting by mail in the State of New Jersey
- Outline when the primary and general elections are held in the New Jersey
- Discuss the voter registration process in New Jersey
- Summarize the concept of election machinery

Voting is accomplished either in person or through a Vote by Mail ballot. A sample ballot is mailed to all registered voters before a primary, general or School Board election, giving the polling place and voting hours.

We live in a republic using a democratic form of government. Democracy, it has been said, is the most difficult form of government to operate because it requires active participation on the part of its citizens. Historically, there has been a great reluctance on the part of the overwhelming majority of citizens to become involved in political activity. The work of selecting candidates, financing campaigns, and conducting the business of government at every level has been left to the few. Even voting, the minimal participation in the rite of democracy, is not exercised by a great majority of the voting-age population.

## ROLES OF THE POLITICAL PARTIES IN THE ELECTION PROCESS

In New Jersey, elections are run by the two major parties. The county and district boards of elections—whose members (two from each party) are selected by the county chairmen of the parties—supervise every detail of both primary and general elections, from registration through the counting of the ballots. Order is maintained at the polling places by these party officials and challengers named by each party are present to check violations by voters. Supporters and opponents of public questions may have challengers as well.

## VOTING IN ELECTIONS

**QUALIFICATION TO VOTE.** Qualifications for registering to vote in New Jersey are stipulated in [NJSA Election statute 19:31-5](#) and state that any United States citizen, who is 17 years old (and will be 18 on Election Day), and who resides in that district shall be entitled to register to vote. In order to vote in the election, you must be registered.

Since its beginning as a colony in 1664, the right of franchise has been more liberally bestowed in New Jersey than in many other states. Voters were never excluded on religious grounds, although an oath was sometimes prescribed. Property holding, once a common prerequisite for voting in early United States history, was completely abolished in New Jersey in 1844 as a voting qualification.

Women were allowed to vote in New Jersey under laws passed in 1790 and 1797 but that right was taken from them by a law passed in 1807. The franchise was permanently extended to Black New Jerseyans in 1870, and to women in 1920.

**REGISTRATION.** Responsibility for registration lies with the county commissioner of registration. In counties of the second class or fifth class, the governing body may establish through ordinance or resolution the office of the superintendent of elections. That person is the commissioner of registration. In all other counties, the secretary of the county board of elections is the commissioner of registration. Just before the close of registration prior to a general election, the county commissioner of registration must provide for extra hours of registration during the evening on at least six working days. Registration practices vary from county to county because some election laws are permissive and the authority for administration is at the county level.

**VOTING BY MAIL.** A voter must apply for an Vote by Mail ballot not less than 7 days before the election in person or by mail to:

- the county clerk for primary and general elections, and
- the school district clerk, for school elections

The deadline may be waived for military personnel. Vote by Mail ballots must reach the county election board or school board office by the time the polls close on Election Day.

A registered voter may apply for a Vote by Mail ballot in New Jersey for any reason. Prior to July 2009, the requestor was required to provide a reason (e.g. being out of state on Election Day) for needing to vote by mail.

A military service ballot may be used if the voter is qualified to vote, whether registered or not, and is (1) a person in the military service or their spouse or dependent; (2) a patient in a veteran's hospital; or (3) a civilian attached to or serving with the armed forces out of the state or their spouse or dependent residing with or accompanying them. A friend or relative may make an application for the servicemember by applying to the clerk in the servicemember's county. Ballot and instructions are mailed to the voter. A military ballot does not automatically register the person as a registered voter. The servicemember must register on return from service.

A new resident of New Jersey, meeting all requirements for voting except the six-month residence by the time of the election, may use a new resident's presidential ballot to vote only for President and Vice-President; file an affidavit of residence with the county or municipal election officials at least 40 days prior to election, voter receives an application for the ballot at that time. Subsequent elections require registration.



A secure Vote by Mail drop box in Burlington County.

## **RUNNING FOR OFFICE**

**NOMINATIONS FOR PARTY OFFICE.** A voter often has no opportunity in the primary election to choose between two or more candidates for a party position or public office because differences are usually resolved and agreement reached on who shall run for these posts, and a single slate of candidates for each of the parties is then presented on the ballot. In case there is a disagreement that cannot be resolved, the dissidents may sometimes withdraw altogether, form what is often termed the "Reform" segment of their party, and run their own set of candidates for party positions as well as for the other elective offices. Voters may then pick and choose. There is no single lever to vote a straight party line.

For those who disapprove of the party choices, there is a remedy: they may join the local organization of the party of their choice and use their influence there—where it counts the most—in picking candidates and deciding party policy. Membership is open to any citizen eligible to vote. If there is no political club of the party of one's choice, then one may be organized by a group of interested citizens. Or they may themselves run for party or public office.

**NOMINATION FOR PUBLIC OFFICE.** Nominations for public office are made by petition, signed only by qualified voters who are members of the same political party as a nominee. Signers must assert that in the last general election they voted for a majority of the candidates of that political party and they intend to affiliate with the same party at the ensuing election. The minimum number of signers needed varies from 25 to 1,000, depending largely on the particular office sought. Petitions must be filed before the primary election with the secretary of state, the county clerk, or the municipal clerk, again depending on the office sought. There is no filing fee.

Requirements for independent candidates, i.e., candidates for a public office who do not want to run as Democrats or Republicans, are somewhat different. For example, the signers' party affiliations are immaterial, more signatures may be required, and more witnesses to the signatures are necessary. Independent candidates file their petitions at the same time and place as other candidates, but their names do not appear on the ballot until November.

**SCHEDULE OF ELECTIONS.** The [GENERAL ELECTION](#) is held the first Tuesday after the first Monday in November. [PRIMARY ELECTIONS](#) are held the first Tuesday after the first Monday in June, although this date has been frequently moved by law. At this time, party candidates are nominated for the general election, county committee members are elected from their respective election districts, state committee members in gubernatorial years, and delegates and alternates to the national convention in Presidential years. Only Republican and Democratic parties participate in the primary. Minor party and independent candidates do not take part; however, to appear on a general election ballot they must file petitions before the primary.

**PRIMARY ELECTIONS.** A primary, so called because it is the first election (the second being the general election), is a party election. Prior to the adoption of New Jersey's direct primary laws, in 1903 and 1911, the selection of party candidates and officials was solely within the control of the parties themselves. But election scandals then rocking the state pointed up the corrupting power of the political machines. In response, the primary was devised as a means of giving the voters direct control of the parties.

**MUNICIPAL ELECTIONS.** Municipal elections are held with the general election, except that municipalities with a nonpartisan form of government hold their elections generally on the second Tuesday in May. In nonpartisan Optional Municipal Charter Law Mayor-Council and Council-Manager forms of government, if the original returns fail to produce majorities in the proportions required, a runoff election is held five weeks later for each office in question between the two candidates polling the highest number of votes. [SPECIAL ELECTIONS](#) are held for certain types of referenda when and as required.

**SCHOOL ELECTIONS.** School elections are held the first Tuesday in April. Regional school elections are held the first Tuesday in April also. These are nonpartisan elections to elect boards of education and approve proposed school budgets. Failure to pass a school budget requires that the budget be established by the municipal governing body. Most large municipalities do not elect boards of education; mayors appoint them and school budgets are determined by boards of school estimate, or, in some cases, submitted to the voters for approval.

**NONPARTISAN ELECTIONS.** Many municipalities, depending on their form of government, have nonpartisan elections to fill municipal offices. As these are nonpartisan elections, no primary is held. These elections occur in May to reduce the influence of partisan identifications and loyalties, although this is not always successful. Elections for school board posts, held in February, are also nonpartisan. Petitions to put the candidates' names on the ballot are filed at least 50 days prior to the pertinent election with the municipal clerk or the school district clerk, as the case may be.

**ELECTION MACHINERY.** District boards of elections consist of 4 members (2 Democrats and 2 Republicans) for each election district, and are appointed by the County Board of Elections upon recommendation of the county committee members. The term of office is one year. Its function is to conduct the elections at the polling place. The election districts in a municipality are established by county boards of elections in first class counties and the governing bodies of municipalities in other counties. The number of voters in a district is to range from 350 to 550, although the law permits more where voting machines are used. (If a municipality is subdivided into wards from which members of the governing body are elected, the ward lines may be changed only by a commission composed of two members from each of the major parties who are appointed by the municipality's mayor.)

The County Board of Elections consists of 2 Republicans and 2 Democrats appointed by the Governor upon nomination by party officials. Term of office is two years. Its function is to set up the machinery for voting. It is responsible for the administration of the elections and has authority to settle controversial questions connected with elections.

School Boards of Elections are appointed by the Board of Education of each school voting district.

If any candidate, or ten voters, at any election have reason to believe that an error has been made in counting the vote or declaring the vote, they may apply to a Judge of the Superior Court for a recount.

# MUNICIPAL GOVERNMENT

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Name the state statutes that grant powers to municipalities and counties
- Describe the impacts of the following laws:
  - Walsh Act of 1911
  - Municipal Manager Act of 1923
  - Optional Municipal Charter Law
- Name the 5 types of municipalities and 12 forms of municipal government in New Jersey and how they differ
- Describe the differences between “strong” and “weak” Mayor-Council forms
- Explain the powers of the Initiative, Referendum, and Recall
- Identify the prominent municipal appointments and their powers

## MUNICIPALITIES IN NEW JERSEY

### What is a Municipality?

In New Jersey, citizens govern themselves through an assortment of political subdivisions below the level of state government. These “**local units**” include counties, municipalities, school districts, and various kinds of special units that provide services (Water/Sewer Authorities, etc.).

All land in New Jersey is incorporated within **municipalities**. Each square foot of land in New Jersey belongs to one and only one municipality, with each municipality belonging to only one county. This is contrary to almost every other state. The state lends authority to the municipalities to provide for the health, safety, and welfare of their inhabitants. As a municipal corporation, the municipality has the power to sue and be sued, to acquire and dispose of property, to make contracts, to tax, and to enact ordinances. All of these powers come from the state. There are [564 municipalities in the State of New Jersey](#).

Municipal government is especially important as it is the level of government that is closest to the people it serves. Most of the day-to-day issues that a person has are going to be addressed by their local town government.

There are two major functions of local government: legislative (policy-making) and executive (administration). The elected governing body – whether it is called the committee, council, commission, board of aldermen, or board of trustees – is usually responsible for the legislative function: the passing of ordinances and resolutions under which the community is governed. The major distinction among forms of municipal government is in the handling of the executive functions. Since no clear philosophy of local government guided early development, there was little attempt at separation of legislative and executive powers such as have been built in the federal and state governments. Lines of responsibility which were never clear to begin with became increasingly fuzzy as new offices and bodies with special powers and functions were added to municipal machinery.

## Relationship with State Government

Local units have no inherent or constitutionally guaranteed powers within the framework of the New Jersey Constitution; instead their power comes from state legislation, specifically [New Jersey Statutes Annotated Title 40 and 40A](#). The State Legislature may grant, mandate to, or withdraw from local governments powers that it deems appropriate. For example, the Legislature controls local powers of taxation and limits changes of local government structure. Municipalities and counties may impose taxes only in accordance with state statutes, and they can only change their form of government by following statutory procedures (including petitioning the State Legislature). This is in contrast to so-called “constitutional home rule” states where local governments derive powers directly from their State Constitutions. In these states, local governments do not need to depend on their State Legislature for authorization to exercise the powers granted to them.

### DID YOU KNOW?

The municipality in New Jersey with the smallest population is [Walpack](#) in Sussex County.

There were 6 residents as of 2025.

Despite these restrictions, there is more home rule in New Jersey than in most states. While on paper it appears local governments have no powers, in fact the Legislature has turned over enormous powers to them because of the strong tradition of home rule. These powers are bolstered by the declaration in the State Constitution that statutes conferring powers to municipalities and counties should be “liberally construed in their favor” ([Article IV, Section VII, Subsection 11](#)). It has, therefore, been politically difficult for the State Legislature to recapture these powers.

We can generally classify statutes that affect local governments into two categories: laws that require action (**mandatory**), or allow them to act in a certain way (**permissive**). State local finance laws are examples of mandatory laws. All local units (with necessary distinctions between municipalities and counties) must handle budgeting, spending, and bonding similarly. Permissive legislation (also known as enabling acts), gives local units the power to carry out specific functions within a state-created framework. For example, municipalities and counties have been given the power to create planning (and many other) boards if they wish, but they must always follow the method of operation set forth in state law.

The state supervises counties and municipalities in many different areas, chief among which are those areas involving **state aid**, those affecting **non-residents**, and those in which the **local units carry out state functions**. Where state aid is provided (as in the case of welfare, education, and roads), state standards must be met by local units wishing to qualify. Where non-resident interests are involved (as in the area of traffic control), the state must approve of both traffic light installations and local regulations. A state function that is performed at the local level (such as the administration of justice) is also governed by procedures set out in great detail in state law and Supreme Court rules.

State legislation affecting only one local unit (**special legislation**) has been prohibited since the adoption of a constitutional amendment in 1875, after blatant legislative interference in municipal affairs. The Legislature circumvented this ban by classifying local units and passing legislation that applied only to certain classes.

### [Classes of New Jersey Municipalities](#)

| <u>Class</u> | <u>Population Requirements</u> | <u>Geographic Location</u>                              |
|--------------|--------------------------------|---|
| First        | More than 150,000 inhabitants  | Excluding resort cities bordering on the Atlantic Ocean |
| Second       | 12,000 to 149,000 inhabitants  | Excluding resort cities bordering on the Atlantic Ocean |
| Third        | Fewer than 12,000 inhabitants  | Excluding resort cities bordering on the Atlantic Ocean |
| Fourth       | None                           | Resort cities bordering on the Atlantic Ocean           |

The need for special legislation does sometimes exist, so the Constitution of 1947 allows special laws that affect only one local unit as long as three conditions are met:

- 1) The local unit first petitions the Legislature for the law
- 2) The Legislature approves it by a two-thirds vote of each house
- 3) The law is then adopted by local ordinance or referendum

## **TYPES OF MUNICIPALITIES AND FORMS OF GOVERNMENT**

Each municipality in New Jersey is classified as one of five types:

- 1) City
- 2) Town
- 3) Township
- 4) Borough
- 5) Village

While a municipality’s type may be changed by referendum, most municipalities’ types are still the same as they were in 1890.

Each municipality is run under one of twelve forms of government.

The five original forms of municipal government (which align exclusively to the respective five types of municipalities) are the *City*, *Town*, *Borough*, *Township*, and *Village* forms. All suffered from unclear delineation of powers which made governing the municipality difficult at times.

Given these shortcomings, additional “optional” forms were developed in the 20th century that may be adopted by any type of municipality if they so choose. (i.e., a municipality of the “type” *City* can choose the *City* form of government as well as one of the 7 additional forms of government (see diagram below), but cannot select a *Town* form of government).

| <b>Types of Municipalities and Forms of Government</b> |   |
|--|---|
| <u>Type of Municipality</u>                            | <u>Original Forms of Government</u>         |
| City   | City Form                                   |
| Town   | Town Form                                   |
| Township   | Township Form                               |
| Borough  | Borough Form                                |
| Village  | Village Form                                |
|  | <br><b><u>Additional Optional Forms</u></b> |
|  | Commission Form                             |
|  | Municipal Manager Form                      |
|  | OMCL: Mayor-Council Form                    |
|  | OMCL: Council-Manager Form                  |
|  | OMCL: Small Municipality Form               |
|  | OMCL: Mayor-Council-Administrator           |
|  | Special Charter                             |

## **The Walsh Act of 1911**

The first attempt to allow a kind of local structure that would pinpoint administrative responsibility was the *Commission* form of government specified in the **Walsh Act of 1911**. This form places responsibility for particular departments with individually-elected commissioners (Department of Public Affairs, Department of Public Safety, Department of Public Works, Department of Parks and Public Property, and Department of Revenue and Finance). However, problems arise because of the lack of a strong executive to coordinate the administration of the municipality.

## **The Municipal Manager Act of 1923**

In 1923 the Legislature made available the **Municipal Manager** form of government. For the first time, a structure was devised that establishes a clear division of legislative and administrative functions. The council operates in a policy-making capacity and hires a manager who has the responsibility for executing their policies. He holds office at the pleasure of the council during the first three years of his employment, after which time he may be removed only for cause.

## **Optional Municipal Charter Law**

In 1948, the Legislature established a commission to study municipal forms of government and recommend their modernization. The commission submitted, as proposed legislation, the Optional Municipal Charter Law (OMCL), which was adopted by the Legislature in 1950. This law was called the “Faulkner Act” after the commission chairman, Bayard H. Faulkner, the former mayor of Montclair. The Faulkner Act offers four basic plans:

- 1) Mayor-Council
- 2) Council-Manager
- 3) Small Municipality
- 4) Mayor-Council-Administrator

Adoption of a Faulkner Act form can come from a charter study referendum, initiated by petition of the voters or by an ordinance of the governing body. The Faulkner Act also provides an alternate method for achieving a charter change: a direct voter petition for the adoption of a particular Faulkner Act form of government. In such a case, a referendum is held without a charter commission study.

The Faulkner Act forms provided options for communities with a preference for:

- 1) More responsibilities to be concentrated in the executive branch,
- 2) The appointment of qualified individuals to conduct the professional management of municipal and administrative affairs
- 3) Clear division between administrative and legislative functions

**OMCL: MAYOR-COUNCIL.** The OMCL: Mayor-Council form provides for the election of a mayor who is the chief administrative officer of the municipality; the council is strictly a policy making body. The mayor makes the budget, has veto power over the acts of the council (although subject to a two-thirds override), and appoints the heads of his own administrative departments – including a business administrator – subject to approval by the council. The mayor attends meetings of the council, but he has no vote (except to break a tie when filling a council vacancy). The mayor is responsible for carrying out all council decisions as well as the conduct of all other functions of the municipality.

it adopts ordinances, makes all appropriations, decides all policies, and holds investigative power over the administration. The council establishes and determines functions of all departments.

This provides for better administration, a system of checks and balances between the legislative and executive, and centralized budgeting. One possible disadvantage is the fact that the mayor, through his right to name officials below the rank of department heads without approval of the Council, may use this right to build a personal political machine.

**OMCL: COUNCIL-MANAGER.** In the OMCL: Council-Manager form, the council hires a trained manager who serves at the pleasure of the council, executes its policies, and administers the municipality. Among his responsibilities are the appointment and removal of the department heads and preparation of the annual budget. This is very similar to the Municipal Manager form, although the Council-Manager form does not provide tenure for the manager, who may be removed through a vote of the council.

**OMCL: SMALL MUNICIPALITY.** In the OMCL: Small Municipality plan, tailored specifically to update borough and township forms in communities of fewer than 12,000 inhabitants, the mayor—either directly elected by the people or chosen by and from the council—serves as executive head of the municipality, but without veto power. He also shares some executive authority with the council in the area of fiscal matters.

**OMCL: MAYOR-COUNCIL-ADMINISTRATOR.** In the OMCL: Mayor-Council-Administrator form (added to the OMCL in 1982), the municipal council consists of a mayor and six members of council who are elected at large. The mayor serves a four year term and the members of council three year terms on a staggered basis. The council is the legislative branch of the municipality. While the council has no appointive authority and no appointive responsibility, it does prepare the budget with the assistance of the treasurer and administrator. Although the Council does not appoint the administrator, the administrator may be removed from office at the pleasure of the council. As the executive authority, the mayor presides over the council but possesses no vote. He or she can veto ordinances but the council may override a veto by a two-thirds majority. The mayor is authorized to make a number of key appointments, including the administrator, assessor, collector, attorney, clerk and treasurer. The administrator is directed to administer the business affairs of the municipality.

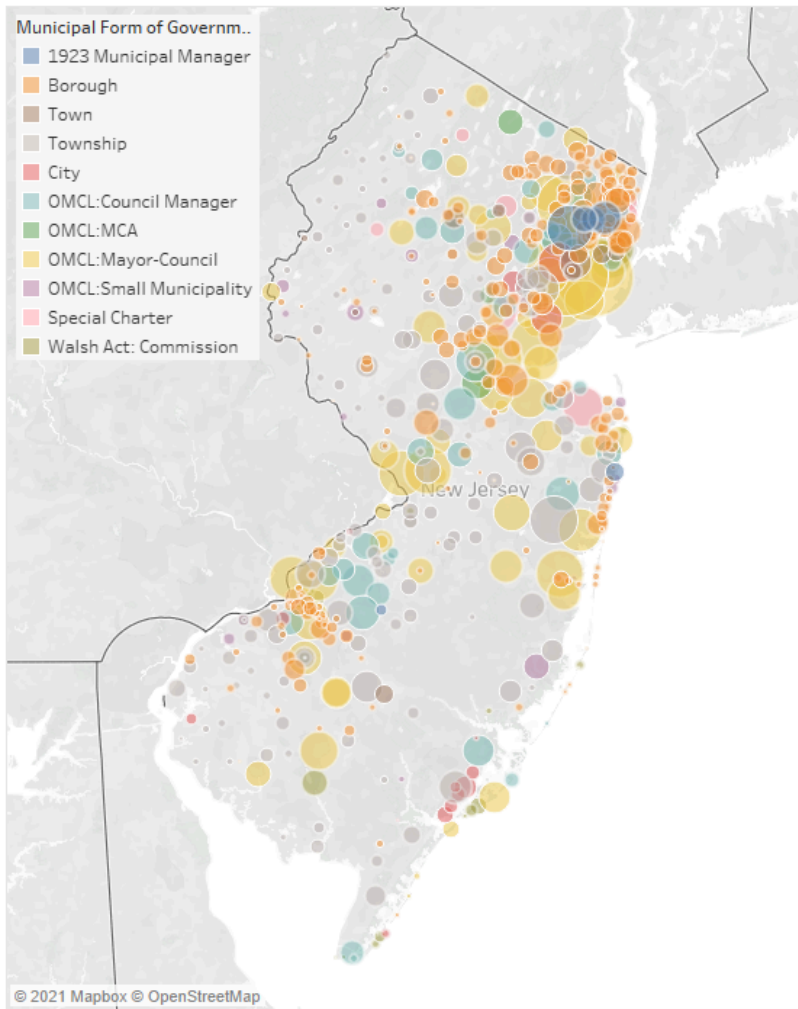
### **Special Charters**

The constitution also permits a municipality to petition the Legislature for a special charter delineating the desired governmental form.

## Organizational Details of Municipal Forms of Government

| <u>Form of Government</u>              | <u>Relevant New Jersey Statutes</u>                        | <u>Elected Officials and Terms</u>                             |
|--|--|--|
| City                                   | N.J.S.A. 40:103-5(71) et seq.<br>N.J.S.A. 40A:61-1 et seq. | Mayor (1) - 4 year term<br>Council (7) - 3 year term           |
| Town                                   | N.J.S.A. 40A:62-1 et seq.                                  | Mayor (1) - 2 or 3 year term<br>Council (8) - 2 year term      |
| Borough                                | N.J.S.A. 40A:60-1 et seq.                                  | Mayor (1) - 4 year term<br>Council (6) 3 year term             |
| Township                               | N.J.S.A. 40A:63-1 et seq.                                  | Committee (3 or 5) 3 year terms                                |
| Village                                | N.J.S.A. 40A:63-8  | Board of Trustees (5) - 3 year term                            |
| Walsh Act: Commission                  | N.J.S.A. 40:70-1 et seq.                                   | Commission (3 or 5) - 4 year term                              |
| Municipal Manager                      | N.J.S.A. 40:79-1 et seq.                                   | Council (3, 5, 7, or 9) - 3 or 4 year term                     |
| OMCL: Mayor-Council                    | N.J.S.A. 40:69A-1 et seq.                                  | Mayor (1) 4 year term<br>Council (5, 7, or 9) 4 year term      |
| OMCL:<br>Council-Manager               | N.J.S.A. 40:69A-1 et seq.                                  | Council (5, 7, or 9) - 4 year term<br>Mayor (1) - 4 year term  |
| OMCL: Small<br>Municipality            | N.J.S.A. 40:69A-1 et seq.                                  | Council (2, 4, or 6) - 3 year terms<br>Mayor (1) - 4 year term |
| OMCL: Mayor- Council-<br>Administrator | N.J.S.A. 40:69A-1 et seq.                                  | Mayor (1) - 4 year term<br>Council (6) - 3 year term           |

# Forms of Government by Municipality



New Jersey Data Book<sup>SM</sup> Rutgers Center for Government Services, New Brunswick, NJ

|                          | 2019 Census Population | % of Total 2019 Census Populat.. |
|--------------------------|------------------------|----------------------------------|
| 1923 Municipal Manag..   | 0.202M                 | 2%                               |
| Borough                  | 1.547M                 | 18%                              |
| Town                     | 0.128M                 | 1%                               |
| Township                 | 1.558M                 | 18%                              |
| City                     | 0.207M                 | 2%                               |
| OMCL: Council Manager    | 0.964M                 | 11%                              |
| OMCL: MCA                | 0.080M                 | 1%                               |
| OMCL: Mayor-Council      | 3.303M                 | 38%                              |
| OMCL: Small Municipali.. | 0.133M                 | 2%                               |
| Special Charter          | 0.305M                 | 3%                               |
| Walsh Act: Commission    | 0.365M                 | 4%                               |

|                          | No. of Municipalities | % of Municipalities |
|--------------------------|-----------------------|---------------------|
| 1923 Municipal Manag..   | 7                     | 1%                  |
| Borough                  | 218                   | 39%                 |
| Town                     | 9                     | 2%                  |
| Township                 | 140                   | 25%                 |
| City                     | 14                    | 2%                  |
| OMCL: Council Manager    | 42                    | 7%                  |
| OMCL: MCA                | 3                     | 1%                  |
| OMCL: Mayor-Council      | 71                    | 13%                 |
| OMCL: Small Municipali.. | 18                    | 3%                  |
| Special Charter          | 12                    | 2%                  |
| Walsh Act: Commission    | 31                    | 5%                  |

## Styles of Municipal Government in New Jersey

The paper, [“Forms of Government in New Jersey”](#) asserts that almost all forms of municipal government organization, both in New Jersey and elsewhere, can be placed in one of three broad patterns:

**ELECTED GOVERNING BODY AND ELECTED CHIEF EXECUTIVE.** The first general pattern is a form that mirrors the organization of the federal and state governments. There is a directly elected chief executive, usually called the mayor, who corresponds to the president or the governor at higher levels, and there is a separately elected legislative body, most often called the council. Each of these branches is given powers that serve as a check on any excesses of the other branch. The mayor, as chief executive, usually is expected to supervise the day-to-day administration of the local government and to see that local laws and ordinances are enforced. The mayor may have the power to veto ordinances and usually has some power to appoint subordinate officers and

**DID YOU KNOW?**

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Eleven New Jersey municipalities currently operate under a Special Charter:

Englewood, Tenafly, Gloucester City, Bloomfield, South Orange Village, Middletown, Montville, Hardyston Township, Plainfield, Westville, Hackettstown

employees. The council enacts ordinances establishing public policy, appropriates funds required to run the government, and usually has some special powers of investigation. If the mayor's powers are strong (for example the power to prepare a budget or the power of appointment), this form of government is described as a "strong" mayor-council form. If not, it is a "weak" mayor-council form.

**FORMS: City, Town, Borough, OMCL: Mayor-Council, OMCL: Small Municipality, OMCL: Mayor-Council Administrator**

**ELECTED GOVERNING BODY AND APPOINTED CHIEF EXECUTIVE.** The second broad pattern provides for an elected governing body that appoints a chief executive. This pattern presumably is modeled after forms of business organization. The council is the legislative, or policy-setting, branch of government and generally is expected to play no role in administering the daily affairs of the municipality. This task is delegated to an appointed chief executive, frequently called the manager or administrator. Since substantial powers, including appointments, are assigned to this person, care usually is taken to provide a relatively easy procedure for dismissal by the council if performance is not satisfactory.

**FORMS: Municipal Manager, OMCL: Council-Manager, Special Charter**

**ELECTED GOVERNING BODY-ADMINISTRATORS.** The third pattern requires the election of a group of officials who serve both as the chief executive and as the legislative body. In effect, this is government by committee. It is one of the oldest patterns of municipal government organization, having its roots in the old town meeting plan, when the members of the annual meeting of all voters would select a few of their number to run the town until the next annual meeting. In practice, the governing body often functions as a committee only for legislative matters, while the responsibility for day-to-day supervision is divided among the individual members of the committee, with each member specializing in some aspect of municipal government. The commission form of government is a more formalized version of committee government.

**FORMS: Township, Village, Commission**

## **Powers of the Citizen**

All municipalities operating under the Walsh Act or the Faulkner Act have the powers of **initiative, referendum and recall.**

**Initiative** is the power of the voters of a municipality to petition for a referendum to adopt an ordinance of their own design.

**Referendum** is the power of the voters of the municipality to require, by petition, a binding referendum on any ordinance introduced or passed by the governing body.

**Recall** permits the voters to remove and replace one or more members of the elected governing body before the completion of their terms of office. The Walsh and Faulkner Acts permit recall after one year of service; the Municipal Manager (1923) form, which also permits recall, permits it after two years.

## **Other Functions of Government**

Local laws are enacted by ordinance. An ordinance is introduced at a meeting of the governing body, is then published in a newspaper circulating in the municipality, with the publication calling for a public hearing. After the public hearing, the ordinance receives final reading and is again voted upon; if it is passed, it is again published and generally takes effect at the final publication.

## MUNICIPAL APPOINTMENTS

While the elected officials of a municipality play an important role in creating legislation, these are primarily part-time positions. The vast majority of the work done in a municipality is performed by full-time staff and a variety of appointments made by the Mayor and/or Council.

Many of these appointments are statutorily required by the state, and a select few require a certification to be maintained. Some of the municipal appointments also provide tenure in order to insulate the position from any undue political influence or the appearance of impropriety.

### **Municipal Clerk**

One of the most important municipal appointments in the **Municipal Clerk**. Per [NJSA 40A:9-133](#), it is required that all municipalities appoint a Clerk to a three-year term (or they may share one with another municipality through a shared services agreement). The statute lists the following responsibilities of the Clerk:

- 1) act as secretary of the municipal corporation and custodian of the municipal seal and of all minutes, books, deeds, bonds, contracts, and archival records of the municipal corporation. The governing body may, however, provide by ordinance that any other specific officer shall have custody of any specific other class of record;
- 2) act as secretary to the governing body, prepare meeting agendas at the discretion of the governing body, be present at all meetings of the governing body, keep a journal of the proceedings of every meeting, retain the original copies of all ordinances and resolutions, and record the minutes of every meeting;
- 3) serve as the chief administrative officer in all elections held in the municipality, subject to the requirements of Title 19 of the Revised Statutes;
- 4) serve as chief registrar of voters in the municipality, subject to the requirements of Title 19 of the Revised Statutes;
- 5) serve as the administrative officer responsible for the acceptance of applications for licenses and permits and the issuance of licenses and permits, except where statute or municipal ordinance has delegated that responsibility to some other municipal officer;
- 6) serve as coordinator and records manager responsible for implementing local archives and records retention programs as mandated pursuant to Title 47 of the Revised Statutes;
- 7) perform such other duties as are now or hereafter imposed by statute, regulation or by municipal ordinance or regulation.

Per [NJSA 40A:9-134](#), once a Clerk has served in the position for five years (and once they have acquired their certification), they are considered to be tenured and can then only be removed for cause.

### **Chief Financial Officer**

Per [NJSA 40A: 9-140](#), all municipalities are required to appoint a Chief Financial Officer to a four-year term (or they may share one with another municipality through a shared services agreement). [New Jersey Administrative Code 5:32-2](#) lists the responsibilities of the Chief Financial Officer below:

- 1) Serve as custodian of all public funds;
- 2) Assist in preparing the annual budget;
- 3) Ensure the proper and accurate preparation, posting, maintenance, and reconciliation, as applicable, of all books, ledgers, schedules, statements, reports, and other records pertaining to municipal or county finances. All financial schedules and, as applicable, other records shall be prepared in such a manner as to facilitate audit review;
- 4) Maintain and monitor separate accounts for all budgeted appropriations and anticipated revenue;
- 5) Prepare year-end reports of all revenues and expenditures and provide the governing body with periodic status reports for all budget revenues and appropriations as they correspond to the annual adopted budget;
- 6) Prepare, analyze, and/or review monthly reports of the treasurer, tax collector (in the case of a municipality), financial reports of other departments, and on all investments;
- 7) Lead in helping the governing body develop fiscal policy, including preparing projections and calculations to support long-term plans concerning revenue, appropriations, surplus, the tax levy and caps thereon and, for chief municipal finance officers, the municipal budget appropriations cap;
- 8) Develop and implement a system of internal controls to safeguard assets and monitor compliance, including:
  - a) Documentation of internal accounting control processes, procedures and authorizations, with regular review and evaluation of the same;
  - b) Training all relevant personnel, including, but not limited to, department heads and/or others in positions of approval;
  - c) Administration and oversight of claim payment procedures; and New Jersey Administrative Code 5:32 Current through December 5, 2017
  - d) Supervising petty cash accounts and change funds; and
- 9) Ensure compliance with all statutes, rules, regulations, and directives pertaining to financial administration and such other duties assigned by law to the Chief Financial Officer

### **Tax Collector**

Per [NJSA 40A: 9-141](#) and [NJSA 40A: 9-142](#), all municipalities are required to appoint a Tax Assessor to a four-year term (or they may share one with another municipality through a shared services agreement). [New Jersey Administrative Code 5:32-3](#) lists the responsibilities of the Tax Collector below:

- 1) With respect to billing, the tax collector shall be responsible for:
  - a) Ascertaining the amount of taxes due from each taxpayer and informing each taxpayer of this fact;
  - b) Understanding the process by which taxes are determined;
  - c) Cooperating with the municipal tax assessor, the county board of taxation, and other financial authorities;
  - d) Designing and implementing an efficient method of issuing bills; and
  - e) Having a working knowledge of property tax exemptions, abatements, and deductions, along with electronic data processing of tax rolls and tax billing.

- 2) With respect to the collection of monies, the tax collector shall be responsible for:
  - a) Receiving and accounting for payments upon notification of taxes due;
  - b) Ensuring the proper disposition of funds received;
  - c) Maintaining detailed accounting records; and
  - d) Processing electronic data as it pertains to the collection of monies.
- 3) With respect to enforcement, the tax collector shall be responsible for initiating and carrying out procedures for enforcing the timely payment of taxes by the taxpayers, including but not limited to the application of interest on delinquent accounts, tax liens, and tax sales. The tax collector shall also assist in the foreclosure of municipally-held tax sale certificates. New Jersey Administrative Code 5:32 Current through December 5, 2017
- 4) As appropriate to the form of government, the tax collector shall be responsible for providing the governing body and appropriate municipal officials with regular reports on the activities of his or her office including, but not limited to, billings, adjustments, collections, and balances.
- 5) The tax collector shall ensure compliance with all statutes, rules, regulations, and directives pertaining to municipal tax collection.

### **Tax Assessor**

Per [NJSA 40A: 9-146](#) and [NJSA 40A: 9-148](#), all municipalities are required to appoint a Tax Assessor to a four-year term (or they may share one with another municipality through a shared services agreement). According to the [New Jersey Division of Taxation](#), the responsibilities of the Tax Assessor are:

- 1) Discovery and location of all real property and certain personal property used in business in the taxing district
- 2) Listing and description of property in a systematic, convenient manner
- 3) Determination of taxability based on a wide variety of tax exemption and tax deduction statutes
- 4) Valuation of property through an appraisal of each property and an assessment based on that appraised value
- 5) Tax equalization responsibilities via district revaluation programs and for purposes of distributing State Aid to schools
- 6) Defense of assessments upon appeal

The assessor, in their work of discovering, describing, and valuing all taxable property, takes the first step in raising the bulk of the funds necessary to finance local government in New Jersey.

### **Municipal Attorney**

Per [NJSA 40A: 9-139](#), all municipalities are required to appoint a Municipal Attorney to a one-year term. The Municipal Attorney acts as the general counsel and provides legal advice to the governing body and other municipal officials.

## **Municipal Administrator**

Another important (yet mostly optional) municipal appointment is the Municipal Administrator. Per [NISA 40A:9-137](#), this appointment is usually made by the Mayor or Chief Executive, and in the case of the Commission form, by a majority vote of the governing body. The term of the Municipal Administrator is at the discretion of the governing body.

With the exception of the OMCL: Mayor-Council Administrator form, where it is required, the elected officials of any municipality may create, by ordinance, the position of the Municipal Administrator and may delegate all or a portion of the executive responsibilities to it. If the governing body is not satisfied with the performance of the Business Administrator, they may be removed by a two-thirds vote.

## **Other Appointments and Departments**

While important, the appointments listed above make up only a small portion of the total staff of the municipality. Many of the positions above are empowered to appoint deputies and staff in their own departments. In addition, several other departments are critical to the day-to-day operation of a municipality:

- Police and Fire Departments
- Public Works Department
  - Public Works Departments perform a variety of duties include the maintenance, repair, and installation of roads, bridges, water mains, sewer mains, storm sewers, pump stations, parks, recreation fields, facility maintenance, grounds maintenance, transportation, vehicle maintenance, mosquito control, planning, engineering, traffic signals, solid waste, and recycling
- Municipal Court Administrator and Municipal Judge and Prosecutor
- The Library Board, Recreation Commission, as well as special units which provide or contract for services such as utilities, etc.
- The Public Schools are under the control of a Board of Education, which is either elected by the voters or appointed by the Mayor.

Municipalities may provide a large number of services, and the variety and quality of the services actually performed varies widely among them. Municipalities may provide services directly or by contract. In some cases they may create special units to provide them. Some of these special units are described below.

# MUNICIPAL GOVERNMENT AT ALJBS

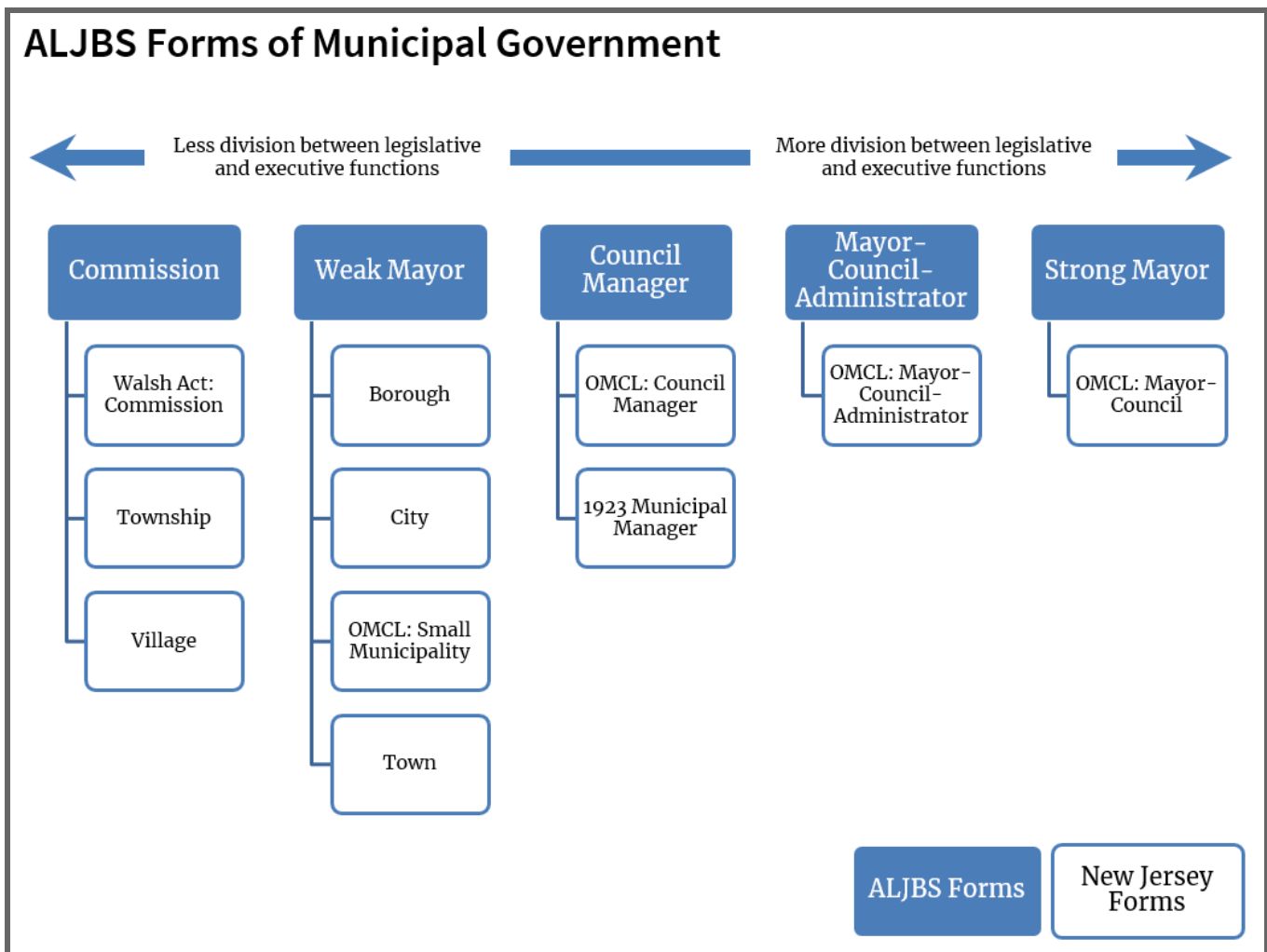
## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Name the 5 forms of municipal government at ALJBS
- Discuss how each of the 5 ALJBS municipal forms differ from one another
- Discuss how the 5 ALJBS forms relate to the 12 forms in New Jersey
- Contrast the Strong Mayor and the Weak Mayor forms at ALJBS

While New Jersey’s municipalities can utilize one of the 12 distinct forms of municipal government, at ALJBS, similar forms are grouped together to expedite the selection process for each city. The five forms of municipal government that are available at ALJBS are:

- 1) Commission
- 2) Council Manager
- 3) Mayor-Council-Administrator
- 4) Strong Mayor
- 5) Weak Mayor



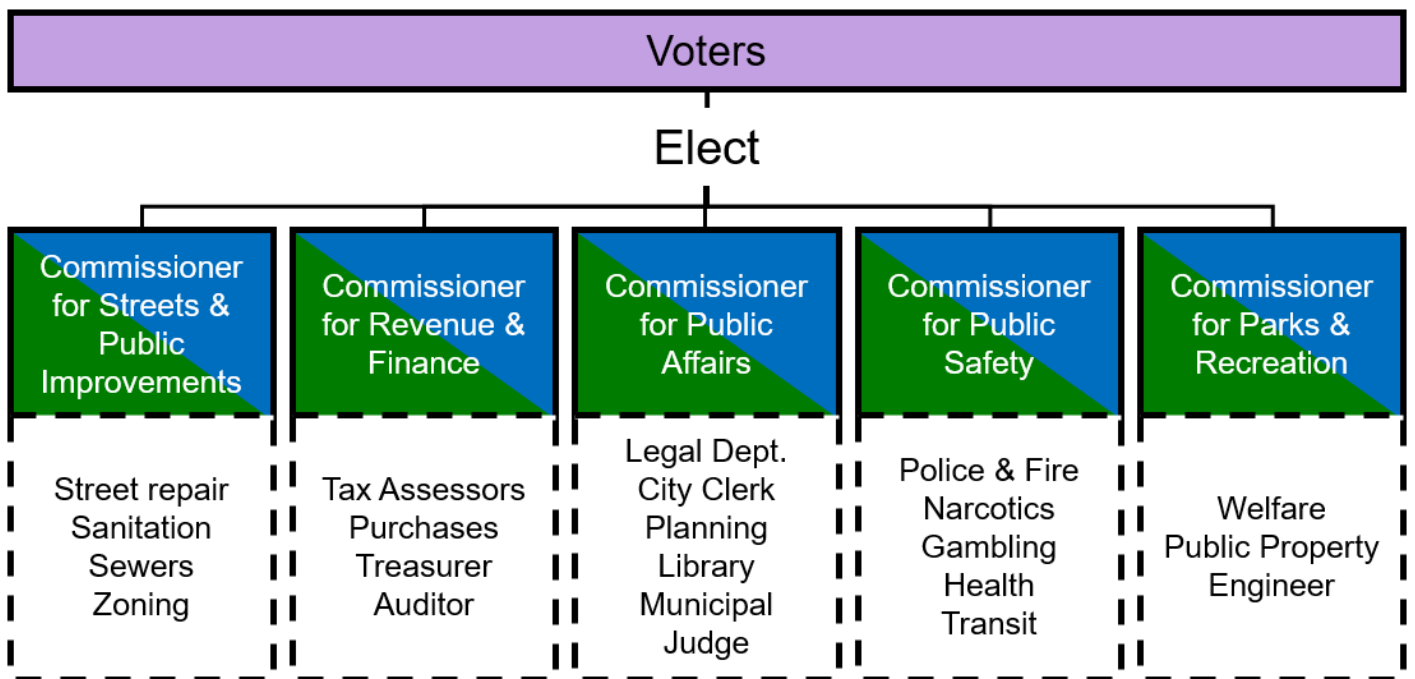
## Forms of Government at Boys State

Positions with **executive roles** are colored **GREEN**

Positions with **legislative roles** are colored **BLUE**

**COMMISSION.** In the Commission form, all legislative and executive responsibility lies with the Commissioners. Each Commissioner leads a specific municipal department (e.g. Department of Public Affairs, Department of Public Safety, Department of Public Works, Department of Parks and Public Property, and Department of Revenue and Finance).

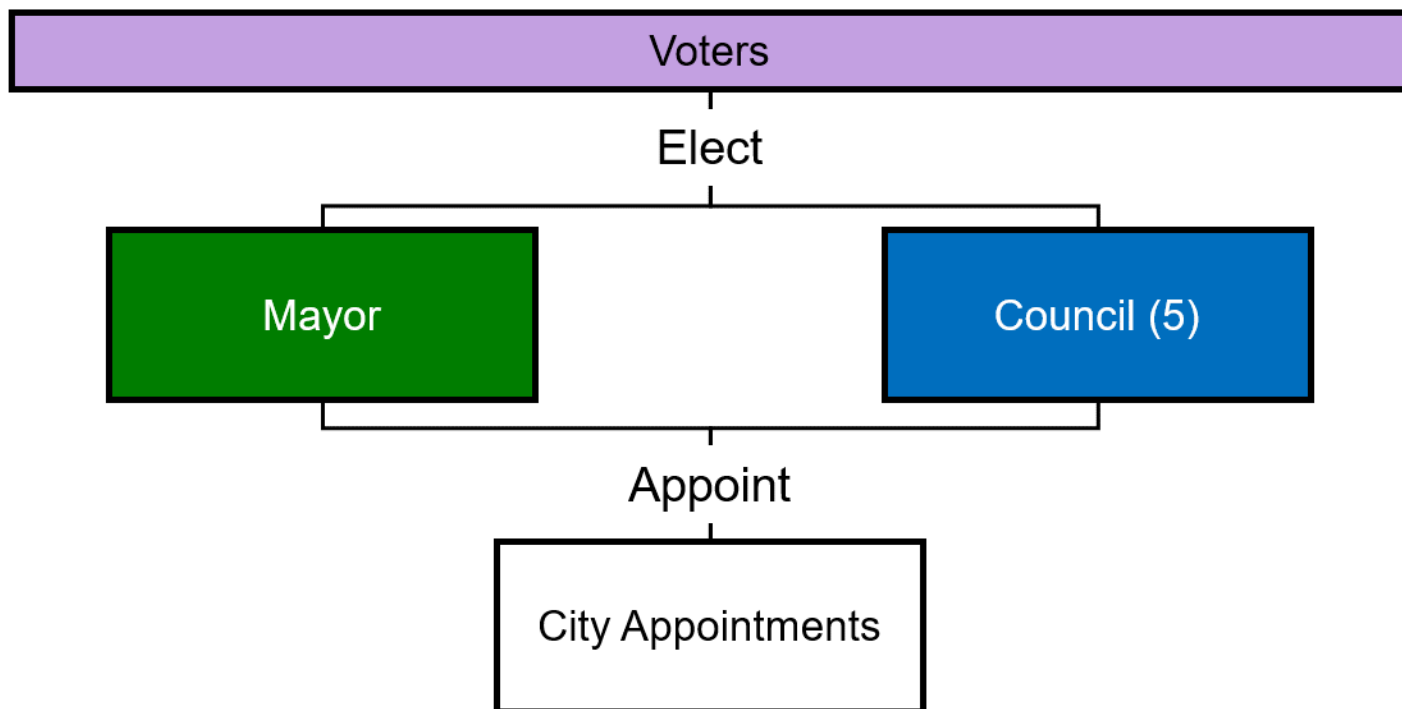
A Mayor chosen from one of the 5 Commissioners and presides over meetings of the council. Problems sometimes arise because of the lack of a strong executive to coordinate the administration of the municipality.



**Executive:** Mayor chosen by the commissioners from amongst themselves

**Legislative:** Commissioners

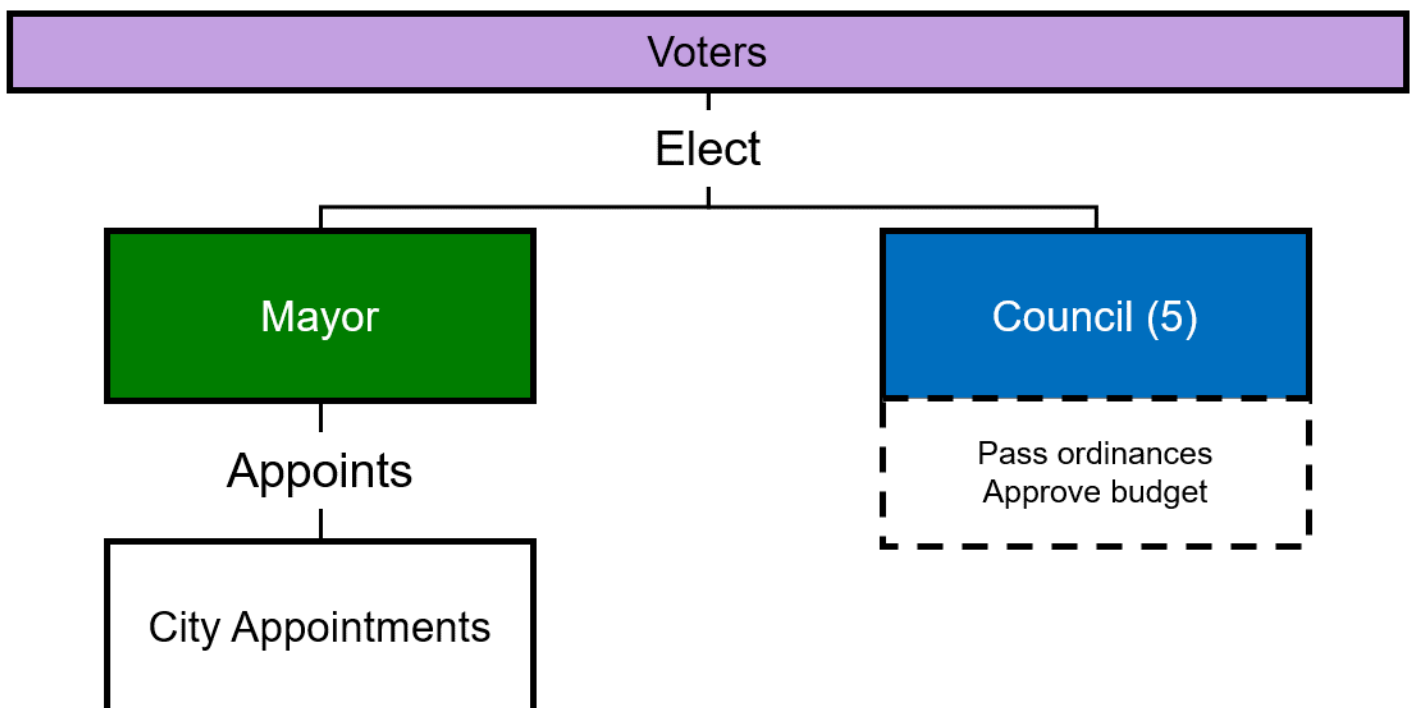
**WEAK MAYOR.** In the Weak Mayor form, the voters directly elect a mayor, but the position does not encompass all the powers of a strong executive. The mayor presides at council meetings, but only votes to break ties. The budget is prepared by the council, and all municipal appointments must be confirmed by the council. The council retains all executive responsibilities that are not explicitly assigned to the mayor.



**STRONG MAYOR.** The Strong Mayor form provides for the election of a mayor who is the chief administrative officer of the municipality. The mayor makes the budget, has veto power over the acts of the council (although subject to a two-thirds override), and appoints the heads of his own administrative departments, including a business administrator, subject to approval by the council. The mayor attends meetings of the council, but he has no vote (except on a tie vote in filling a council vacancy). The mayor is responsible for carrying out all council decisions as well as the conduct of all other functions of the municipality.

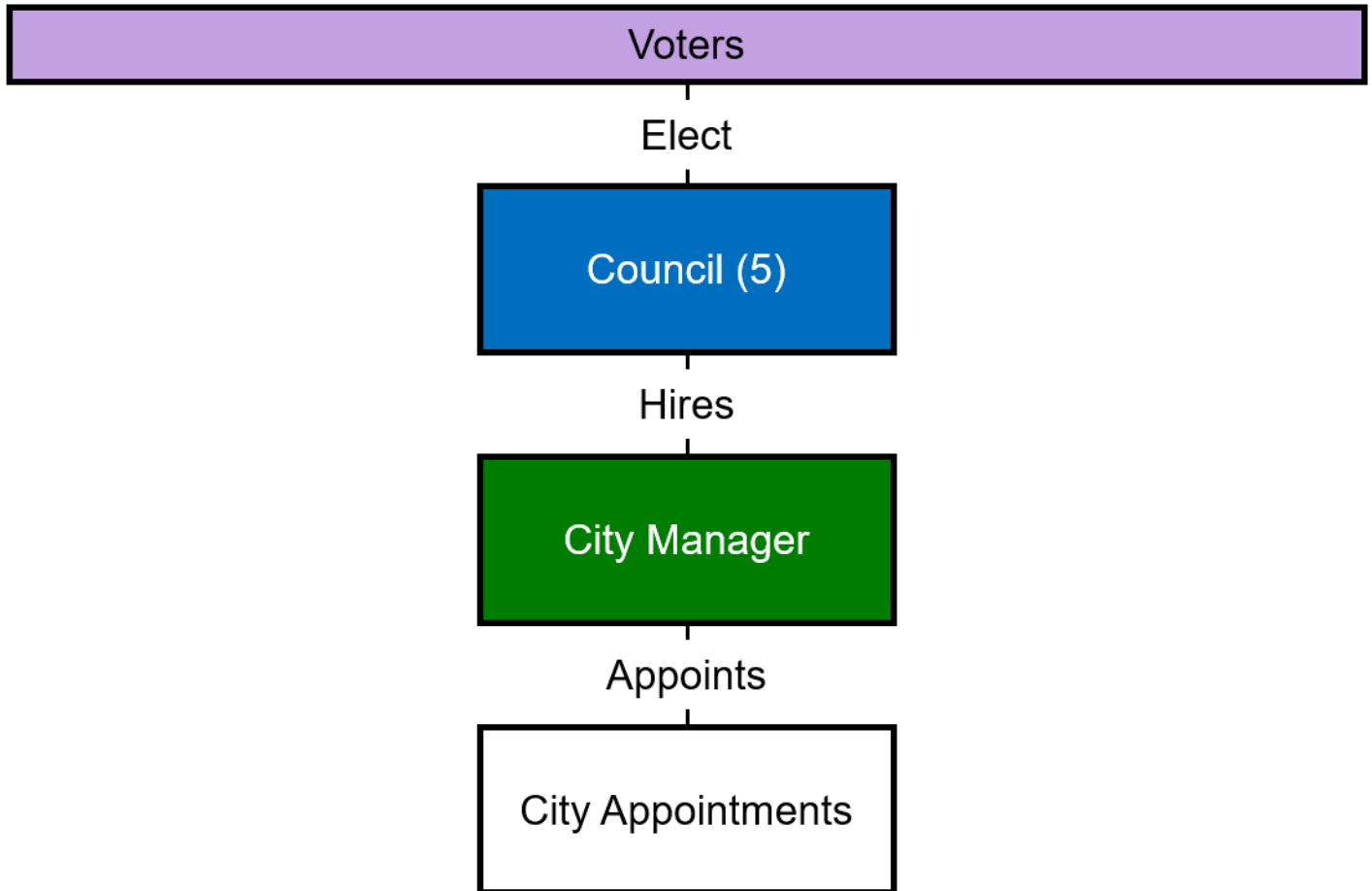
In this form, the council is strictly a policy making body: it adopts ordinances, makes all appropriations, decides all policies, and holds investigative power over the administration. The council establishes and determines functions of all departments.

This provides for better administration, a system of checks and balances between the legislative and executive, and centralized budgeting. One possible disadvantage is the fact that the mayor, through his right to name officials below the rank of department heads without approval of the Council, may use this right to build a personal political machine.



**COUNCIL-MANAGER.** In the Council-Manager form, the council hires a professional manager who serves at the pleasure of the council, executes its policies, and administers the municipality. A mayor is selected from the council and presides at council meetings.

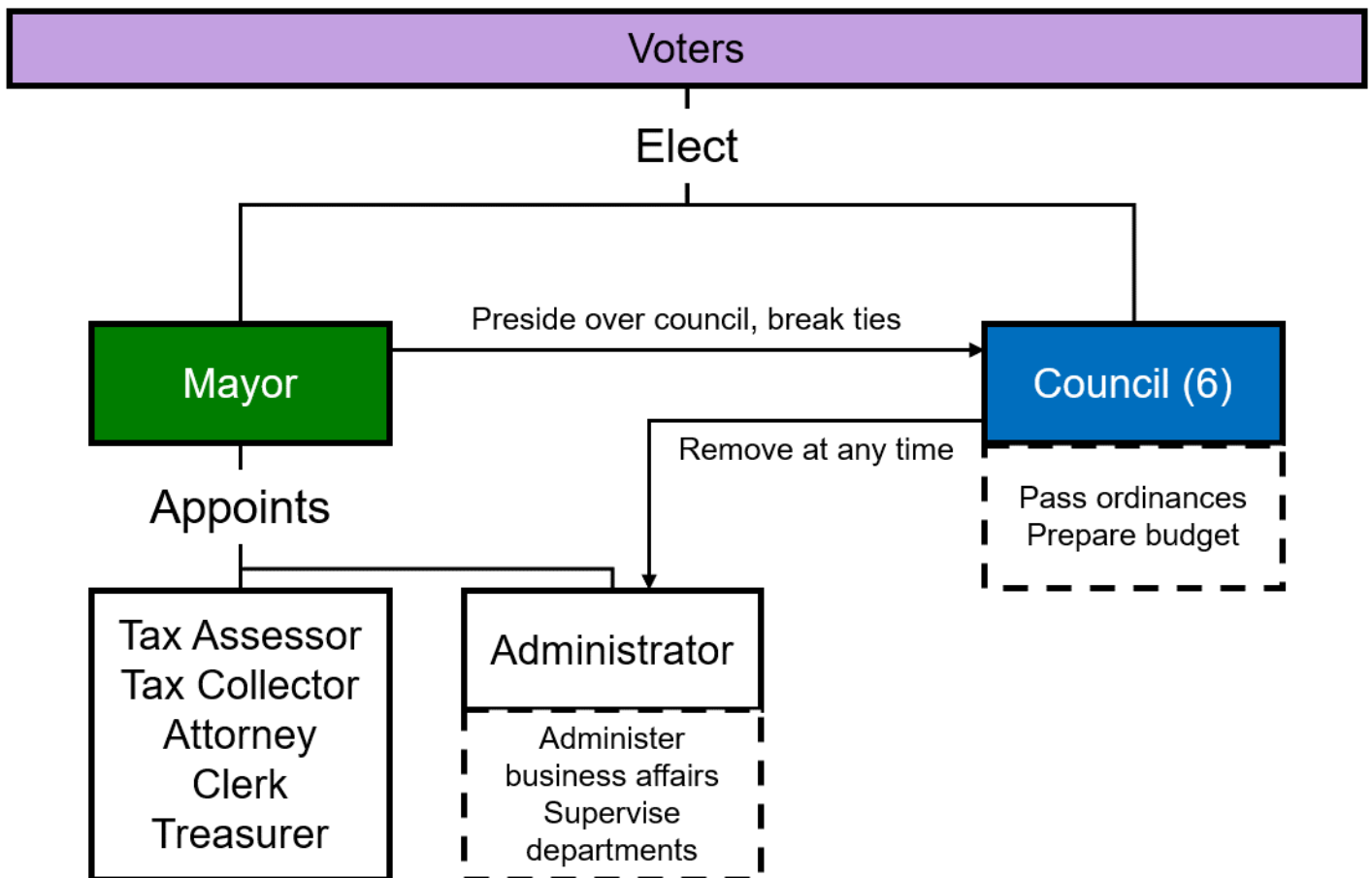
In this form, the council is strictly a legislative body, and has no individual interaction with the administration except through the manager. The council appoints the municipal clerk, tax assessor, and municipal attorney, but the manager is entitled to the appointment and removal of the department heads and preparation of the annual budget. The Council-Manager form does not provide tenure for the manager, who may be removed through a vote of the council.



**MAYOR-COUNCIL-ADMINISTRATOR.** The Mayor-Council-Administrator form splits the difference between the Weak Mayor and Strong Mayor forms. In New Jersey, this form requires the appointment of a municipal administrator, as it does at ALJBS.

While the council has no appointive authority and no appointive responsibility, it does prepare the budget with the assistance of the treasurer and administrator. Although the Council does not appoint the administrator, the administrator may be removed from office at the pleasure of the council.

As the executive authority, the mayor presides over the council but votes only to break ties. The mayor can veto ordinances but the council may override a veto by a two-thirds majority. The mayor is authorized to make a number of key appointments, including the administrator, assessor, collector, attorney, clerk and treasurer. The administrator is directed to administer the business affairs of the municipality and supervise the administration of each department.



# COUNTY GOVERNMENT

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Summarize the six classifications of county governments found in New Jersey
- Describe the role that county government plays as it relates to the State and municipalities
- Explain the role of the Musto Commission as it relates to county and municipal government
- Summarize the impacts of the Optional County Charter Law
- Describe the roles and responsibilities of the Board of County Commissioners
- Name the 3 constitutionally required elected county officers and their responsibilities
- Identify the important appointed officials in county government

## COUNTIES IN NEW JERSEY

Counties have existed in New Jersey since the late 1600s. Soon after the British seized the area from the Dutch and named it New Jersey (after the Isle Jersey in the English Channel), the land was split into two provinces: East and West Jersey. Within those two provinces, the first six of New Jersey's counties were formed.

| <u>East Jersey</u> | <u>West Jersey</u> |
|--------------------|--------------------|
| Bergen             | Burlington         |
| Essex              | Salem              |
| Middlesex          |                    |
| Monmouth           |                    |

The primary purpose of these original boundaries were to delineate jurisdictional court regions. For a time, these courts were the only recognized county institutions. Eventually, elections were formed around these counties, with each county choosing representatives to manage the courthouses and jails along with each county's Justice of the Peace.

From the original six counties of New Jersey, the legislature has, over the years, created the 21 which exist today (see map below, or [see an interactive map](#)). The Legislature has also established a system classifying counties as demonstrated by the table on the following page.

The State Constitution does not provide for counties in New Jersey. Counties are created by the legislature and exist at its pleasure.



Classes of New Jersey County Government

| <u>Class</u> | <u>Population Requirements</u>                                       | <u>Geographic Location</u>          | <u>Current Counties</u>   |
|--------------|--|-------------------------------------|---|
| First        | More than 550,000 and population density of more than 3,000/sq. mile | Not bordering on the Atlantic Ocean | Bergen, Essex, Hudson   |
| Second       | All other counties with at least 200,000 inhabitants                 | Not bordering on the Atlantic Ocean | Middlesex, Union, Camden, Passaic, Morris, Burlington, Mercer, Somerset |
| Third        | 50,000 to 199,999 inhabitants  | Not bordering on the Atlantic Ocean | Gloucester, Cumberland, Sussex, Hunterdon, Warren, Salem                |
| Fourth       | Less than 50,000 inhabitants   | Not bordering on the Atlantic Ocean | None  |
| Fifth        | More than 125,000 inhabitants  | Bordering on the Atlantic Ocean     | Monmouth, Ocean, Atlantic   |
| Sixth        | Less than 125,000 inhabitants  | Bordering on the Atlantic Ocean     | Cape May  |

## New Jersey Counties and How They Were Formed

| <u>County</u> | <u>Date Formed</u> | <u>County Seat</u>   | <u>Historical Data</u>  |
|---------------|--------------------|----------------------|---|
| Atlantic      | 1837               | Mays Landing         | Formed from Gloucester County                                       |
| Bergen        | 1683               | Hackensack           | Original county in East Jersey                                      |
| Burlington    | 1681               | Mount Holly          | Original county in West Jersey--court established 1681              |
| Camden        | 1844               | Camden               | Formed from Gloucester County                                       |
| Cape May      | 1685               | Cape May Court House | Original county in West Jersey--court established 1685              |
| Cumberland    | 1748               | Bridgeton            | Formed from Salem County  |
| Essex         | 1683               | Newark               | Original county in East Jersey                                      |
| Gloucester    | 1686               | Woodbury             | Original county in West Jersey--court established 1686              |
| Hudson        | 1840               | Jersey City          | Formed from Bergen County   |
| Hunterdon     | 1714               | Flemington           | Formed from Burlington County                                       |
| Mercer        | 1838               | Trenton              | Formed from Burlington, Hunterdon, Middlesex, and Somerset Counties |
| Middlesex     | 1683               | New Brunswick        | Original county in East Jersey                                      |
| Monmouth      | 1683               | Freehold             | Original county in East Jersey                                      |
| Morris        | 1739               | Morristown           | Formed from Hunterdon County  |
| Ocean         | 1850               | Toms River           | Formed from Monmouth County   |
| Passaic       | 1837               | Paterson             | Formed from Bergen and Essex Counties                               |
| Salem         | 1681               | Salem                | Original county in West Jersey--court established 1681              |
| Somerset      | 1688               | Somerville           | Formed from Middlesex County  |
| Sussex        | 1753               | Newton               | Formed from Morris County   |
| Union         | 1857               | Elizabeth            | Formed from Essex County  |
| Warren        | 1824               | Belvidere            | Formed from Sussex County   |

## COUNTY GOVERNMENT IN NEW JERSEY

While the operations of county government have greatly increased since colonial times, the principles on which such government rests remain substantially unchanged. The New Jersey county is still primarily an agent of the State, performing state functions within its territory that the State has specifically delegated to it. Some defined, mandatory areas of county responsibility are:

- 1) Courts and Law Enforcement
- 2) Welfare
- 3) Education
- 4) Roads
- 5) Administration of elections

Grafted on this basic role are limited powers to provide services and functions as explicitly authorized by state law. Permissive areas include parks, libraries, planning, county colleges, health, etc. The county has no jurisdiction over municipalities within its borders.

Although the State Constitution stipulates the powers of the county shall be liberally interpreted, those powers are not at all comparable to the broad home-rule powers granted by the Legislature to the municipalities. For example, no law authorizes counties to provide for the safety, health, and welfare of county inhabitants, as the Home Rule Act of 1917 authorized municipalities.

Therefore, “the county is not a general government in any sense,” explains the County and Municipal Government Study Commission (which will be covered in more detail later in this section), in its analysis of this level of government. “From a purely legal view, it does not even have power to tax its residents, much less to legislate on their behalf, to provide vital services on its own initiative, to reorganize its structure, and do all the other things which municipal governments can do for themselves and their inhabitants.”

County operations are performed by four separate entities:

- 1) The governing body, named the Board of County Commissioners
- 2) Three elected constitutional officers: the Clerk, Sheriff, and Surrogate
- 3) A number of state-appointed officials, like County Prosecutors
- 4) Numerous agencies and officers whose powers, duties, and financing are usually spelled out in detail in state law

There are a multitude of permitted or mandatory independent agencies at the county level. Because these agencies and officers, who perform almost all major county functions, are virtually autonomous; the legislative body has limited or no control over much of the policy-making at this level. Expenditures for services by these independent agencies or officials often account for the vast majority of county budgets and personnel. Thus, the governing body, which is charged with the duty of enacting the county budget, controls but a small portion of the overall cost of county government.

As was previously discussed, representatives from municipalities were being elected to serve in county legislative functions early in New Jersey’s history. In 1798, the State Legislature officially established the Board of Chosen Freeholders as the legislative and administrative heads of county government, the members of which were elected from municipalities. As the number of municipalities within a county increased, the number of freeholders on the boards grew proportionately. It was not until 1902 that the legislature allowed counties to alter by referendum the composition of the boards by providing for the election of from three to nine freeholders from the county at-large. In response to [Reynolds v. Sims. 377 U.S. 533](#), the 1964 Supreme Court decision which brought the “one person, one vote” principle, a 1966 state law required the four counties still using the older “large board” form to instead freeholders elected from the county at-large.

New Jersey was the only state to use the term “freeholders” as the title for their elected county officials. The title originated in medieval England and was a literal reference to the qualifications required to hold the office: those that held debt-free title to real property. Use of this title was often criticized, as in those times, only white men were able to meet these qualifications.

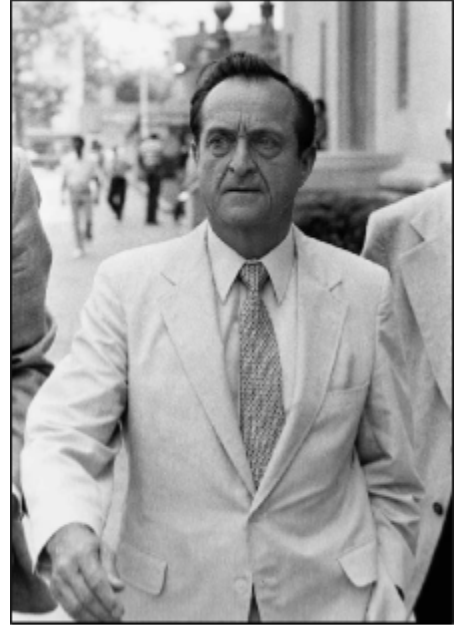
On August 21, 2020, Governor Phil Murphy signed a bill officially changing the name of the county governing bodies from “Board of Chosen Freeholders” to “Board of County Commissioners,” like every other state in the nation. The law went into effect on January 1, 2021.

## **The County and Municipal Government Study Commission & The Optional County Charter Law**

By the late 1960s, the growing dissatisfaction with the performance of many county governments in New Jersey was leading to calls for change, similar to the efforts to contemporize and improve municipal governments in the early to mid-twentieth century. In response to this as well as other areas of opportunity, the State formed a commission to study the structures and functions of county and municipal governments: the **County and Municipal Government Study Commission**.

The Commission was chaired by William V. Musto, a former mayor of Union City as well as a former member of both the New Jersey General Assembly and Senate, and was colloquially referred to as the “Musto Commission.” The Commission submitted several reports on topics such as municipal consolidation, joint services agreements between municipalities (now commonly referred to as “shared services agreements”) and localizing fiscal responsibility, but their 1969 report focused on county government.

The findings of the Musto Commission as it related to county governments focused on the structural, legal, administrative, and fiscal shortcomings of the current structure. In speaking of the structure of county government, the Musto Commission’s first report said: “The picture is one of fragmentation in a multi-agency situation, with a lack of central legislative power. Thus, as functions have been added over the years, they have usually been separated from the direct control of [a] central governing body, and many individual service units have sprung up around but not under the Board of Freeholders.”



William “Billy” Musto

The Musto Commission made recommendations in its 1969 report to improve the performance of the county government. Taking note of the problems presented by the fragmentation inherent in the existing county structure, the commission proposed legislation providing alternative plans, similar to Optional Municipal Charter Law plans, under which counties could reorganize themselves.

In September 1972 Governor William T. Cahill signed into law the **Optional County Charter Law**. On the occasion he said: “This is a history-making change in the development of our county governing bodies. Too little is known, and even less is understood about the operation of our County Governments as they are now constituted. This law makes New Jersey a leader among the states of the nation in giving voters greater control of and participation in the operation of County Governments.”

The Optional County Charter Law is laid out in [NJS 40:41A et seq](#) and provided for four new optional plans of county government that could be adopted. All four optional plans attempt to address the shortcomings of the traditional Board of County Commissioners form by providing for a more clearly defined separation of executive and legislative functions. Similar to the Governor and Legislature, the executive formulates and proposes a budget and the Board legislates it into existence.

To be clear, no matter the optional form that a county may choose, **all counties have a Board of County Commissioners**. The Optional County Charter Law only provides the means to augment the Board of County Commissioners with additional positions that are meant to facilitate the efficient administration of the county. Although the constitution allows the counties to petition the State Legislature for a special charter changing this structure, no such charter has ever been granted.

## **Forms of County Government in New Jersey**

**THE BOARD OF COUNTY COMMISSIONERS.** The principal governing body of the county is called the Board of County Commissioners. State statutes fix the size of the Commissioner boards largely according to classification and population; size varies from three to nine.

Commissioners are elected for three-year overlapping terms at the general election each year. Any qualified voter is eligible to run for the office. The Commissioners determine their salaries within the limits set by state statute. At a mandatory annual meeting held on January 1st or 2nd, the board reorganizes and, among other business, selects one of its members to be chairperson, and appoints members to subordinate boards as authorized by state law. The chairperson is not a chief executive officer and has no powers beyond those held by other commissioners.

The Commissioner board is charged with the management of the property, finances, and affairs of the county. Its function is twofold: it determines some county government policy, and it administers the day-to-day operations of county government. As a board, it exercises both legislative and administrative power. In its legislative role, it enacts the annual budget. And, under its administrative authority, it expends monies appropriated in the budget.

Daily operation is generally supervised by board standing committees. Although these committees are not empowered to administer, they do so through an implicitly understood agreement. The board both formalizes its committees' administrative decisions and enacts legislative decisions during its regularly scheduled meetings. It also creates and specifies the functions of its various committees, and appoints officers, department heads, and departmental personnel. The Board of Commissioners must appoint a Clerk of the Board (not the County Clerk), whose function is to record the minutes of the board's meetings, sign certain official papers, and be custodian of the board documents.

**COUNTY EXECUTIVE PLAN.** This plan provides for an elected Chief Executive called the County Executive and an elected Board of County Commissioners. The County Executive has control over personnel, budget, and all county agencies and departments. The Executive can veto actions of the Commissioners, who in turn could override the veto by a two-thirds vote, whereupon the ordinance becomes law in 10 days without the Executive's signature.

The County Executive appoints a Chief Administrator and any other officers or employees authorized by the Board of Commissioners. They also appoint the heads of all county boards and commissions. The appointment of the Chief Administrator and Heads of Boards and Agencies is with the advice and consent of the Board.

The Board of Commissioners may appoint a clerk to the Board and the County Counsel who heads the County's legal department. This plan is similar to the municipal "**strong mayor**."

**COUNTY MANAGER PLAN.** Under this plan the Commissioners appoint a professional administrator (called the County Manager) responsible for administration and operation of the county, while the Commissioners retain responsibility for policy and direction. The executive power is exercised by the County Manager, who appoints a deputy manager, the heads of all county departments and other administrative officers.

The Board of Commissioners may appoint a clerk to the Board and the County Counsel who heads the County's legal department. This plan is similar to the municipal "**council manager**."

### **DID YOU KNOW?**

Five of New Jersey's counties have chosen to use the County Executive Plan:

Atlantic, Bergen, Essex, Hudson, and Mercer

Union county is the only county to utilize the County Manager Plan

**COUNTY SUPERVISOR PLAN.** Under this plan there is a County Supervisor elected as well as the Board of Commissioners. The County Supervisor presides over Board meetings, with the right to vote in cases of ties. During any absence of the Supervisor, the Board designates one of their members to serve as Chairperson pro tempore of the Board.

The County Supervisor exercises the executive power of the county. The Supervisor may veto Board actions, but that veto can be overridden by a two-thirds vote, whereupon the ordinance becomes law without the Supervisor's signature. The County Supervisor appoints the heads of all county boards and commissions and other officials with the advice and consent of the Board. The Supervisor neither prepares the budget nor controls expenditures under it. Administrative power not delegated to the County Supervisor by law or resolution is retained by the Commissioners.

The Board appoints a Chief Administrator, who is supervised by the County Supervisor. The Board also may appoint a clerk to the Board and the County Counsel who shall head the county's legal department. This plan is similar to the municipal "weak mayor."

**BOARD PRESIDENT PLAN.** The Board President shall be elected from among the members of the Board. The executive powers of the county are exercised by the Board President. He presides over Board meetings, with the right to vote on all questions. With the advice and consent of the board, he appoints all members of independent or advisory boards and commissions and all other officials not-serving in the administrative service of the county.

The Board appoints the Chief Administrator, who in turn appoints the heads of all county departments and all other administrative officers and employees. This plan is similar to the municipal "commission."

### **Other Elected County Offices**

In addition to the Boards of County Commissioners and the executives (where applicable), the State Constitution requires each county to also elect three officers:

- 1) County Clerk
- 2) County Surrogate
- 3) County Sheriff

In addition to these three offices, counties in New Jersey may also choose to elect a Register of Deeds and Mortgages.

The Clerk and Surrogate are elected for five-year terms and the Sheriff for a three-year term. Although their duties and salaries are determined by state statute, their salaries and all operating expenses of their offices must be paid by the county.

**COUNTY CLERK.** The office of the County Clerk is a Constitutional and Administrative Office. The duties, powers, and limitations of the office are outlined in [NJSA 40A:9-63](#) through [NJSA 40A:9-78](#).

Per [NJSA 40A:9-63.1](#), the County Clerk is elected for a term of five years. He is clerk of all the county courts and has charge of all the various records of such courts. These records are subject to examination and search by the public and are kept in accordance with the statutes relating thereto. He is required to attend the trials, swear the witnesses and jurors and keep the minutes at the trial of all cases but has authority under the statutes to appoint clerks known as his assistants to act in his stead. He administers the oath to various county officials, notary publics and files their oaths and bonds.

The County Clerk is the custodian of the records of all liens against real estate, attachments, judgments recovered in county court, mechanics' liens, and docketed judgments from other courts. He also keeps dockets of all actions at law containing the various documents or papers filed in each case in the courts of the county, all certificates of incorporation of business companies, trade names and co-partnerships, social associations, churches, inheritance tax waivers, road records, tax sale certificates, their assignments and redemption, the records of declaration of intention and naturalization of citizens of the United States. He is also required to keep a registry of all licensed physicians, osteopaths, nurses, exempt firemen and to issue veterans licenses.

He is required under the election law to prepare and deliver the necessary forms for the use of the district boards of registry and election in the polling places, and to prepare for printing and delivering the sample and official ballots for the primary and general elections. He is also required to receive and file petitions for nomination and all statements of the results of the primary and general elections and can canvass the votes cast and issue certificates to the successful candidates. Under the Military Voting Act, he prepares and mails primary and general election ballots to all members of the armed forces and keeps an up-to-date record of their military addresses.

The County Clerk is required to assist in the drawing of all petit and grand juries and receive all the indictments handed into the court by the Grand Jury and keep a record of all the criminal proceedings and trials in the Criminal Courts in the County.

For the filing of all pleadings and proceedings and entering and recording of all documents in his office, there is a statutory fee which he is required to collect and to pay to the County and State Comptrollers, for which he is personally liable. He is also the custodian of all monies paid into the court on cash, bail, satisfaction of liens, judgments and other money which is ordered to be paid into the Courts, and to keep a proper record of the same and pay it over when ordered by the Court, for which he is personally liable. He is also required to issue hunting and fishing licenses for the Fish and Game Commission.

**COUNTY SURROGATE.** This elected official's principal duties mainly relate to the probating of wills, the granting of letters of administration, the granting of guardianship papers, and the appointing of executors in uncontested matters. He is given authority by the Legislature concurrent with that of the Orphans' Court to pass upon the retention of securities as investment of estates managed by executors and administrators holding authority from him.

**COUNTY SHERIFF.** This elected official is the supreme police officer of the County. The duties, powers, and limitations of the office are outlined in [NJSA 40A:9-94](#) through [NJSA 40A:9-128](#).

**DID YOU KNOW?**

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County Sheriffs have the authority to appoint several subordinate positions, for example:

Undersheriffs  
Sheriff's Investigators  
Deputy Sheriffs  
Chief Warrant Officer

He has charge of the conduct in all county courts, polices them, has charge of all persons who are apprehended and waiting trial, and has charge of the County Jail and House of Detention. It is the Sheriff's duty to apprehend any person wanted by the Court; he has charge of raiding places within the County which are breaking the law. He serves all papers issued by the Courts. The Sheriff receives all papers in regard to all indictable charges and when such cases have been disposed of, he has the duty of notifying such dispositions back to the source. The identification bureau for fingerprinting and photographing prisoners is a part of the Sheriff's Office. He summons all jurors

for service in the county courts and issues pay warrants to them. He has charge of the sale of properties which have been levied upon by a writ of execution of the court and also for the collection of Judgments; the Sheriff may levy on personal property by direction of the court. No state officer exercises control over the Sheriff. The Sheriff has to give bond at the time he takes his oath of office and it has to be renewed annually.

**REGISTER OF DEEDS AND MORTGAGES.** This elected official shall record, register or file in his office all deeds, mortgages, assignments of mortgages, letters of attorney to convey land, and all instruments of writing relating to the title of real estate and all other instruments in writing required or permitted by law to be recorded, registered, or filed in his office. The duties, powers, and limitations of the office are outlined in [NISA 40A:9-80](#) through [NISA 40A:9-93](#).

In counties in which there is no Register of Deeds and Mortgages, the County Clerk also performs the duties of that office. Counties having a population of 250,000 or more, the office of Registrar of Deeds and Mortgages may be created by referendum and filled by election for a five-year period.

### **County Departments and Officials**

As previously mentioned, there are several departments and agencies that operate at the county level. These positions can be appointed either by the leadership of the county or by state officials.

Under an amended 1967 law, any county, other than Essex or Hudson, may by resolution create the office of the County Administrator. Six counties had such administrators in 1971. The appointee in this post serves a three-year term and may be assigned such power and duties as the board desires.

**CLERK OF THE BOARD OF COUNTY COMMISSIONERS.** Appointed for a three-year term. Keeps the minutes, edits the orders and proceedings of the Board and keeps in his custody all papers and documents pertaining to the property and business of the county. The duties, powers, and limitations of the office are outlined in [NISA 40A:9-26](#).

**COUNTY TREASURER.** Appointed for a three-year term. His duty is to collect and receive all monies due the county; to act as custodian of all county funds, except as otherwise provided by law, and to disburse the same only on the order of the Board. He shall render a report monthly showing all receipts and disbursements made by him and shall maintain general books of account. The duties, powers, and limitations of the office are outlined in [NISA 40A:9-27](#).

**COUNTY COMPTROLLER.** Per [NISA 40A:9-28](#), the position of the County Comptroller may be created by resolution. The office is elected by the Board of Commissioners for a term of three years and is responsible for rendering the reports and maintenance of the accounts otherwise required of the County Treasurer.

**CHIEF FINANCIAL OFFICER.** Per [NISA 40A:9-28.4](#), all counties are required to appoint a Chief Financial Officer. The term is three years, and the person chosen as the CFO cannot be a member of the governing body. Starting in 1996, all persons appointed to be Chief Financial Officer must be certified.

**COUNTY AUDITOR.** Per [NISA 40A:9-29](#), the Board of County Commissioners may elect for a term of three years a County Auditor to exercise supervision over the expenditure and receipt of monies of the county.

**PURCHASING AGENT.** Per [NISA 40A:9-30](#), the Commissioners may elect a Purchasing Agent for the term of three years. The Purchasing Agent shall classify and standardize all materials and supplies to be purchased for all institutions, departments, boards and commissions of the county and shall purchase all supplies and materials for their use, in addition to executing all contracts for purchase in the name of the county.

**GENERAL STOREKEEPER.** Per [NISA 40A:9-31](#), the Commissioners may appoint a General Storekeeper for a term of three years. The storekeeper shall keep in good condition all materials and supplies sent to him and shall deliver these materials to all institutions, departments, boards and commissions of the county according to the directions of the board and upon proper requisition.

**COUNTY COUNSEL.** [NJSIA 40A:9-43](#) allows for the appointment of a County Counsel for a term of three years. The County Counsel acts as the legal advisor to the Board of County Commissioners.

**COUNTY ENGINEER.** Per [NJSIA 40A:9-43](#), the Commissioners shall appoint a qualified civil engineer as County Engineer. He shall hold office for five years. His principal duty is the supervision of the construction of all county highways and bridges.

**COUNTY ROAD SUPERVISOR.** Per [NJSIA 40A:9-44](#), the Commissioners shall appoint a County Road Supervisor who shall hold office for five years. His principal duties are to supervise the maintenance and repair of all county highways and bridges, culverts, and drains.

**COUNTY MEDICAL EXAMINER.** [NJSIA 40A:9-46](#) requires each county to appoint a county medical examiner or share one with other counties on a cooperative basis. The examiner must be licensed as a physician. This replaces the older post of Coroner which was abolished. The post investigates sudden or suspicious deaths owing to crimes or incipient epidemics. State law also allows for the appointment of Assistant Medical Examiners, subject to the approval of the Board.

**SUPERINTENDENT OF PUBLIC WORKS.** The Commissioners may appoint a superintendent of public works for a term of three years. He shall have under his supervision all public works and buildings erected or to be erected and real estate under the jurisdiction and control of the Board. His specific duties shall be defined by the Board by resolution at the time of appointment.

**COUNTY ADJUSTER.** The County Adjuster is in charge of supervision and preparation of papers relating to the commitment of persons with mental illness.

**COUNTY BOARD OF SOCIAL SERVICES.** In many counties, the Board of County Commissioners will form a Board of Social Services to be under the supervision of the State Department of Human Services. Composed of five citizens and two Commissioners. Each county board appoints a director to administer its program. The Board aims to provide service and assistance to individuals and families in need in the county. The Board of Social Services often helps with food assistance as well as other family and adult services like job training, educational and work activities programs, as well as logistical help with child care, transportation and other support.

# COUNTY GOVERNMENT AT ALJBS

## LEARNING OBJECTIVES

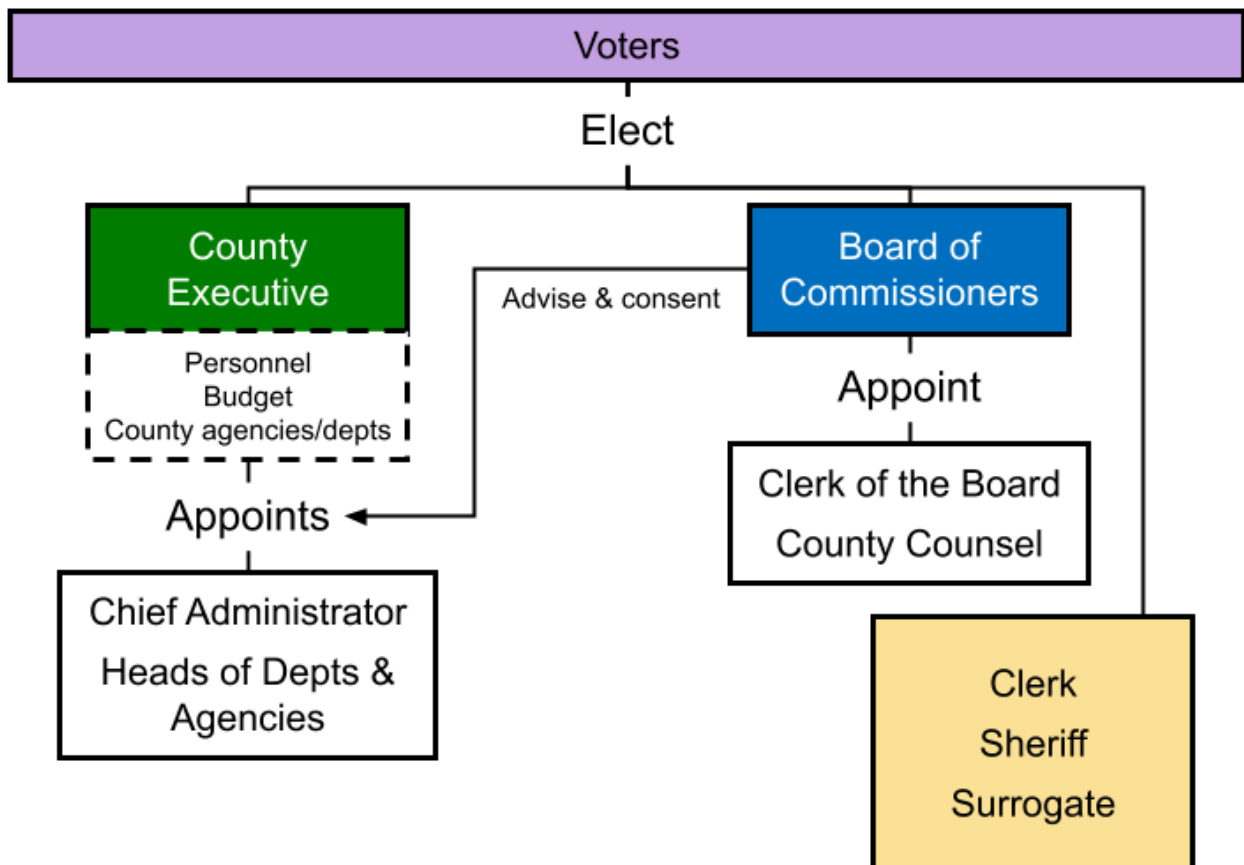
After reading this section, you should be able to:

- Name the 5 forms of county governments found at ALJBS
- Summarize each of the 5 forms of ALJBS county governments
- Discuss how the 5 county forms at ALJBS differ from one another
- Discuss how county forms are similar to specific municipal forms

**COUNTY EXECUTIVE.** Provides for an elected Chief Executive called the County Executive and an elected Board of County Commissioners. The County Executive has control over personnel, budget, and all county agencies and departments. He can veto actions of the Board of Commissioners, who in turn could override his veto by a two-thirds vote, whereupon the ordinance becomes law in 10 days without the Executive's signature.

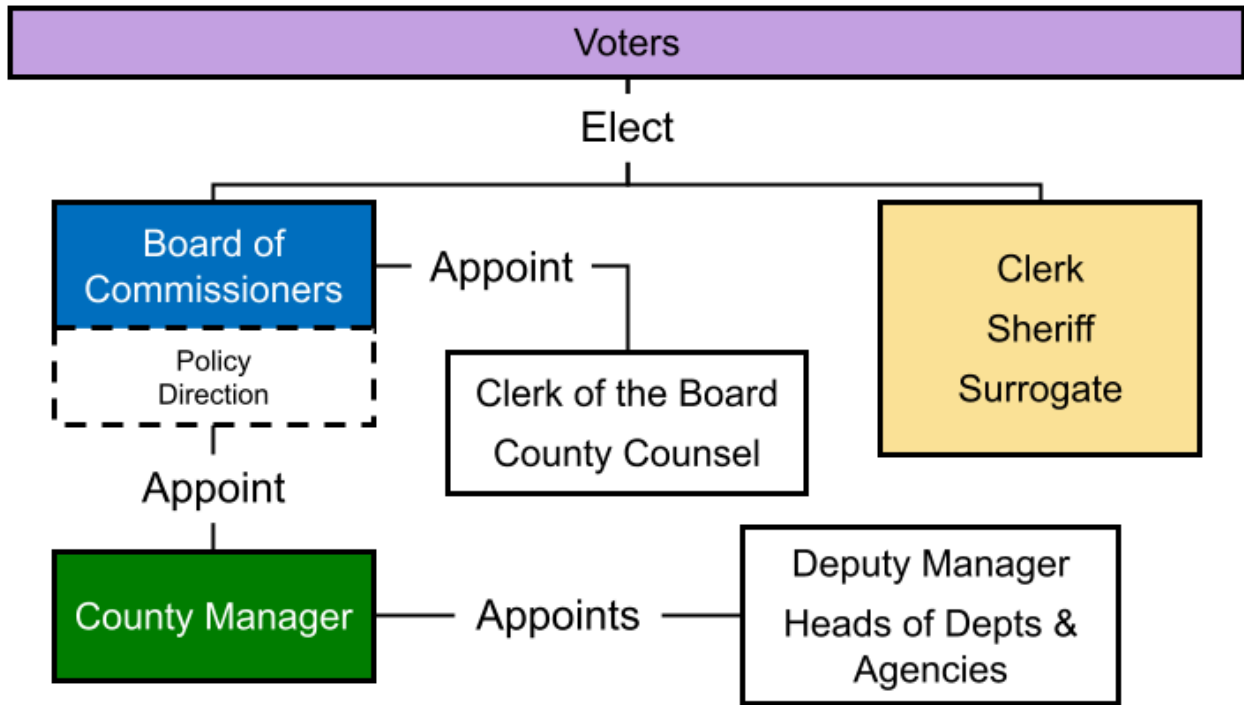
The County Executive appoints a Chief Administrator and any other officers or employees authorized by the Board of Commissioners. He also appoints the heads of all county boards and commissions. The appointment of the Chief Administrator and Heads of Boards and Agencies is with the advice and consent of the Board.

The Board of Commissioners may appoint a clerk to the Board and the County Counsel who heads the County's legal department (this plan is similar to the municipal "strong mayor").



**COUNTY MANAGER.** Under this plan the Commissioners appoint a professional administrator (called the County Manager) responsible for administration and operation of the county, while the Commissioners retain responsibility for policy and direction. The executive power is exercised by the County Manager. He appoints a deputy manager, the heads of all county departments and other administrative officers.

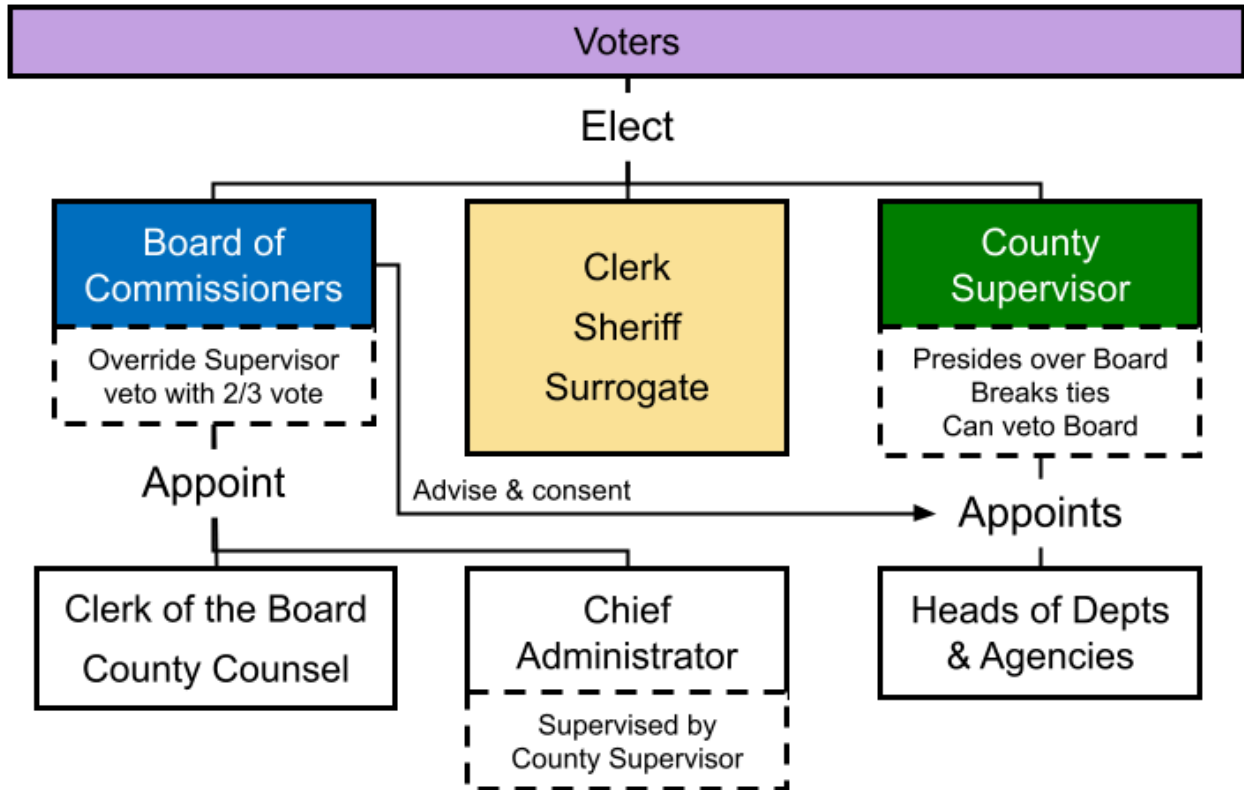
The Board of Commissioners may appoint a clerk to the Board and the County Counsel who heads the County's legal department (this plan is similar to the municipal "council manager").



**COUNTY SUPERVISOR.** Under this plan there is a County Supervisor elected as well as the Board of Commissioners. The County Supervisor presides over Board meetings, with the right to vote in cases of ties. During his absence the Board designates one of their members to serve as Chairman pro tempore of the Board.

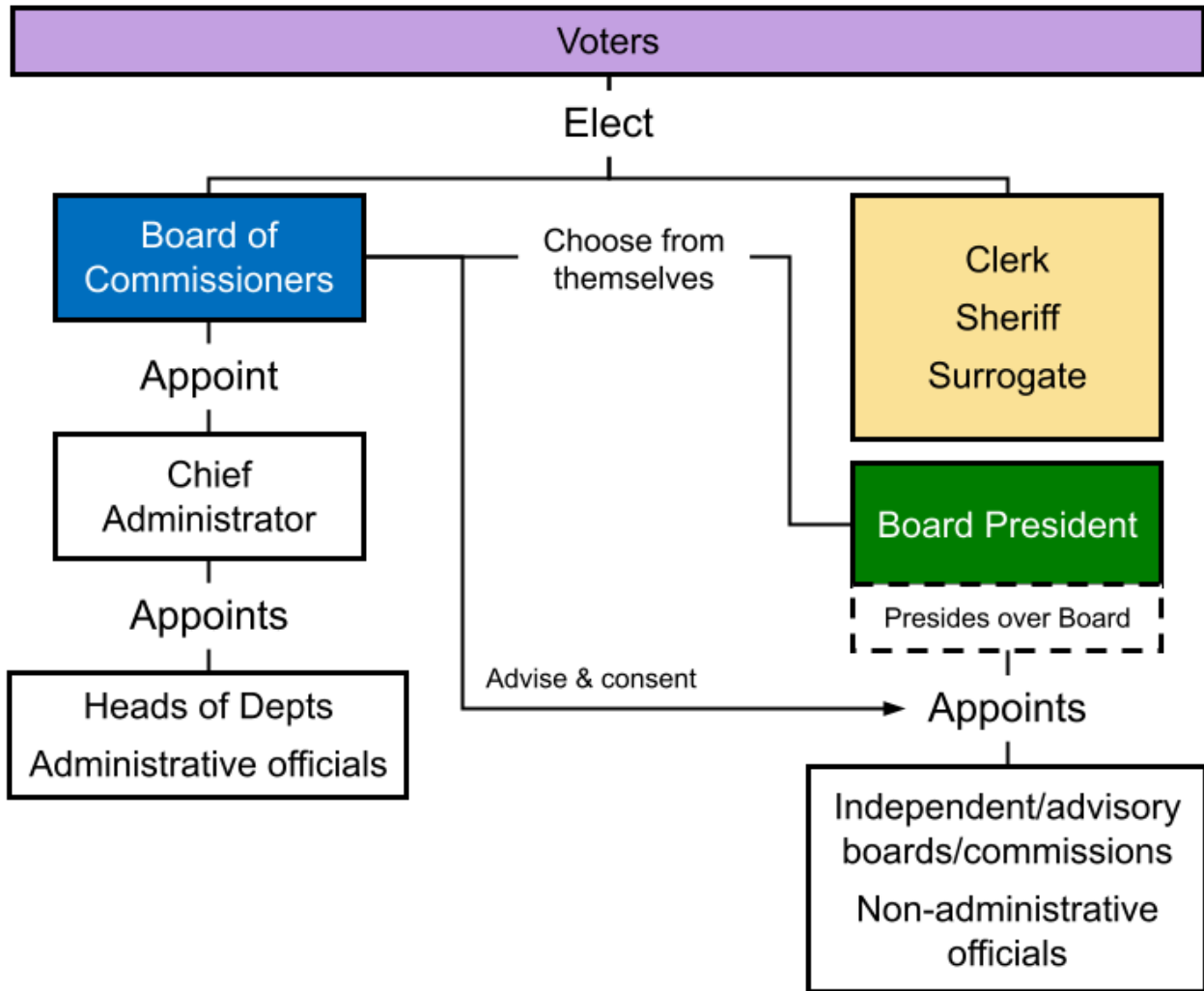
The County Supervisor exercises the executive power of the county, may veto Board actions, who in turn can override his veto by a 2/3-vote, whereupon the ordinance becomes law without the Supervisor's signature. The County Supervisor appoints the heads of all county boards and commissions and other officials with the advice and consent of the Board.

The Board appoints a Chief Administrator, who is supervised by the County Supervisor. The Board also may appoint a clerk to the Board and the County Counsel who shall head the County's legal department (this plan is similar to the municipal "weak mayor").



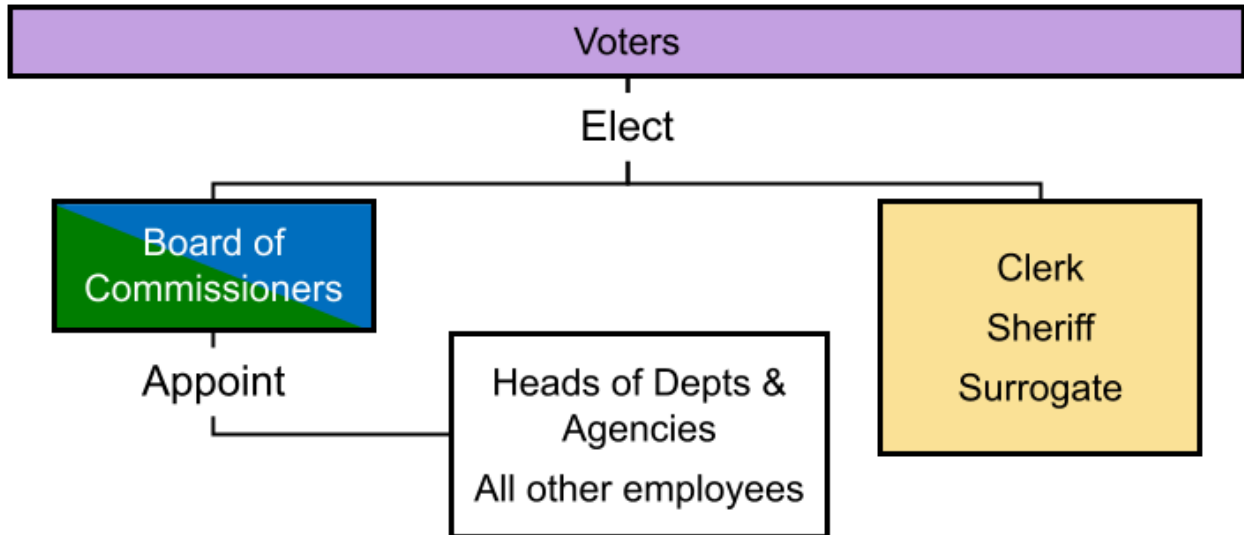
**BOARD PRESIDENT.** The Board President shall be elected from among the members of the Board. The executive powers of the county are exercised by the Board President. He presides over Board meetings, with the right to vote on all questions. With the advice and consent of the board, he appoints all members of independent or advisory boards and commissions and all other officials not-serving in the administrative service of the county.

The Board appoints the Chief Administrator, who in turn appoints the heads of all county departments and all other administrative officers and employees (this plan is similar to the municipal “commission”)



**BOARD OF COUNTY COMMISSIONERS.** The fifth option open to the voters of the county under the 1972 law was the option of retaining the traditional form of county government, which might simply be called the Board of County Commissioners form of county government.

All of the options except the Board of County Commissioners provide a clear-cut division of the executive and legislative functions of government. As with the State, the executive formulates and proposes a budget and the Board legislates it into existence.



# STATE GOVERNMENT

## THE LEGISLATIVE BRANCH

### LEARNING OBJECTIVES

After reading this section, you should be able to:

- Name the two houses of the New Jersey legislature and their respective leaders
- Explain the significance of the Supreme Court decision Reynolds vs Sims on the New Jersey legislature
- Describe the main powers of the Legislative Branch
- Summarize what a bill, statute, and resolution is
- Describe the process of how a bill becomes a law

### Functions And Powers

A State Legislature's function is to determine public policy by making laws, appropriating funds for government activities in those areas it deems proper, determining how to raise necessary revenues, and seeing that its wishes are carried out by the executive branch of the government.

In spite of the vast expansion of federal government activity over the years, the powers reserved to the states by the United States Constitution are still of great importance to the daily lives of American citizens. Laws made by our State Legislatures— within certain federal and state constitutional limits—control and foster the health, safety, and welfare of the people, control municipal, county, and other organs of local government, regulate labor and conditions of work, establish civil and criminal law, control public education, charter corporations and regulate political parties and elections.

#### DID YOU KNOW?

The concept of "Senatorial Courtesy" is manifested in New Jersey in two ways.

In the first, the Senators from an Executive branch nominee's home county are given the right to veto that nomination.

The New Jersey Senate is constitutionally tasked with giving advice and consent on most of the Governor's nominations in both the executive and judicial branches. The Legislature can exercise influence on the Executive branch since it has the power to allocate the functions, powers, and duties of all executive and administrative offices and departments, with the constitutional limitation that no more than twenty departments be established.

The Legislature has the power to impeach and try judicial and executive officials (the General Assembly serves as the impeaching agent with the Senate as the trial court). The entire Legislature appoints the State Auditor, whose duty is to see that state funds are spent in accordance with the Legislature's intentions. However, the Governor acts as a check on the Legislature by the use of his veto powers, and the Judiciary has the power to determine the constitutionality of the laws passed by the Legislature.

New Jersey's Constitution has limited some of the areas in which the Legislature would otherwise be able to act. One of the most important restrictions the Constitution imposes prohibits the Legislature from passing private, special, or local laws in such categories as:

- 1) the laws of inheritance, taxation or exemption from taxation

- 2) the salaries or terms or tenure of public officials and employees
- 3) the management and control of public schools
- 4) the appointment of officers or commissions to regulate local or municipal affairs
- 5) (except as otherwise provided in the constitution) the regulation of internal affairs of municipalities and counties

The Legislature can pass only general laws affecting all cases within any of these categories. However, the Legislature may group any of these categories into classes and then legislate separately for each class. The Legislature has used this procedure, for example, in legislation regulating counties, after grouping them into six classes. Outside the prohibited categories, private, special, or local laws may be passed only when proper notice has been given in a manner specified by law.

In New Jersey, the Legislature's role in policy-making is in part limited by the fact that the budget is drawn up in the executive branch. A large portion of the budget is mandated by earlier commitments that are difficult to rescind and often reflect increases in population and other factors beyond the Legislature's control.

The New Jersey Legislature is required to make its appropriations in support of the state government in one general bill that covers one fiscal year. According to the New Jersey Constitution, a balanced Budget must be approved as an Appropriations Act and signed by the Governor before July 1. After the Legislature passes the Appropriations Act, the bill is sent to the Governor. Per the [requirements set forth by New Jersey's Office of Management and Budget](#), as part of the final Appropriations Act, the Governor must "certify" the level of revenues in order to meet the constitutional requirement of a balanced budget. Should the Legislature want to sell bonds, usually to pay for capital construction of highways, buildings, etc., the voters at a general election must first approve the bond issues.

**DID YOU KNOW?**

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New Jersey's Fiscal Year runs from July 1st through June 30th.

The "Budget Process" begins in February with the Governor's Budget Address and continues until the annual appropriations bill is passed, usually in late June.

Originally in our system of government, legislators were supposed to be the source of all laws and the executive was there to administer them. But in these days of strong executive power, the Governor is more apt to originate bills and formulate a legislative program which the Legislature then considers and responds to. This is particularly true when the legislative majority is of the same political party as the Governor.

### **The Houses of the New Jersey Legislature**

The New Jersey Legislature, since 1776, has consisted of two houses: the **Senate** and the **General Assembly**. The 1947 Constitution changed the terms of Assembly members to two years and Senators to four, and adjusted the time of holding elections for Legislature and the Governor to odd-numbered years to permit voters to concentrate on the selection of their state representatives. Up until this point, each county sent one representative to the Senate, and, beginning in 1906, the number of members of the Assembly from each county was based on the county's share of the state population.

Major change came to the structure of the New Jersey Legislature with the United States Supreme Court's 1964 decision, [Reynolds v. Sims. 377 U.S. 533](#). In that case, the Court ruled that representation in both houses of state legislatures must be solely on the basis of population, and any other means of representation would be a violation of the Equal Protection clause of the Fourteenth Amendment. It was immediately apparent that New Jersey's system of one-senator-per-county would not be constitutional and so ended the "Twenty-one Club." A series of corrective actions soon began.

The Legislature authorized the calling of a constitutional convention, consisting of 126 delegates elected at a special March 1966 election, to meet and consider the changes necessary to bring the New Jersey Constitution into conformity with the Court decision and to draw up new districts for the 1967 election. The convention lasted from March through June 1966, and the constitutional amendments it proposed were approved by the voters at the general election of November 1966.

The new amendments made the following changes:

- 1) The Senate was enlarged from 20 to 40 members and the General Assembly from 60 to 80
- 2) Assembly members would continue to serve for two years and Senators would continue to serve for four years, except that those elected at the election following each census serve for only two. The entire Legislature may thereby be reapportioned as population changes each decade may require, without having to alter senatorial districts in mid-term. The terms in each house are concurrent, not staggered.

An Apportionment Commission, created after each decennial federal census, establishes new senatorial and assembly districts and apportions the number of Senators and Assembly members among the districts. Reapportionment has resulted in Senators from the urban and suburban counties outnumbering those from the more rural areas, and, in representing their constituent's interests, these less conservative legislators were able to pass legislation that would have been blocked in earlier Senates.

In the Assembly, on the other hand, the majority came mainly from the smaller, two-person suburban and rural districts and thus were not answerable to urban voters.

## **People & Membership**

In New Jersey, State Senators must be at least 30 years old, citizens of the United States, residents of the state for four years, and must have lived in the district from which they are elected for one year. Assembly members must be at least 21 years old, citizens, state residents for two years, and residents of their districts for one year. Assembly members and Senators must be eligible to vote. Each house is the sole judge of the qualifications of its members and of the validity of their elections.

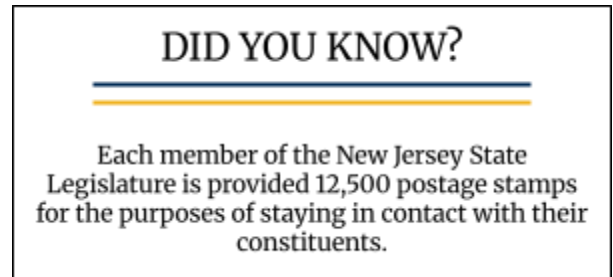
Members of the Legislature enjoy certain limited constitutional immunities. Senators and Assembly members may not be officially questioned in any other place for any statement they make in either house or at any meeting of a legislative committee. In addition, in all cases except treason and high misdemeanor, they are immune from arrest during their attendance at the sitting of their respective houses and in traveling to and from the sitting.

Membership in the Legislature is considered a part-time job, although the time required for legislative, caucus, and committee meetings, study of proposed bills, meetings with constituents, and campaigning for offices make it virtually a full-time post. The Legislature has been in the habit of meeting only one or two days a week (traditionally Mondays and Thursdays) for the first half of the year, because the members can commute to the one-day meetings—no part of the state is more than a three-hour drive from the State House in Trenton. Consequently, membership in the Legislature is effectively limited to those whose jobs, business, or incomes permit them to absent themselves irregularly for part of the year without suffering financial loss.

Legislators' salaries are fixed by law and may be changed by law, but such a change cannot become effective until the year following the election for members of the Assembly. As of 2024, legislators of both houses receive salaries of \$49,000 a year. According to the [National Conference of State Legislatures](#), New Jersey ranks fifteenth in the country for state legislator salaries. The Senate President and the Speaker of the General Assembly are constitutionally paid an additional amount equal to one-third of whatever a member receives. Salaries are paid half at the first legislative meeting of each year and half at the beginning of the fiscal year in July.

The possibility of conflicts of interest arising because most legislators hold other jobs or have interests that might conflict with their responsibility as legislators was first dealt with by conflict of interest legislation passed in 1967. This law merely required lawyer legislators representing private clients before State agencies to file disclosure statements, and legislators doing business with the State to do so only in public bids. In 1971, however, [NJSA 52:13D-12 et seq.](#) was enacted which prohibits:

- 1) lawyer legislators and their firms from appearing before most State agencies
- 2) legislators from engaging in party transactions with the State
- 3) legislators from transacting any other business with the State without prior approval from a legislative committee on ethical standards



This law also provides for codes of ethics for legislators and other State officials and employees. Efforts to pass laws requiring financial disclosures by legislators have been unsuccessful for the most part.

The State provides stationery for each legislator and legislators receive the same health insurance coverage and other health benefits as other State employees. They also have access to a special pension system, to which they must contribute if they are to benefit.

Each legislator is allotted \$100,000 each year for district office expenses including administrative staff and legislative assistants. Dispersal of the aid money varies considerably from legislator to legislator, and is usually dependent on the needs of the legislator. One who works full-time outside of their legislative duties may need more staff than one whose only current job is their elected office. Additionally, sometimes the Senators and Assemblymembers from the same district, or in rare cases, from neighboring districts, pool their allotted money and share staff. Other than their district office staff, a legislator can rely on both the partisan staff that works for each caucus as a whole, and the non-partisan Office of Legislative Services (OLS), a group of professional staff maintained by the Legislature as a whole for unbiased information, research, and legal advice. OLS is also the staff who actually writes the text of the bills, and manages each legislative committee.

The Office of Legislative Services consists of a large number of staff members, and is led by an Executive Director who is appointed by the Legislative Services Commission. This Commission is made up of members of both the Senate and General Assembly and is equally balanced along party lines. The Commission also appoints both the Legislative Budget Officer and the OLS chief counsel. OLS is split up into a number of sections based on policy areas and has a number of research staff, fiscal analysts, and legal staff in each section. The sections are led by a section chief, who reports directly to the Executive Director. OLS has a policy requiring all staff members to sign an agreement before being hired that they will not engage in any political activity that would conflict with their positions as employees of the Legislature as a whole. Violation is just cause for dismissal as the non-partisan nature of OLS is its cornerstone.

In addition to drafting bills and to important research work and legal opinions, the Office of Legislative Services has other duties, including technological support, record keeping, drafting ceremonial resolutions for Senators to give to constituents, and ensuring that legislative committees are run according to the rules of each House. OLS works for all 120 members of the legislature, drafting bills and conducting research as called up by any member or their staff. Inside of OLS is the Legislative Budget and Finance Office, a key group in working on the New Jersey State Budget from the legislative perspective. Just as the executive branch gets to make their projections on revenues for the coming fiscal year, so does the legislature. This office is a key support group for the members of the Budget Committees in each House.

The State Auditor is the sole exception to the Constitutional rule that the Legislature alone cannot elect or appoint any executive, administrative or judicial officer. The exception is made in order that the Legislature's review of State finances would be under legislative auspices. The State Auditor is appointed by the Legislature for a term of five years. He and his 60 member staff are charged with post auditing the accounts of the various State agencies to assure that revenues have been collected in compliance with the law and the money has been spent in accordance with the legislative intent.

There are approximately 40 to 60 jobs to be filled each year on the housekeeping or administrative staff of the Legislature. These include clerks, doorkeepers, mailroom supervisors, Sergeants-at-Arms, journal clerks, etc. as well as the Clerk of the General Assembly and the Secretary of the Senate, who supervise these employees and various aides appointed to help the leadership. Appointment to these jobs is by majority vote in each house, and each county organization with representation in the legislative majority is informally allotted a share as patronage to dispense to the party faithful.

Since 1970, each party in each house has hired an executive director or chief counsel to provide it with additional professional assistance. Currently, each of the four caucuses in the legislature is allotted an entire staffed office. These offices consist of a number of administrative staff, research staff, policy analysts, communications staff, budget analysts, lawyers, and are managed by an Executive Director. These staff members serve at the pleasure of the Senate President, Speaker, or Minority Leader, depending on which caucus they work for. Unlike the Office of Legislative Services, these staffers are members of the political party that they are employed by. These staff members are tasked with staffing committees, preparing bill analysis for the legislatures ahead of committee meetings and voting sessions, managing social media for the legislators, writing press releases, supporting district office staff, among anything else requested of them by any member of the caucus.

Legislative representatives, or "Lobbyists," are required by the Legislative Activities Disclosure Act of 1971, amended in 1991, to register with the Secretary of State. As of 2014, the annual registration fee is \$425 per individual. Representatives of religious organizations are not required to register. These Lobbyists represent various industries, organizations, unions, businesses, and interest groups and serve a key role as not only subject matter experts, but also in helping legislators get a grasp on how a bill will affect the State if enacted.

## **Legislative Sessions**

The annual legislative session begins at noon on the second Tuesday in January, when both houses meeting in joint-session hear the Governor deliver his annual "State of the State" message. Thereafter, the Legislature traditionally meets on Mondays and Thursdays until the budget is received—as required by law, 21 days from the beginning of the session, although this date is frequently changed. It then adjourns for about three or four weeks while each House's Budget and Appropriations Committee holds hearings on the budget. Reconvening in March, the Legislature continues its regular Monday and Thursday meetings until the end of June. The Legislature then reconvenes in September.

Each Legislature beginning with that of August 27, 1776 has been known by a number; the 1969 Legislature was the 193<sup>rd</sup> Legislature. Beginning with the 1970 Legislature, each Legislature is constituted for 2 years with 2 annual sessions. The 2020 session was, therefore, known as the First Session of the 218th Legislature and the 2021 session as the Second Session of the 218th Legislature.

### **DID YOU KNOW?**

Not all state legislatures meet throughout the year. For example, the Maryland state legislature is only in session for the first 3 months of the year. The Nevada state legislature is only in session for 4 months every OTHER year.

Special sessions of the Legislature must be called by the Governor when a majority of each house petitions him to do so, and may be called when he deems it in the public interest. The New Jersey Legislature is free to meet 7 days a week, 52 weeks a

year, should it so choose. Constitutional limitations on the length of legislative sessions and the number of calendar days permitted a State Legislature, so common in other states, are absent in New Jersey.

## **Organization and Leadership**

New Jersey's Constitution places relatively few restrictions on the operation, organization, and internal procedures of the Legislature. It provides that each house choose its own officers (President of the Senate, Speaker of the General Assembly, Majority Leader, Minority Leader, Assistant Leaders, and Whips) and determine the rules of its proceedings, and that each "shall meet and organize separately at noon on the second Tuesday of January each year, at which time the legislative year shall commence." Beginning in January 1970, under an amendment adopted in 1968, the length of a legislative session was extended from one year to two years. Thus, each house needs to organize only every two years, and bills introduced during the first year of a session will not be reintroduced the following year. To "organize" means to elect officers and adopt rules, which are usually only slightly changed from one Legislature to the next. The Speaker of the General Assembly and the Senate President and President Pro Tempore are elected by a majority vote. In addition, each political party elects its own legislative leaders—a majority and assistant majority leader, and a minority and assistant minority leader in each house.

The newly elected and re-elected legislators of each party then meet in conference and informally elect their leadership, with the majority party also informally choosing the presiding officers in each house. Oftentimes, this decision has been made prior to this meeting, with a legislator securing enough votes either via public endorsement or private promise. Other party offices are usually chosen by the leaders of that party, such as:

- 1) Conference Leader
- 2) Deputy Conference Leader
- 3) Whip
- 4) Deputy Whip
- 5) Budget Officer (minority parties only)
- 6) Parliamentarian (typically only in the General Assembly)

**STANDING COMMITTEES.** After the various leadership positions are filled, party legislative leaders in each house meet to make committee assignments. Considerations include the preferences of the individual legislators, the members' backgrounds, length of service, and home counties. The leader of each house chooses the chairs of the committees and determines the number of majority and minority members on each committee, usually in proportion to their total numbers in that house. The leader of the house traditionally honors the minority leader's input for committee assignments for members of the minority party.

In 1971, the Assembly adopted new procedures that eliminated the use of the caucus to control the flow of bills to the floor. The Senate continues to use the majority party caucus to consider major bills. During the course of a legislative session, the leadership of both parties hold regular conferences with the Governor on legislative matters, and when his party is in the majority, he will normally have considerable influence on scheduling bills on the calendar.

**STUDY COMMISSIONS.** The New Jersey Legislature creates a large number of special study commissions or committees. As many as 60 of these commissions may exist at one time. The value of their work varies considerably; some never meet whereas some are responsible for major changes in State policy. Members of the commissions are usually legislators appointed by the Assembly Speaker and the Senate President, who sometimes offer appointments to the minority leaders in each house as well. Many study commissions also have citizens as members, appointed by the Governor, the Speaker and the Senate President, or a specified group. Some commissions are given funds for staff. More often, either the Office of Legislative Services or an executive branch department are responsible for staffing these commissions.

## **The Legislative Process**

At the risk of stating the obvious, any legislative body exists primarily to pass legislation that is in the best interests of their constituents and the state overall. While this process can sometimes seem unnecessarily long or involved, each step exists in order to ensure that the constituency is being properly represented throughout.

Below are some important terms related to the legislative process. These terms and more can be found in the [New Jersey Legislative Glossary](#).

**RESOLUTION.** A resolution is an action of the Legislature that expresses the policies, sentiment, opinions or direction of one or both Houses. There are multiple types of resolutions, including joint, concurrent, ceremonial, and one House resolutions.

**ONE HOUSE RESOLUTION.** A one house resolution is a resolution adopted by one House to express policy or opinions, regulate its internal organization or procedures, or establish a study committee under its sole jurisdiction.

**CONCURRENT RESOLUTION.** A concurrent resolution is a resolution adopted by both the Senate and General Assembly to express the policy or opinions of the Legislature and require no action by the Governor. These are often used to petition Congress to take certain actions, to establish study commissions composed entirely of legislators or appointees of the presiding officer, to adopt joint rules, and to propose amendments to the State Constitution (since they do not require the Governor's approval before being submitted to the voters for approval or rejection).

**JOINT RESOLUTION.** A joint resolution is a formal action adopted by both Houses and approved by the Governor. A joint resolution has the effect of a law and is often used instead of a bill when the purpose is of a temporary nature, or to establish a commission or express an opinion in which the Governor as well as the Legislature is to participate.

**BILL.** A bill is proposal to establish a new law, or to change or repeal an existing law

**STATUTES OR LAWS.** All the official rules and codes that govern citizens' actions, including the Constitution, statutory laws enacted by the Legislature, case laws established by court decisions, and administrative law as set forth by executive branch agencies.

The Rules of the General Assembly and the Senate establish the order of precedence on the day's agenda, and for the conduct of debate. Questions as to proper procedure are decided by the presiding officer in each house, who may be overruled by a majority vote. Neither of the presiding officers may speak on an issue unless he relinquishes the chair. Unlike the United States Senate, which allows unlimited debate and filibustering on any matter, New Jersey's Legislature imposes precise limits on the oratory of its members. A Senator may speak three times on any one bill or motion: 30 minutes the first time, 15 minutes the second, and five minutes the third. An Assemblyman may speak three times on any issue: 15 minutes the first and second times, and five minutes the third. Nonetheless, each house provides for "moving the previous question" by which debate can be cut off by a simple majority regardless of whether each member has used all his speaking time. The Senate now requires only a majority vote to suspend any standing rule.

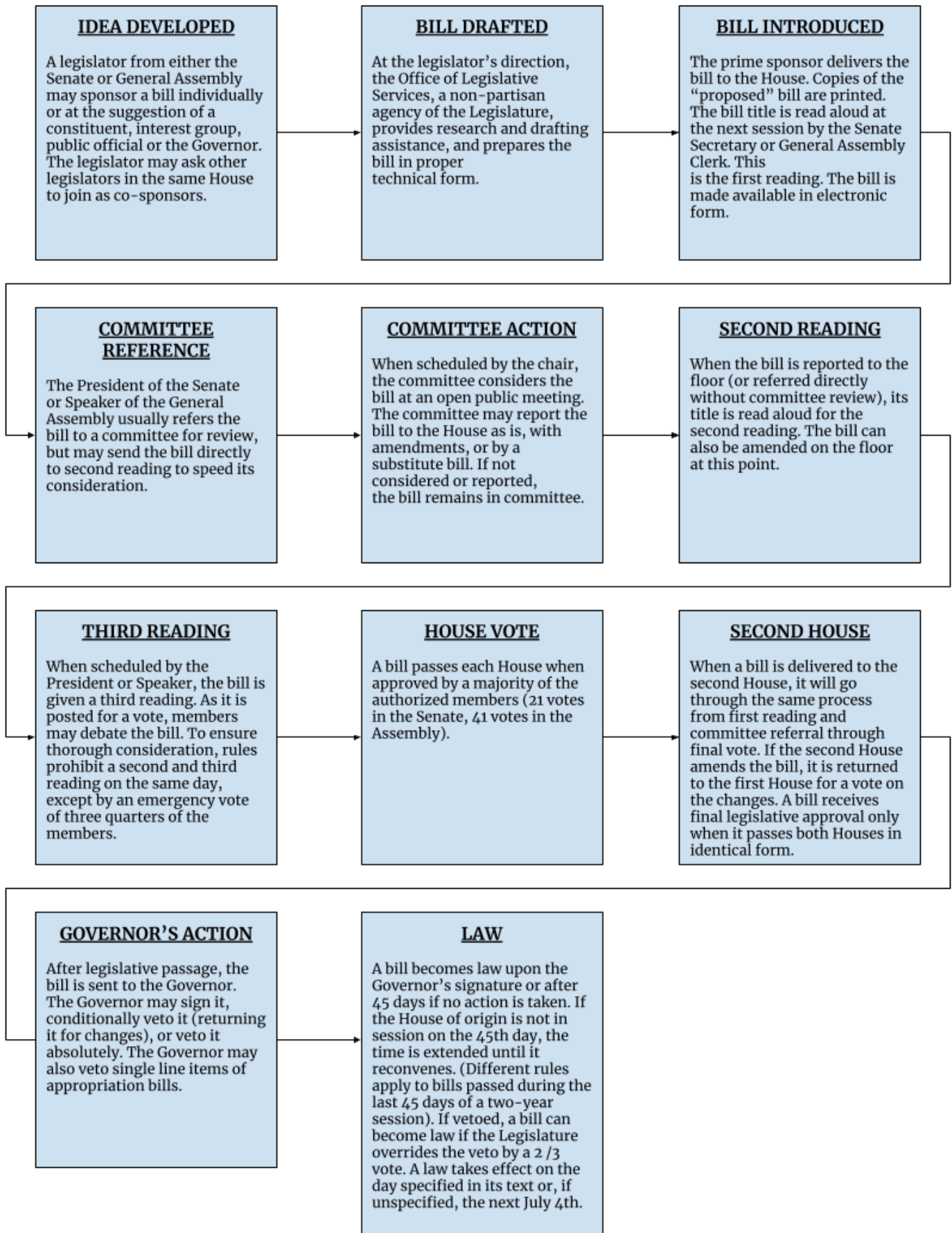
In the New Jersey Constitution and in the rules of New Jersey's General Assembly and Senate, when a majority of either house is required to establish a quorum or for passage of a bill, resolutions, or motion, a majority of the total authorized membership of each house is meant—41 in the Assembly and 21 in the Senate—regardless of a vacancy or temporary absence or abstention. When a fraction in the membership is required to pass a bill or

resolution, such as the three-fifths required in the case of resolutions calling for constitutional amendments or the two-thirds required to override a gubernatorial veto, the fraction is again that of the total authorized membership, not of those present or voting.

**CONSTITUTIONAL REQUIREMENTS FOR PASSING BILLS.** There are several constitutionally guaranteed requirements for the passage of bills:

- 1) Bills must have three readings in each house before final passage, and a full calendar day must elapse between the second and third reading unless a three-fourths vote of the house involved declares a bill to be an emergency measure.
- 2) A majority of the members must be present and approve, with each member's vote recorded in the Journal of the Senate or the Minutes of the General Assembly.
- 3) Each bill may concern one topic only, i.e., there cannot be extraneous amendments tacked on in the course of passage, as is often done in Congress. The topic must be expressed in the title of the bill. A bill amending or revising an existing law must not refer to that law by number or title alone, but must contain the wording of the whole law or section being amended so that the changes are clear. This is commonly known as the "single-purpose clause."
- 4) General laws cannot include provisions of a private, special, or local nature. Public notice must be given of the intention to pass any private, special, or local law.
- 5) Revenue bills must originate in the General Assembly.

## HOW A BILL BECOMES A LAW



## ADDITIONAL NOTES ON THE LEGISLATIVE PROCESS

- 1) If a fiscal note is required, it is to be prepared before the bill is advanced to second reading. However, it is not uncommon for bills to be not only voted on in committee, but also passed by either or both houses prior to fiscal notes being made available to either the legislators, their staff, or the public.
- 2) “Reading” a bill is by number and title only. Bills are never read in their entirety at any time during the three obligatory readings.
- 3) The Governor has 45 days (excluding Sundays) to act on those bills that are delivered more than 10 days from the end of the two-year legislative term. The Governor may take one of two courses of action on these bills:
  - a) Sign the bill into law, or
  - b) Veto the bill

If the bill is delivered to the Governor *within* the last 10 days of the two-year legislative term, the Governor also has the option of a “pocket veto.” Essentially, the Governor can kill the bill by choosing not to sign it and does not send it back to the legislature.

- 4) The actual voting in each house is by means of an electronic roll call device. Each member has a YES/NO switch on their desk which records the vote at the presiding officer’s desk and on display boards on the front wall; the display also gives totals.

In the General Assembly only, members also have a button to abstain on a vote

- 5) The diagram showing the bill-passing procedures gives the Constitutional time limits imposed on the Governor. These limits are computed from the time a bill is “presented” to the Governor, not from the date of passage in the Legislature.

Customarily, the Legislature presents the bills only when the Governor calls for them, thus permitting the Governor’s staff to deal with a few bills at a time after the closing days of a spring session during which large numbers of bills are passed.

However, this can be another area for political maneuvering—a hostile legislative majority may decide to apply pressure by having bills presented as soon as passed, or a Governor may delay calling for a bill on which he would prefer not to take a public stand until the end of the legislative session, after which the bill will not become law if he does not act.

# THE EXECUTIVE BRANCH

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Know the qualifications required to run for Governor in New Jersey
- Describe the line of succession to the Governor's Office
- List the different powers the Governor of New Jersey has
- Explain how the Governor influences the Legislative Branch
- Discuss the governor's power of appointment

The chief executive of the State of New Jersey, and the head of the executive branch of state government, is the Governor. The State's first governor, William Livingston, was elected in 1776. Most of those who have served since have been lawyers or former legislators, although not always: one was a college president, one was a general, two were physicians, one a farmer, and one a varnish manufacturer. For a complete list of New Jersey governors, you can [visit this page](#).

Until 1844, the Governor was elected, not by the people, but by the Legislature for one year terms with no term limits — a policy which reflected a Revolutionary era distrust of executive authority. With the enactment of the Constitution of 1844, the Governor was elected by the people for a three year term, but was unable to serve consecutive terms.

By 1875, governors were complaining that the Constitution had made their job impossible because it gave them executive responsibility, but not the powers needed for enforcement. While the Governor could appoint agency heads, they could do so only when the terms happened to end during the Governor's term. The Governor could not compel them to meet with him or to submit reports to him. In addition, his veto was of small importance since only a simple majority was needed in the Legislature to override it. In short, according to New Jersey's 42nd Governor, Charles Edison (1941-1944), "He is only a gentleman who happens to walk through without disturbing anybody."

### DID YOU KNOW?

Eight New Jersey Governors have served in non-consecutive terms.

The longest time between terms was 25 years. Gov. Walter Evans Edge was in office from 1917-1919, and again from 1944-1947. Between terms, he spent time as a U.S. Senator as well as the U.S. Ambassador to France.

## The Office of the Governor

**QUALIFICATIONS.** The 1947 Constitution changed these conditions but made little change in the qualifications for office. A Governor must be at least 30 years old, a citizen of the United States for 20 years, and a resident of New Jersey for seven years. The Governor and Lieutenant Governor are the only two state officials elected by all the voters of the state—a provision peculiar to Maine and New Jersey. A Governor cannot serve more than two consecutive terms; however, after a four-year interval out of office, a former Governor is again eligible for election.

Gubernatorial candidates from each party are chosen by the voters in the primary election, sometimes in lively primary fights when political leaders cannot unite behind one nominee or personally ambitious candidates challenge the parties' choices. New Jersey's gubernatorial race takes place in the year following the presidential election, and the governor-elect assumes office on the third Tuesday of January following the election.

**SALARY AND RESIDENCE.** State law currently (as of this revision, 2025) allows for a maximum annual salary of \$175,000. The salary paid to the Governor may not be changed during his term.

No official residence was provided for the Governor until former Governor Walter E. Edge (1917-1919) donated Morven — his handsome, historic mansion (which was originally owned by Richard Stockton, a signer of the Declaration) — to the State of New Jersey. The mansion, part of which dates back to 1701, is located in Princeton, a few miles from the State offices in Trenton. Morven served as the Governor’s residence until 1981, when Drumthwacket Mansion (also located in Princeton) became the official gubernatorial residence.

**IMPEACHMENT AND INCAPACITY.** The Governor may be impeached for misdemeanors committed during their term of office. The General Assembly has the sole power to impeach, by a majority vote. The Senate, sitting as a jury, may then find the Governor guilty of the charge by a two-thirds vote.

Determining the disability of the chief executive is a thorny problem. Under the procedures established in the State Constitution, the Legislature first must adopt, by two-thirds vote of all the members of each house, a resolution declaring a vacancy. Then, the New Jersey Supreme Court holds a hearing to determine whether such a vacancy exists.

### **The Office of the Lieutenant Governor**

The office of Lieutenant Governor is a position that has existed in New Jersey since January 2010. The position was created as the result of a Constitutional Amendment to the State Constitution [Article V, Section 1] passed by New Jersey voters on November 8, 2005.

While the Amendment itself took effect on January 17, 2006, and made some interim changes to the succession to the governorship, the first Lieutenant Governor was not elected until November 3, 2009.

**SUCCESSION.** The Amendment which created the position of Lieutenant Governor also provides a new order of gubernatorial succession saying, in relevant part:

“In the event of a vacancy in the office of Governor resulting from the death, resignation or removal of a Governor in office, or the death of a Governor-elect, or from any other cause, the Lieutenant Governor shall become Governor, until a new Governor is elected and qualifies.

“In the event of simultaneous vacancies in both the offices of Governor and Lieutenant Governor resulting from any cause, the President of the Senate shall become Governor until a new Governor or Lieutenant Governor is elected and qualifies.

“In the event that there is a vacancy in the office of Senate President, or the Senate President declines to become Governor, then the Speaker of the General Assembly shall become Governor until a new Governor or Lieutenant Governor is elected and qualifies.

“In the event that there is a vacancy in the office of Speaker of the General Assembly, or if the Speaker declines to become Governor, then the functions, powers, duties and emoluments of the office shall devolve for the time being upon such officers and in the order of succession as may be provided by law, until a new Governor or Lieutenant Governor is elected and qualifies.”

The amendment also provides that “[T]he Governor shall appoint the Lieutenant Governor to serve as the head of a principal department or other executive or administrative agency of State government, or delegate to the Lieutenant Governor duties of the office of Governor, or both. The Governor shall not appoint the Lieutenant

Governor to serve as Attorney General. The Lieutenant Governor shall in addition perform such other duties as may be provided by law.”

## **Executive Powers**

The Governor has the duty to faithfully uphold and execute the laws of New Jersey. In order to carry out this mandate, the Constitution gives them the power to go to court or take appropriate action “to enforce compliance with any constitutional or legislative mandate, or to restrain violation of any constitutional or legislative power or duty, by any officer, department or agency of the State,” except the Legislature.

The Governor also serves as the Commander-in-Chief of the New Jersey National Guard.

**POWER OF APPOINTMENT.** Since the adoption of the Constitution of 1947, the Governor’s office derives a large part of its strength from its power of appointment, a power which gives it considerable leverage to force passage of its programs.

The Legislature may not appoint any executive or judicial officer except the State Auditor; the Governor alone has the power to nominate all other appointees.

However, since most nominations require confirmation by the Senate, there is considerable room for negotiating. Gubernatorial recommendations have not infrequently been turned down (often under the principle of “senatorial courtesy,” which requires that the nominee be acceptable to all the Senators from their home county). Political horse trading becomes almost imperative when the Governor must bargain with a hostile Senate, a common situation in New Jersey.

**DID YOU KNOW?**

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The concept of “Senatorial Courtesy” is manifested in New Jersey in two ways.

In the second way, former Senators receive automatic approval if nominated to an Executive or Judicial branch appointment.

Posts filled by the Governor (with the consent of the Senate), include all department heads (whether single executives or boards), many division heads, all judgeships, all County Prosecutors, County Boards of Election and Taxation, and numerous policy-making and advisory boards and commissions of executive departments, authorities, and interstate agencies. The Governor is responsible for more than five hundred appointments each year. Among the most significant are the following:

- 1) Attorney General
- 2) Secretary of State
- 3) State Treasurer
- 4) Secretary of the Department of Agriculture
- 5) Commissioners of the Departments of Banking and Insurance, Children and Families, Community Affairs, Corrections, Education, Environmental Protection, Health and Senior Services, Human Services, Labor and Workforce Development, Military and Veterans Affairs, and Transportation
- 6) Judges (including the State Supreme Court)
- 7) County Prosecutors
- 8) County Boards of Election and Taxation
- 9) Members of Boards and Commissions

Prior to 1947 the Governor could remove state officers only by the cumbersome method of impeachment. The Governor was thus virtually powerless to discipline corrupt or incompetent subordinates. With the adoption of the 1947 Constitution, the Governor’s control became greater. Currently, they may remove department heads who serve at their pleasure, and they may remove, after a hearing, the principal executive officers of departments that are headed by boards.

The Governor may remove “for cause” the Secretary of State, Attorney General, and all other paid state executive officers and employees. A removal “for cause” must be preceded by a public hearing if the accused so requests, and might ultimately have to withstand a court test. The Governor may conduct an investigation—with subpoena powers—into the official conduct of any such officer or employee.

The Governor may temporarily fill vacancies during the recess of the Legislature, although they cannot appoint anyone whose confirmation the Legislature has already rejected. To thwart recess appointments, the Legislature has not “recessed” since 1954, but has rather “adjourned.”

Only the Governor may grant pardons, commute prison sentences, and remit unpaid fines.

## **Legislative Powers**

The Governor can always exert a strong influence on legislation by sending messages to the Legislature, calling a special session of one or both houses, and by approving or vetoing bills. When the Governor’s party enjoys a majority in the Legislature, they play an influential leadership role in the caucuses preceding legislative sessions.

Beyond the mandatory annual message at the opening of each regular session, the Governor is allowed considerable latitude in communicating with the Legislature. The types of messages and their frequency vary with each Governor. They may be simple reports, recommendations for specific legislation, reports from study commissions, messages accompanying a veto, or the annual budget.

Although not required, it has become customary for the Governor to deliver in person both the annual and budget messages, and sometimes other messages, to a joint session of the Legislature.

**VETO POWER.** The power to veto or conditionally veto a bill is an important weapon in the Governor’s arsenal. If the Governor is in complete opposition to a bill, they may veto it outright in the hope that its supporters lack the two-thirds majority required to override it. If the Governor supports the bill in part, or thinks an override is likely, they may propose specific amendments (called a “conditional veto”) in the hope that a simple majority will adopt them and send the amended bill back to be signed.

New Jersey is one of 44 states where the Governor has the power of a “line item veto.” A line item veto is the power of a chief executive to veto individual components (or “lines”) of a bill passed by the State Legislature.

Sometimes the mere threat of a veto, made while a bill is still before the Legislature, can cause it to be amended to meet the Governor’s objections before its final passage. Like any use of power, much depends on the people involved, the strength of the political opposition, and public opinion.

The Governor has 45 days (excluding Sundays) to act on those bills that are delivered more than 10 days from the end of the two-year legislative term. The Governor may take one of two courses of action on these bills:

- 1) Sign the bill into law, or
- 2) Veto the bill

If the bill is delivered to the Governor *within* the last 10 days of the two-year legislative term, the Governor also has the option of a “pocket veto.” Essentially, the Governor can kill the bill by choosing not to sign it and does not send it back to the legislature.

The Governor may call a special session of one or both houses to deal with legislative proposals believed to require action, or may call the Senate alone to act on appointments.

## **Other Powers**

The Governor can invoke powers beyond those provided by the Constitution. The qualities of leadership, personal popularity among both the electorate and its representatives, the desire to shape the policies of the state, and the role as head of the political party—all these factors contribute to the stature of the Office of Governor. The use of these personal attributes, varying from Governor to Governor, significantly influences the control that is exercised over governmental policies and programs.

The Governor has many channels through which to exert influence, including but not limited to:

- 1) Appealing for support of policies through the media
- 2) Making speeches—or having department heads make speeches—around the state in order to gain influence
- 3) Appointing special commissions, or
- 4) Calling special conferences in order to address specific areas of concern

## **Staff and Organization**

**STAFF.** The Governor's staff assists in making policy as well as in overseeing the Executive branch. Members of the staff are called upon to carry out varied and often demanding and delicate assignments. They deal with the news media, handle communication with constituents, and schedule interviews and personal appearances of the Governor. They conduct research, write speeches, and help determine and execute policy decisions.

In addition, they maintain the Governor's relationships with department heads, legislative leaders, and party leaders. The two principal staff members are the Chief of Staff and the Governor's Chief Counsel. The Chief of Staff's major duties include overseeing the professional and clerical staff and acting as a buffer between the Governor and the many claims made upon the attention of the office. The Chief Counsel is the legal advisor on legislative proposals. He also investigates clemency requests, reviews judicial nominees, and handles other legal matters.

**ORGANIZATION.** While the Governor sets policies, the Executive departments carry out the task of administering the laws. In compliance with the 1947 Constitution's guidelines, a major reorganization of the executive branch was achieved which consolidated more than 70 agencies into 14 departments. Currently, the state has 15 departments, and more than 70 different agencies. As agencies are established, they are allocated to one or another of the existing departments.

Numerous state authorities—ranging, for example, from the New Jersey Turnpike Authority to the New Jersey Educational Facilities Authority—are attached to appropriate departments, although they are virtually autonomous or largely independent. Temporary commissions for special purposes created by law need not be assigned to a department.

It is the Legislature's prerogative to decide whether a department is to be headed by a single executive or by a board, but once the decision is made, the Governor's constitutional powers of appointment and removal apply.

The management of each department is undertaken either by the office of its executive or by a separate division of administration. Among its duties are such functions as fiscal management, personnel administration, purchasing, property management, public relations, coordination of programs, and planning.

**CABINET.** As of 2021, the Governor's cabinet has 25 members. In addition to the 15 heads of the departments, it currently includes the Secretary of Higher Education, the CEO of the Economic Development Authority, the Civil

Service Commissioner, a representative from the NJ State Police, the Commissioner of Motor Vehicles, the Director of Homeland Security, the State Comptroller, the Office of Innovation, the Office of Information Technology, and the President of the Board of Public Utilities.

# THE JUDICIAL BRANCH

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Describe the structure of New Jersey's Court System
- Discuss the role that the New Jersey Supreme Court plays
- Explain how the state superior court is organized
- Name the three superior court divisions
- Outline the responsibilities of each of the three superior court divisions
- discuss how a person can become a judge in the New Jersey Court System
- Describe the importance of the Assignment Judge in each vicinage
- Outline the differences between a grand jury and a petit jury
- Describe the structure and roles of the Federal Court System in New Jersey

The Judicial Article of the New Jersey Constitution of 1947 completely revised what had been an archaic, intricate, and self-defeating network of courts. As a result, the state now enjoys a modern, effective, and unified judicial system—a system that has been used as a model for court reform throughout the country. The significant constitutional innovations were the creation of a trial court of state-wide jurisdiction, the granting of the powers of administration of the court system as a whole to the Chief Justice, and the vesting of the rule-making power in the State Supreme Court. The 1947 Constitution provided for the Supreme Court, the Superior Court, and the County Court, and delineated their jurisdictions. In 1983 the Constitution was amended to eliminate the County Courts, consolidating them into the Superior Court. Subsequently legislation was adopted which accomplished the objectives of the Constitutional Amendment creating a unified court system and a Family Part of the Superior Court. New Jersey also has a system of municipal courts.

### **Role of the Courts**

The role of the courts is to keep the peace by administering justice under laws and legal principles. They permit individuals to resolve disputes, they decide whether there have been violations of laws and administrative regulations, and they determine whether laws and administrative regulations meet federal and state constitutional standards. Occasionally, courts serve even where there are no disputes, as in their supervision of the administration of estates of minor and incompetent persons.

There are generally two types of actions that come before the courts: civil actions and criminal actions. Civil actions are further divided into three types:

- 1) Actions at law
- 2) Actions in equity
- 3) Actions in probate

Actions at law are suits brought by one or more persons (including corporations) against one or more other persons usually seeking monetary compensation (damages) for continuing a wrong (tort) or breach of contract. Most civil cases are personal injury negligence cases resulting from accidents.

Actions in equity are suits brought by one or more persons where there is no adequate remedy at law and in which the plaintiff is typically seeking something other than money. Usually, equity cases seek a change in status (such as divorce), injunctions, or accountings between parties. The court that hears equity disputes is the

Chancery Division of the Superior Court, so called because the chancellor, an officer of the English kings, originally heard and decided these extra-legal grievances. By historical precedent, there normally is no jury in equity trials.

Actions in probate refer to cases involving the property of deceased persons, incompetent persons, and minors. By age-old precedent, since family property matters were originally headed by ecclesiastical courts, there is also no jury trial in probate matters.

### **Types of Courts**

There are, further, two types of courts: trial courts and review (appellate) courts. Trial courts conduct adversary proceedings, with or without a jury, to resolve factual disputes and to apply the law to the facts as the judge (or jury, if there is one) finds them. A court is said to have original jurisdiction if it is the court that can conduct the trial.

Courts with appellate jurisdiction review trial court decisions on application. Should the appellate court believe that it required further determinations of the fact, it will, as a rule, send the case back to the trial court for the taking of further evidence or the resolution of conflicting evidence.

The [following chart](#) and discussion of the various courts explain the roles and responsibilities of the various courts comprising the New Jersey Court System.

**The New Jersey Court System**

ART. VI  
SEC. I, II, V, VII

**SUPREME COURT**  
 Chief Justice and 6 Associates  
 with broad powers of administration over all  
 courts in the state. Jurisdiction - final  
 appeals in all important and selected cases.  
 First Term - 7 years, tenure on re-appointment,  
 retirement at 70.

ART. VI  
SEC. III, V

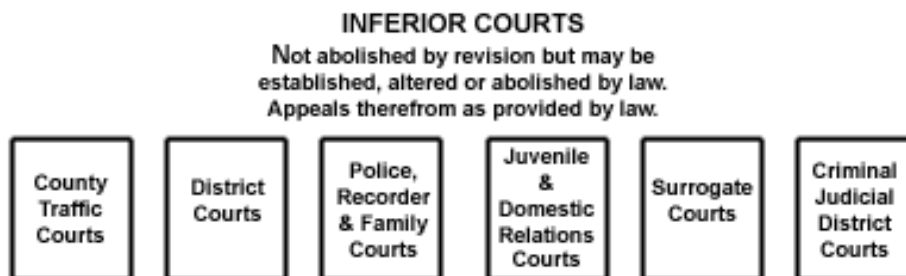
**SUPERIOR COURT**  
 Minimum of 24 judges; term, tenure and retirement same  
 as Supreme Court.

|                         |   |                              |
|-------------------------|---|------------------------------|
| <b>LAW<br/>DIVISION</b> | <b>APPELLATE<br/>DIVISION</b><br>Decides Appeals from<br>Law Division, Chan-<br>cery Division, County<br>Courts and as may be<br>provided by law. | <b>CHANCERY<br/>DIVISION</b> |
|-------------------------|---|------------------------------|

ART. VI  
SEC. IV

**COUNTY COURT**  
 Minimum of 1 county judge in each county jurisdiction same as that of  
 all 5 old county courts with equity powers when required for  
 complete determination of case. Jurisdiction subject to change by law.

ART. VI  
SEC. I



ART. VI  
SEC. VI

All judges appointed by Governor with approval of  
 Senate, except Municipal Judges and Surrogates.

**STATE SUPREME COURT.** New Jersey's highest court, the Supreme Court, is composed of a Chief Justice and six Associate Justices. It hears appeals from the appellate division of the superior court in cases involving federal and state constitutional questions, in cases where the decision of that division is not unanimous, in criminal cases in which the death penalty was imposed, and in cases it agrees to hear upon application because of the public importance of the question involved.

The current Chief Justice of the New Jersey Supreme Court is Stuart Rabner. He was nominated and confirmed as Chief Justice in 2007. The six current associate justices are:

- Justice Anne M. Patterson (nominated in 2011)
- Justice Fabiana Pierre-Louis (2020)
- Justice Rachel Wainer Apter (2022)
- Justice Douglas M. Fasciale (2022)
- Justice Michael Noriega (2023)
- Justice John Jay Hoffman (2024)



Chief Justice of the New Jersey Supreme Court Stuart Rabner.

**SUPERIOR COURT.** The superior court is divided into three divisions: the Appellate Division, which is the intermediate appellate court; and two trial divisions—the Law Division and the Chancery Division.

The Appellate Division is generally composed of 32 judges who sit in two and three judge panels chosen from parts consisting of four judges. Appellate Division judges hear appeals from decisions of the trial courts, the Tax Court, and State administrative agencies. The Appellate Division decides approximately 6,500 appeals and 10,000 motions each year.

The trial divisions, like all trial courts, conduct trials with or without a jury, presided over by a single judge. At least one Law Division judge sits in each county seat; Chancery Division judges, who try all equity cases and some involving probate, sit by vicinages, which are combinations of counties.

**SUPERIOR COURT LAW DIVISION, CIVIL PART.** The Civil Part has jurisdiction over all civil cases where the principal relief requested is sought at law (i.e. in the form of money damages), and it may grant incidental equitable relief so that a case may be fully decided in one forum.

**SUPERIOR COURT LAW DIVISION, SPECIAL CIVIL PART.** Despite their limited jurisdiction, the Special civil part courts, located in each county, handle the bulk of civil cases in the state. They hear all negligence cases where the amount in dispute is under \$15,000 and all other civil cases under \$15,000. They also hear landlord-tenant cases. In addition, district courts have concurrent criminal jurisdiction with municipal courts and try most traffic offenses occurring on state highways; otherwise, their criminal jurisdiction is rarely exercised except where there is no municipal court. Eighteen counties, at the option of the Board of County Commissioners, have a small claims division to adjudicate civil disputes under \$3,000, including property damage in automobile negligence cases. In these decisions, clerks assist claimants with forms, court fees are lower, a trial is scheduled promptly, and the hearing—usually conducted without lawyers—is more informal.

**SUPERIOR COURT LAW DIVISION, CRIMINAL PART.** The Criminal Part handles all indictable criminal cases and appeals from convictions in municipal courts.

**SUPERIOR COURT CHANCERY DIVISION, GENERAL EQUITY PART.** The General Equity Part handles civil cases where the primary relief sought is equitable in nature, although it may grant incidental relief at law (damages). In most vicinages, only one judge is assigned to the General Equity Part.

**SUPERIOR COURT CHANCERY DIVISION, PROBATE PART.** The Probate Part handles contested probate matters, guardianships etc. Usually the General Equity judge handles the probate calendar on a weekly or less frequent basis. The county surrogate acts as the deputy clerk of the Superior Court for the Probate Part in the county.

**SUPERIOR COURT CHANCERY DIVISION, FAMILY PART.** These courts try cases involving the support of a wife and family, and the temporary custody, neglect and abuse of children. They also try cases against juveniles less than 18 years of age. The judge, however, may in his discretion refer cases against 16- and 17-year-old juveniles who are habitual offenders or are involved in a case of a serious nature to the county prosecutor for grand jury and county court action.

A separate court for juveniles originated with the theory that those of a susceptible age would more likely be rehabilitated if they were not treated as criminals and "marked" for life. Thus, what would otherwise be a crime if committed by an adult is defined as juvenile delinquency when committed by a juvenile. In other words, juveniles are not chargeable with the commission of a crime. Juvenile delinquency and lesser charges against juveniles, such as incorrigibility, are therefore tried in the Family part. In cases where there is a likelihood of commitment to an institution, the judge in his discretion may call on the prosecutor to present the case. Such hearings are open only to those who have a direct interest in the case, such as lawyers, witnesses, school guidance personnel, etc. The judge may permit representatives of the press to observe these hearings, but he controls the extent of the information to be released and the names of the juveniles are not publicized.

This Court also adjudicates all matrimonial disputes such as divorces and annulments.

**SURROGATE'S COURT.** Under the State Constitution, a Surrogate is elected in each county for a five-year term. His court is a court in name only because it does not adjudicate disputes. The surrogate handles the great volume of probate matters, which are routine and uncontested, and therefore do not need to be brought before the probate division of the Superior Court. Thus, the Surrogate admits wills to probate, appoints guardians for minors, and issues certificates of authority to executors, administrators, guardians, and trustees of estates. The staff is appointed by the Surrogate. The salary, set by the county within statutory limits, and the expenses of the Surrogate's office are borne by the county.

**TAX COURT.** The Tax Court is the newest court to be established in New Jersey. It has jurisdiction to hear tax issues concerning municipal, county or state taxes. Appeals are heard in the Appellate Division of Superior Court.

**MUNICIPAL COURT.** Each municipality is authorized to establish a municipal court or to establish a joint municipal court with one or more municipalities. The municipal court judge, formerly called a magistrate, is appointed for a three-year term by the governing body of the municipality, or in the case of a joint municipal court by the Governor with the consent of the Senate. The post is almost always part time, so municipal court judges may continue their private practice. The salary of the position, which is established by the governing body, and the expenses of the court are paid by the municipality.

## **Judges**

**STATE AND MUNICIPAL JUDGES.** Contrary to the practice in almost all the other states, judges in New Jersey have never been elected by the people, except for justices of the peace (and that court was abolished in 1948). All judges of courts with jurisdictions extending to more than one municipality are appointed by the Governor with the consent of the Senate. The Governor must give seven days of public notice of judicial nominations before sending them to the Senate for confirmation. An equal number of Democrats and Republicans are customarily appointed to courts usually on the recommendations of the county party chairpersons. Once appointed, a judge as well as the members of their household are barred from any partisan political activity.

Supreme Court and Superior Court judges must have been admitted to the New Jersey bar for at least 10 years prior to their appointments. They cannot hold any other paying state or federal post, and if they become candidates for public office, they must resign from the bench. The Constitution prohibits Supreme Court and Superior Court judges from practicing law or engaging in any other "gainful pursuit," but it assures them that their salaries will not be reduced during their terms. Judiciary salaries range from \$137,165 (Superior Court Judges) to \$156,634 (Supreme Court Chief Justice).

Part-time judges may carry on private practices, subject to limitations to avoid a conflict of interest. For example, a municipal court judge cannot practice in any criminal court in their home county. All judges must be attorneys. Judges of the Supreme Court and Superior Court receive tenure during good behavior after a first term. After meeting certain requirements (based on age and/or years of service), all judges are eligible for pensions upon retirement. Judges of the courts are subject to impeachment or to retirement if incapacitated.

All judges—except State Supreme Court Justices—may be removed. Removal proceedings against judges may be instigated by a majority of either house, by the Governor filing a complaint with the Supreme Court, or by the Supreme Court on its own motion. The Supreme Court maintains an advisory committee on judicial conduct composed of private citizens appointed by the court. The committee reviews all allegations of misconduct and either dismisses the charges or recommends a formal hearing. Based upon the hearing, judges may be reprimanded, censured, and suspended without pay, or removed from office. Judges may be impeached by a majority vote of all members of the General Assembly and removed by a two-thirds vote of the Senate. When the Supreme Court certifies to the Governor that a judge is so incapacitated that they cannot substantially perform their judicial duties, a three-person commission is appointed to look into the matter. Upon the commission's recommendation, the Governor may retire the judge from office.

### **Administration**

The New Jersey Supreme Court, as a result of the 1947 Constitution, has broad powers over the state's judicial system. It makes the rules governing the administration and the practice and procedures of all the courts, including the municipal courts. The administrative head of the courts is the chief justice, assisted by the appointed administrative director of the courts.

In each county, the administration of the courts is the responsibility of a Superior Court Judge, called the Assignment Judge. The Assignment Judge assigns cases to the various judges for trial, maintains the court calendar, and submits weekly reports to the Chief Justice on the disposition of cases in the courts in the county.

Based on this information, the Chief Justice orders the reassignment of judges as needed to the courts with the greatest backlog. Nonetheless, the time lapse between when a suit is filed and when a case comes to trial varies among the counties from months to years, depending not only on the caseload, but also on the ability and zeal of the judges themselves. Special emergency cases and criminal cases are given priority.

### **Jury System**

In each county, the responsibility for the selection of prospective grand and petit jury members rests with two Jury Commissioners, appointed for one-year terms by the State Supreme Court on the recommendations of the county Assignment Judge. They cannot both be from the same political party.

**GRAND JURY.** Anyone accused of a serious criminal charge has the right to be screened by a grand jury. A defendant may waive this right of indictment.

A grand jury consists of the first 23 persons chosen by lot from a panel of up to 50 prospective grand jurors. The foreperson and the deputy foreperson are designated by the Assignment Judge. They serve for one of the three court sessions a year, for a period of up to 20 weeks, and there is always at least one grand jury sitting in each county. The grand jury meets regularly in closed session, usually once a week. Twelve affirmative votes are necessary to bring an indictment.

A grand jury is not a trial jury. Its function is to weed out frivolous criminal charges and to guard against an overzealous prosecutor. Based upon evidence presented by the county prosecutor, the grand jury decides if there is sufficient evidence to require the defendant to stand trial. If it finds sufficient evidence, it returns an indictment; if it does not, it returns a "no bill" dismissing the complaint against the defendant. The testimony before a grand jury is secret until an indictment is handed up to the assignment judge. At that time, it may be inspected under limited circumstances by the person indicted. Since the grand jury hears only what the prosecutor wants it to hear, an indictment must not be considered evidence of guilt, but merely an assertion that the submitted evidence is enough to warrant a trial.

A grand jury also has the power to hand up a presentment, a statement calling attention to public affairs or conditions that it finds need correction. It may also censure a public official if it finds conduct that has contributed to the situation needing correction but does not itself constitute a criminal offense. In such cases no public trial to weigh the charge follows. Like an indictment, a presentment usually results only from the evidence presented by a prosecutor, although a grand jury has the power to initiate investigations and subpoena witnesses and records relating to any matter that in its opinion required indictment or correction. In the past, the opportunity for a county prosecutor to manipulate a grand jury was high, and the grand jury's power to hand up a presentment had occasionally been abused. New rules give public officials named in the presentment the right to challenge the reference in a private hearing prior to its being filed and publicized.

Prior to 1969, each grand jury's jurisdiction was limited to crimes or acts committed within its county. No prosecutor and grand jury was able to obtain a picture of possible crime organized on a multi-county or state-wide basis. Under a 1968 law, grand juries with statewide jurisdiction may be called at the request of the attorney general and with the permission of a superior court judge designated by the chief justice. No more than one-fourth of the jurors may come from one county. Such a jury's indictment is returned to the judge who sets the county for trial.

**PETIT OR TRIAL JURY.** The right to a trial by a jury of one's peers dates back to the Magna Carta signed by King John in 1215. It is guaranteed in both the United States Constitution and New Jersey Constitution.

The petit jury, composed of 12 jurors in criminal and 6 jurors in civil cases, sits to determine facts that are in dispute. The jurors are chosen by lot from panels of usually 50 prospective jurors. If a criminal trial is expected to be lengthy, 14, or even more jurors may be selected. All sit during the trial; once the trial has commenced, 12 jurors (in a criminal case) or 6 jurors (in a civil case) are selected to participate in the jury deliberations. The first one selected becomes the foreperson. In criminal cases, a conviction must be by unanimous vote. In civil cases, a verdict is reached by five or more affirmative votes. Twelve jurors are now permitted to sit in civil cases in exceptional circumstances.

A jury trial is never mandatory unless the prosecutor is seeking the death penalty. A defendant in any other criminal case may waive his right to a jury. In a civil case in which there is a right to trial by jury, there is a jury trial only if one or more of the parties request it.

**QUALIFICATIONS OF JURORS.** Basic qualifications for both grand and petit jurors are the same and are spelled out in [NJSA 2B:20-1](#). All prospective jurors must:

- 1) be a resident of New Jersey
- 2) be a citizen of the United States

- 3) be physically and mentally able to perform the functions of a juror (noting that the Judiciary will provide accommodations consistent with the Americans with Disabilities Act)
- 4) have no conviction for an indictable offense
- 5) be at least 18 years of age
- 6) be able to read and understand the English language

**SELECTION OF JURORS.** Lists of names of prospective grand and petit jurors are compiled by the jury commissioner's staff generally from lists of registered voters, licensed New Jersey drivers, and filers of New Jersey income tax returns. Master lists of prospective jurors are usually drawn from responses to the thousands of questionnaires sent annually to local voters.

The backgrounds of the grand jurors summoned are investigated by probation officers to determine whether there are any factors that would prevent impartial service. Petit jurors are screened prior to their selection for trial by the judge and the attorneys involved.

## **Probation**

The Probation Division in each county acts as an arm of the Superior Court and upon request, the municipal courts. Per [NJSA 2A:168-5](#), the chief probation officer is appointed by the Assignment Judge of the Superior Court in each county/vicinity. Upon recommendation, the judges also appoint additional probation officers, however the Board of County Commissioners is entitled to review the necessity of these additional appointments. Salaries set by the judges are paid by the county.

The role of the Probation Division is to promote the welfare and safety of children, families and communities in New Jersey by enforcing court orders, supervising offenders, monitoring behavior, and intervening to produce positive outcomes.

A probation officer conducts a pre-sentence investigation of every person who has entered a plea of guilty or who has been guilty in a trial. The report, containing prior police records and the social background of the person, is submitted to and discussed with the judge before sentencing. The departments also make social and home investigations as directed by the superior courts. Such investigations are mandatory in cases involving the custody of children.

Irrespective of the nature of the offense of which a defendant is convicted (except a capital offense), the sentencing judge has the discretion to suspend imprisonment. Whenever a sentence is suspended, the defendant is placed on probation. A person placed on probation must report regularly to their probation officer and otherwise earn their discharge by good conduct and correct attitude.

The supervision of a person on probation is similar to the supervision of a prisoner who is released on conditions prior to the completion of their prison term. Prisoners on parole from county institutions with terms of less than one year are supervised by county probation officers; all other adult parolees are supervised by officers of the state Division of Correction and Parole.

When payment for support of dependents is ordered, support money is sent to the probation department where a record of it is made and then forwarded to the dependents. If a person falls behind in their payments and disregards notices, they may be required to show cause or be found guilty of contempt of the support order. Payments arising from divorce actions are also processed in a similar manner. Probation departments also collect fines and restitutions imposed by county, juvenile, and domestic relations and municipal courts.

## **Legal Assistance for the Poor**

Even prior to the 1963 United States Supreme Court decision in the case of [Gideon v. Wainwright 372 U.S. 335](#) (1963), New Jersey had been providing counsel to indigent defendants charged with indictable offenses. Their attorneys, assigned by the court on a rotating basis, were paid only in capital cases.

Following a 1966 New Jersey Supreme Court decision requiring that all attorneys representing indigent defendants be paid from public funds, New Jersey created an Office of Public Defender in 1967. Its staff of lawyers represents all indigent defendants charged with indictable offenses in both trials and appeals. In rare cases, private attorneys are called in to assist them. Since the end of 1968, the office also defends juveniles with indigent parents or guardians, in cases where there is a possibility of commitment to an institution. A fee is charged in each case, the amount dependent on the nature of the case, and it is paid in installments at the time or out of future earnings.

The case of [Rodriguez v. Rosenblatt 58 N.J. 281](#) (1971), extended court approved legal representation of indigents to non-indictable offenses to be tried in municipal courts where there is a reasonable prospect of imprisonment upon conviction.

**CRIMINAL CASES.** [The Office of the Public Defender](#) (NJOPD), appointed by the Governor with the consent of the Senate for a five-year term, operates from an administrative headquarters in Trenton and operates regional offices in each county. The costs of the system are borne entirely by the State.

Created as an independent executive agency in 1967, the NJOPD was moved into the newly created Department of the Public Advocate in 1974, a move that led to the creation of new programs dealing with specific criminal and civil issues. When the Department of the Public Advocate was first disbanded in 1997, the NJOPD was moved to become "in but not of" the New Jersey State Treasury Department, where it has remained ever since.

**CIVIL CASES.** In order to make the courts and judicial procedures available to all citizens—regardless of their economic status—the federal government fosters an increasing number of legal services projects. Their staffs of lawyers provide free legal advice and representation on civil matters to the poor and any group they form. Clients who can pay or whose cases are fee-producing are referred to private attorneys. These projects are located in various parts of New Jersey, generally as part of community action agencies but operating out of their own neighborhood offices. Federal Office of Economic Opportunity grants pay 80 percent of the costs and the balance is raised locally, either by county appropriations or bar associations.

## **Federal Court System**

Most cases are tried and resolved by state courts. But there is a separate federal court system for trying alleged violations of federal laws and regulations and of provisions of the United States Constitution. The federal courts also resolve disputes in certain categories of civil cases, such as controversies between citizens of different states.

Besides some special courts, the federal system consists of

- 1) 90 district courts, which are the trial courts
- 2) 11 courts of appeals which are the intermediate appellate courts
- 3) the United States Supreme Court, the court of last resort

The United States District Court of New Jersey tries all cases arising within the state; its judges sit in Newark, Camden, and Trenton. The Third Circuit Court of Appeals, sitting in Philadelphia, usually in three-judge panels, hears appeals from the New Jersey district as well as several others.

The United States Supreme Court always sits as a body in Washington, D.C. Article III, Section II of the Constitution establishes the jurisdiction (legal ability to hear a case) of the Supreme Court. The Court has original jurisdiction (a case is tried before the Court) over certain cases, e.g., suits between two or more states and/or cases involving ambassadors and other public ministers. The Court has appellate jurisdiction (the Court can hear the case on appeal) on almost any other case that involves a point of constitutional and/or federal law. Some examples include cases to which the United States is a party, cases involving Treaties, and cases involving ships on the high seas and navigable waterways (admiralty cases).

The federal courts have their own personnel and the judges and district attorneys are appointed by the President with the advice and consent of the United States Senate.

### **Your Rights in Municipal Court in New Jersey**

The Municipal Court desires that you receive a full and fair hearing. In order to do so, you should be aware of the following facts:

- 1) You are presumed to be innocent until proven guilty beyond a reasonable doubt.
- 2) You have the right to be represented by an attorney.
- 3) You have the right to obtain a postponement for a good cause, or to obtain legal counsel and prepare a proper defense.
- 4) You have the right to testify or not to testify in your own defense.
- 5) You have the right to call witnesses or have them ordered to appear in court.
- 6) You have the right to plead guilty or not guilty to any charge against you.
- 7) You have the right to appeal if you are not satisfied with the judgment of the court.

When your case is called, please come forward, quickly and quietly. You will then have the charges read to you and you may plead "guilty" or "not guilty." This is not the time to tell your story; you will be given an opportunity to do so at a later time in the proceedings. The only purpose of asking you to plead guilty or not guilty is to determine whether you want a trial and have the judge decide whether you violated the law as charged. If you are in doubt enter a plea of "not guilty."

What happens when you plead guilty? When you plead guilty, it is not necessary to have a trial. You have admitted that you violated the law and all that remains is for the judge to fix the penalty. The arresting officer or other complainant will explain briefly the circumstances of the violation and you may then explain to the court any extenuating circumstances. The judge will then assess the penalty. If you plead not guilty, you and the witnesses will be placed under oath to speak the truth. It is necessary for the prosecution to prove the charges made against you before it is necessary for you to answer those charges. You, or your counsel, have the right to ask the prosecution's witnesses any questions pertaining to the charges.

When the prosecution has finished, you may then present your own witnesses, or testify on your own behalf. You are not forced to testify against yourself, but you may testify, if you so desire. Any evidence you give may be used by either side. If you do testify, the prosecution then has the right to ask you any questions concerning the charges.

When all the witnesses have testified, you or your attorney may tell this court why you think you should not be found guilty.

If the court finds you guilty and you think the court is in error, you have ten (10) days within which to appeal. Appeals in practically all instances will be heard by the County Court.

# THE JUDICIAL BRANCH AT ALJBS

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Describe the term municipal Court
- State how many municipal courts are found at ALJBS
- Discuss the duties of municipal court judges at ALJBS
- Outline the duties of the attorneys
- Describe the difference between examination and cross examination
- Identify a reason for mounting an objection

The term **MUNICIPAL COURT** is usually reserved for a court which replaced the justice of the peace or magistrate. Such a court may have a more extensive jurisdiction, depending on the size of the municipality. It may have a chief judge who has supervision over associate judges. When organized on a jurisdictional basis, municipal courts have specialized divisions, such as criminal and police or traffic courts.

Although the basic court systems are the same throughout the state, they may vary according to the needs of the municipality or county. For simplicity and uniformity, American Legion Jersey Boys State will have one (1) municipal court per city.

### **Court Procedure**

- 1) Judges, Prosecutors, and Public Defenders are appointed by the municipal governing body in New Jersey. The mayor shall appoint statesmen to serve in each position. The municipal governing body should then convene to select one each, Judge, Prosecutor, and Public Defender. The Mayor should then swear in these personnel.
- 2) The Mayor should also appoint a Court Administrator to assist in the duties of running the court.

Once the courtroom is set up and the Judge, Prosecutor and Court Administrator are in position, refer to the information and procedure below. Since there are no jury trials in Municipal Court (no Constitutional provision) the Judge acts as both Judge and Jury, deciding legal issues, determining factual questions (innocence or guilt), and pronouncing sentence.

- 1) A room or place will be designated (refer to your schedule) as the Courtroom, equipped with a desk for the Judge, counsel table and room for witness and the public. The procedure to be followed will conform as closely as possible to legal practice. In Municipal Courts the Judge calls the court to order.
- 2) The Chief of Police brings the accused before the bench. The bailiff or court clerk, if so appointed, may do this.
- 3) The Prosecutor advises the Judge of the nature of the charge against the defendant and presents the complaint against the defendant. Usually, the Judge has already received the schedule or docket.
- 4) The Judge, clerk or bailiff asks the defendant(s) to state their true and correct name.
- 5) The Judge advises the defendant(s) of their rights:
  - a) You are entitled to defend this action in person or by counsel at all stages of the proceedings. (If the defendant does not have an attorney and desires one, the case should be postponed long enough to obtain and consult with one of your choosing
  - b) You have the right to know the nature of the charge against you
  - c) You have the right to meet the witnesses against you face to face and cross-examine if you desire

- d) You have the right to call witnesses on your behalf and have their presence in court enforced by subpoenas
- e) Pending trial, you have the right to freedom on bail
- 6) The Judge then advises the defendant of the nature of the charges and asks: "How do you plead, guilty or not guilty?"
- 7) The defendant(s) then makes their plea. If the plea is guilty, the Judge pronounces sentence. If the plea is Not Guilty, the case is immediately tried before the Judge in all cases of violation of city ordinance.
- 8) The prosecuting attorney and defense counsel state the issues to the Judge.
- 9) The prosecution presents its witnesses and evidence, with defense counsel cross-examining. Then, the defense attorney presents witnesses, with cross-examination by the prosecuting attorney.
  - a) The court clerk will administer the following oath before the witness is allowed to testify: "You do solemnly swear that the evidence you shall give shall be the truth and nothing but the truth."
- 10) The Public Defender, then the prosecuting attorneys, make their closing arguments to the Judge.
- 11) If the defendant is found Guilty, the Judge will immediately pronounce the sentence. If the defendant is found Not Guilty, the defendant is immediately released.

## **Trial Techniques**

**DUTIES OF THE LAWYER.** An attorney is an officer of the court, and it is their duty at all times to uphold and support the dignity of the court. It is also their duty, when appointed by the court, to represent a person accused of having committed a crime when the accused is without means to employ the services of an attorney.

**DIRECT EXAMINATION.** The purpose of direct examination is to bring forth from the witness such facts as the witness may have concerning the case at trial.

Unless the witness is hostile, the attorney should ask only direct questions. Direct questions are such as do not suggest an answer, e.g.:

- State your name.
- Where do you reside?
- Do you know the defendant?
- How long have you known the defendant?
- What happened, if anything?
- What did you do, if anything?
- What did he do, if anything?

**CROSS-EXAMINATION.** On cross-examination, an attorney may ask leading and suggestive questions. A leading or suggestive question may be one that is formed as to suggest to the witness the desired answer, e.g.:

- You say you witnessed the accident. Were you able to see the intersection clearly from where you were standing? But you did not see the car as it approached the intersection?
- What color was the light? Isn't it true you were unable to see the signal light from where you were standing?

## **OBJECTIONS.**

- a) If a question in the second example is asked on direct examination, it may be leading. Object on the ground that the attorney is leading the witness. This objection is not good on cross-examination.
- b) Counsel may assume facts in his question which are not in evidence. Object on the ground counsel is assuming facts not in evidence.
- c) If the answer is not responsive to the question, object on that ground.
- d) If the question is a double question, object on that ground.
- e) If the witness is testifying as to what they heard someone say, object on the ground that the answer is hearsay.

- f) If the question calls for a conclusion, object on the ground the question calls for a conclusion of the witness, e.g., I shouted for him to stop but he didn't know I was shouting to him. "He didn't know, etc." is a conclusion and the objection should be sustained.
- g) If a copy of a document is introduced, object unless it is the original. The objection is that it is not the best evidence.
- h) If the question calls for an answer which has nothing to do with the issue in the case, object on the ground the question is irrelevant and immaterial.
- i) If the question is argumentative, object on the ground the counsel is arguing with the witness.
- j) A witness may state what they heard but may not testify as to what was told to them unless that party is also present.

## **Instruction for Judges**

### **TIPS ON CONDUCT OF OFFICE.**

- 1) Study charges beforehand.
- 2) Get all relevant facts prior to making a decision. The judge may ask questions.
- 3) Maintain decorum in court. Exert leadership—get attention and keep it.
- 4) Get to the specifics of a matter.
- 5) Get all relevant facts—in this connection, let witnesses talk.
- 6) Consider credibility of evidence and witness.
- 7) Rules of evidence boil down to good sense. Hearsay not admissible.
- 8) Render your decision, "GUILTY" or "NOT GUILTY" and give a detailed reasoning for your decision.

# PUBLIC SAFETY AND LAW ENFORCEMENT IN NEW JERSEY

## LEARNING OBJECTIVES

After reading this section, you should be able to:

- Outline the powers and duties of the Attorney General in New Jersey
- Describe how county prosecutors differ from the Attorney General in New Jersey
- Discuss the powers of the county prosecutors
- Describe the three policing agencies found in New Jersey
- List the responsibilities of the New Jersey State Police
- Name the two counties that currently have policing agencies
- Explain the roles of municipal police departments
- Explain New Jersey's attempts to protect civil rights
- List the other public safety agencies
- Outline the roles of the other public safety agencies
- Discuss the roles of the New Jersey National Guard and Department of Defense

Per the [2018 Census of State and Local Law Enforcement Agencies](#), commissioned by the Bureau of Justice Statistics, New Jersey has 507 law enforcement agencies. These include:

- Approximately 458 organized municipal police departments
- 21 Offices of the County Prosecutor
- 21 Offices of the County Sheriff
- 2 county police departments
- The New Jersey State Police
- Several additional state agencies with law enforcement responsibilities, including:
  - New Jersey Department of Corrections
  - Division of Fish and Wildlife
  - Division of Alcoholic Beverage Control
  - Office of Weights and Measures
  - New Jersey Forest Fire Service
  - New Jersey Office of Homeland Security and Preparedness
  - Port Authority of New York and New Jersey (largest transportation-related police force in the U.S)

### **The Attorney General**

Each New Jersey Constitution since 1776 has provided for an Attorney General. Since 1844, the Attorney General has been appointed by the Governor with the consent of the Senate, although only with the 1947 Constitution was the term made concurrent with that of the Governor. The Attorney General is the chief law enforcement officer of the state.

The powers and duties of the Attorney General have been periodically altered by the Legislature. Under the 1948 reorganization of the executive branch, the Attorney General was put in charge of a newly created Department of

Law and Public Safety, composed of previously independent agencies. Each was made a division within the department. The Attorney General's supervising powers over these divisions, and those subsequently added, are limited, however. Largely because of the former independent status of many of the divisions, most division heads are appointed by the Governor with the consent of the Senate.

## **County Prosecutors**

Unlike the practice in many states, the County Prosecutor is not elected, but appointed by the Governor with the consent of the Senate, usually on the recommendation of the county chairman of the Governor's political party. Per [NJSA 2A:158-1](#), the term is for five years and until a successor is appointed. County Prosecutors are responsible to the Governor, the Attorney General, and the Assignment Judge of their respective county. Along with the assistant prosecutors, who must be attorneys-at-law, the County Prosecutor may conduct private law practices, however they may not handle criminal cases. To permit a County Prosecutor to concentrate on more serious crimes, lesser offenses are handled by municipal police and tried by municipal courts. Except where a defendant has waived the right to indictment by a grand jury, all cases that a prosecutor pursues are first brought to a grand jury.

The County Prosecutor wields much discretionary power. For example, a County Prosecutor can:

- 1) decide whether to conduct investigations and how they are to be conducted
- 2) decide whether to bring an alleged offender before a grand jury
- 3) control what evidence a grand jury hears
- 4) decide whether to recommend a lighter sentence to the judge in return for a plea of guilty (called "plea bargaining")
- 5) decide whether to ask a judge for permission to drop a case even though a grand jury has returned an indictment

The quality of law enforcement in a county is directly affected by its prosecutor.

As the chief law enforcement officer of the county, the prosecutor works closely with and may direct the mayor and police department of any municipality in law enforcement matters. They may conduct raids and make arrests in the county without notifying the police in the municipality, as well as call upon the Attorney General and the State Police for assistance.

## **Police Agencies**

New Jersey has a state police force that, unlike other police in the State, has the authority to enforce laws and municipal ordinances and to make arrests anywhere in the State. [NJSA 53:2-1](#) outlines the powers of the State Police, including cooperation with any federal, state, or local agency in detecting crime, apprehending criminals, and preserving law and order. However, the State Police may not be used as a posse in a municipality except upon the order of the Governor and at the request of the local governing body.

**STATE POLICE.** Established in 1921 as an independent agency, the New Jersey State Police was assigned in 1948 to the Department of Law and Public Safety. Its Superintendent is appointed by the Governor with the consent of the Senate. As of 2008, the [NJSP employed over 2,800 sworn personnel](#). New Jersey's state troopers are organized on a paramilitary basis into four troops. Recruits take a 24-week resident training course at the Police Academy in Sea Girt, NJ.

The State Police still provides police protection to rural areas—the original reason for its creation. Enforcing traffic laws and providing emergency services are among its responsibilities. To reduce accidents, it conducts spot checks for drinking and speeding drivers and unsafe cars and trucks, and investigates all fatal accidents.

The State Police have also been assigned a wide variety of tasks involving control of drugs, firearms, etc., training of police, registration of firearms, investigations and raids in cooperation with federal and local authorities, technical services including identification, crime detection laboratory, communications, crime reporting and riot control.

**COUNTY POLICE.** Each county has the legislative authority to establish a county police department with county-wide Jurisdiction. There are currently two county police agencies in New Jersey: Camden and Union.

**MUNICIPAL POLICE.** State law permits, but does not require, a municipality to establish a police force. Of the 565 municipalities in the state, 439 in 1969 had a department with at least one full-time police officer and an additional 92 had some part-time or special officers. These police have full police powers to enforce the law and apprehend suspects. Except when in "hot pursuit" of a suspect, a municipal police officer's jurisdiction is normally limited to the confines of his municipality. However, police (and firefighters) from one municipality may help protect life and property, quell a riot, or put out a fire in another municipality at the request of the receiving municipality's police chief or mayor.

The governing body of the municipality has the statutory responsibility for police operations including the hiring, promotion, and disciplining of police officers. These must comply with civil service regulations if the municipality has elected to adopt civil service for its employees. Under some forms of government, the mayor has law enforcement powers.

By law, all municipal and county law enforcement officers recruited after July 1965 must pass a basic training course before being permanently appointed. Administration of this law is the responsibility of a Police Training Commission in the Department of Law and Public Safety.

### **Protection of Civil Rights**

New Jersey first passed a law against racial discrimination in 1884—a law seldom invoked because the victim had to bring the case to court and bear the costs and publicity. During World War II, both the federal and state governments took steps against discrimination in employment. In 1945, just before the war's end, New Jersey passed a law banning discrimination in employment and creating a Division Against Discrimination to enforce the law. For the first time, citizens could turn to an administrative agency for assistance in this area. The State Constitution revised in 1947 included a new clause stating that no person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry, or national origin.

In 1949 the state's statutory prohibition against discrimination was extended to public accommodations, including schools; in 1951, to liability for military service; in 1954 and 1957, to housing aided by public funds; in 1962, to age, for employment; in 1966 in a Public Contracts law, to discrimination in employment by a contractor, or sub-contractor supplying goods or services to any governmental agency within the state; and in 1967, to all housing except rentals of rooms in one-family dwellings and the letting of the second unit in owner-occupied two-family dwellings.

The Division Against Discrimination was transferred in 1960 from the Department of Education to the Department of Law and Public Safety and was renamed the Division on Civil Rights. With this change came added emphasis on enforcement.

### **Other Agencies**

**WATERFRONT COMMISSION OF NEW YORK HARBOR.** In 1953 the states of New York and New Jersey established the Waterfront Commission with strong powers to combat crime on the waterfront, regulate hiring, stabilize the workforce, and protect workers from exploitation by employers or their own union leaders. The governor of each state appoints one of the two salaried commissioners for a three-year term.

**THE NATIONAL GUARD.** Militia—originally civilians banding together for short periods of time to protect their lives and property—were formed independently in each American colony during the Colonial period. With the establishment of the new nation, control over the militia was divided between the states and the federal government under Article I of the United States Constitution. Congress was given the power "to provide for calling forth the Militia to execute the Laws of the Union, suppress insurrections and repel Invasions." Congress also received the authority to organize, arm, and discipline the militia, while the states retained the authority to appoint the officers and to train the militia in accordance with congressional regulations.

Over the years, the state militia became called the National Guard and changed from state-controlled organizations of local volunteers to a reserve component of the national armed forces. As such, National Guard units are included in the ready reserves and are liable for active duty in times of national emergency or war at the call of the President. But they continue to serve their original masters, too. As the organized militia of a state, each state's National Guard may be called upon to protect life and property and preserve peace, order, and public safety within the state at the call of its commander-in-chief, the Governor.

**DEPARTMENT OF DEFENSE.** In New Jersey, the National Guard—composed of Army and Air National Guard units—is the responsibility of the Department of Defense. The Department is headed by a Chief of Staff who is appointed by the Governor with the consent of the Senate. He serves under the direction and at the pleasure of the Governor on a full-or-part-time basis. With the exception of the Director of the Division of Civil Defense and Disaster Control, who is also appointed by the Governor with the consent of the Senate, the Chief of Staff is free to organize his department. The primary duty of the Department is to direct the recruitment and training of the New Jersey National Guard so that it can meet federal and state readiness requirements. In addition, the department supervises the State's civil defense and disaster control program.

**CIVIL DEFENSE.** The State's emergency preparedness in the event of manmade or natural disasters is planned and promoted by the Division of Civil Defense and Disaster Control in the Department of Defense, primarily with the aid of federal funds. Through a network of county civil defense coordinators and municipal civil defense directors, it trains rescue workers, auxiliary police, auxiliary firemen, and other civil defense personnel; conducts test exercises; encourages the acquisition of emergency equipment and facilities; and assists persons threatened or hit by a disaster. The Division maintains the state's portion of the radio National Warning System, with state headquarters at the Civil Defense Emergency Operating Center at West Trenton and eleven other warning points throughout the state, for emergency communications such as enemy attack and hurricane warnings.

**FIRE PROTECTION.** The organization of fire protection in New Jersey fits into no simple pattern. The protection may be provided by an all-paid department, by a partly-paid and partly-volunteer department, by an all-volunteer company, or by the State Forest Fire Service.

The area a department or company protects may be several adjoining municipalities, one municipality, or one section of a municipality. The department or company may be governed by the governing body of several adjoining municipalities, the governing body of one municipality, by its own membership, or by an elected board of fire commissioners. Funds may come from the municipal budget, from private contributions and fund-raising events-, from the fire district taxes, or from any combination of these.

Related activities of fire departments also vary. When empowered by municipal ordinances, they inspect buildings (except public school buildings over which only the State Board of Education has jurisdiction) to detect fire hazards. The large paid departments have fire prevention bureaus and arson squads. Some departments

provide ambulance service, though this is more typically provided by a separate volunteer first aid or rescue squad, or hospitals.

Except for the Forest Fire Service and the protection of State buildings, the State government has assumed almost no responsibility for fire protection within the State. New Jersey is one of only a few states that has no state fire marshal whose office might provide local fire departments with technical back-up services. What laws have been enacted pertain to the types of permitted departments and hiring qualifications and tenure and pension rights of firemen. The State does collect two percent of the premiums of fire insurance policies written by out-of-state companies for the operation of the New Jersey Firemen's Home in Boonton for sick and retired firemen. Any balance is paid to the New Jersey Firemen's Association.

# INFORMATION & FACTS ABOUT NEW JERSEY

## THE STATE SEAL AND OTHER STANDARDS

**THE STATE SEAL.** New Jersey's State Seal was designed by Pierre Eugene du Simitiere and presented in May, 1777, to the Legislature, which was then meeting in the Indian King Tavern in Haddonfield.



The three plows in the shield honor the state's agricultural tradition. The helmet above the shield faces forward, an attitude denoting sovereignty and thus particularly fitting for one of the first governments created under the notion that the state itself is the sovereign. The crest above the helmet is a horse's head, standing for speed and strength (the horse is also the state animal of New Jersey).

The female figures pictured in the state seal are Liberty on the left, carrying the liberty cap on her staff. The liberty cap was worn as a symbol of rebellion by patriots in the colonies. Ceres, the Roman goddess of grain is on the right. She holds a cornucopia filled with harvested produce, symbolizing abundance.

Below it all is a banner with the state's motto, "Liberty and Prosperity".

Although the Seal's major elements have kept their relative positions for more than 200 years, there have been a number of lesser changes. The staff that Liberty now holds with her right hand, she once held in the crook of her left arm. While the female figures now face straight ahead they at one time looked away from the shield. The cornucopia that Ceres now holds upright was once inverted, its open end upon the ground. The changes were made when the Seal was redesigned in accordance with Joint Resolution 8 of the Laws of 1928. It was then that the year, 1776, first appeared in Arabic figures.

**THE STATE FLAG.** The New Jersey State Flag is defined and described in Joint Resolution No. 2 of 1896, which reads as follows: Joint Resolution to Define the State Flag.

- 1) BE IT RESOLVED by the Senate and General Assembly of the State of New Jersey: The State flag shall be of buff color, having in the center thereof the arms of the State properly emblazoned thereon.
- 2) The State flag shall be the headquarters flag for the Governor as Commander-in-Chief, but shall not supersede distinctive flags which are or may hereafter be prescribed for different arms of military or naval service of this State.
- 3) This act shall take effect immediately.



Approved March 26, 1896.

Under Chapter 170, P.O. 1965, the official colors of New Jersey for use on the State Flag and for other purposes were legally established as buff and Jersey blue.

**THE STATE SONG.** New Jersey does not have an official State song despite attempts to find one.

As the result of a 1939 contest, a report was submitted on December 9, 1940, in favor of the "New Jersey Loyalty Song," by Samuel Monroe, but the Legislature never acted upon the recommendation. Similar action taken by the 1954 Legislature resulted in the State Department of Education, on May 18, 1956, submitting a report to the effect "that no song had been found ... of sufficient worth to recommend as the official State Song."

In 1964, the New Jersey Tercentenary Commission sponsored a State Song Contest but did not endeavor to establish an official State Song.

On November 20, 1972, the General Assembly approved, 48-6, a Senate bill declaring "I'm from New Jersey," as the official State Song. Before passage of the measure, the composer, Joseph Rocco "Red" Mascara of Phillipsburg, sang the lyrics from the Assembly gallery, accompanied by a six-piece group. Mr. Mascara had lobbied 11 years to secure passage of the bill. The bill was not signed into law, however.

On June 12, 1980, the Assembly by voice vote passed ACR-121, designating the song "Born to Run" as the state's unofficial rock theme. The song had been commercially performed by Bruce Springsteen, who was born in Freehold on September 23, 1949. There were protests that the song lacked the inspirational quality appropriate for a state anthem. The resolution was referred to the Senate's State Government Committee, which did not immediately move to release it.

## FACTS ABOUT THE STATE OF NEW JERSEY

|  |                       |
|--|-----------------------|
| Capital.....   | Trenton               |
| <a href="#">Total Area (Land and Water)</a> .....          | 8,723 sq. miles       |
| <a href="#">Population</a> .....                           | 9,288,994             |
| <a href="#">Voting Age Population (18 and older)</a> ..... | 7,281,310             |
| <a href="#">Registered Voters</a> .....                    | 6,682,699             |
| State Ranks.....   |                       |
| Population.....  | 11th                  |
| Population Density.....                                    | 1st                   |
| Total Area (Land & Water).....                             | 47th                  |
| Municipalities.....  | 564                   |
| Counties.....  | 21                    |
| State Senators.....  | 40                    |
| Assembly Members.....                                      | 80                    |
| Federal Congressional Districts.....                       | 12                    |
| <a href="#">Number of Public School Systems</a> .....      | 590                   |
| Nickname.....  | The Garden State      |
| State Flower.....  | The Violet            |
| State Bird.....  | The Eastern Goldfinch |
| State Colors.....  | Buff and Blue         |
| State Motto.....   | Liberty & Prosperity  |
| State Insect.....  | The Honey Bee         |
| State Animal.....  | The Horse             |
| State Tree.....  | The Red Oak           |
| First State to ratify the Bill of Rights                   |                       |
| Third State to ratify the Federal Constitution             |                       |

# ALJBS REFERENCE

## APPOINTED POSITIONS

### **Municipal Appointments**

**MUNICIPAL CLERK.** The Municipal Clerk is the custodian of all of the city records and Secretary to the City Council. He will keep minutes of Council meetings and records of all Council activities. He is a key resource in the creation of the City Manual and website.

**CHIEF FINANCIAL OFFICER/TREASURER.** The Chief Financial Officer/Treasurer is the custodian of all municipal monies. He oversees the Directors of Welfare and Finance as well as the Tax Assessor and Tax Collector and reports directly to the city's elected leadership.

**DIRECTOR OF WELFARE.** The Director of Welfare administers relief and charitable aid to his city. He is the chairman of the committee responsible for executing the end-of-week party with his City Counselors. He may also have responsibility for dealing with citizens unable to pay their taxes.

**DIRECTOR OF FINANCE.** The Director of Finance is the chief bookkeeper of the city, promoting transparency, efficiency, and accountability. He is a member of the end-of-week party committee.

**TAX COLLECTOR.** The Tax Collector is a member of the end-of-week party committee as well as being responsible for collecting the taxes that the city's elected leadership impose via ordinance. They may also be in charge of helping to collect money for the end-of-week party.

**TAX ASSESSOR.** The Tax Assessor is a member of the end-of-week party committee as well as helping the city's elected leadership decide on how to appropriately tax the city.

**MUNICIPAL ATTORNEY.** The Municipal Attorney advises the city's elected leadership on legal matters that may impact the city. As this individual must give advice on a wide array of topics, they will need to be able to do research and communicate complex information in understandable ways.

**MUNICIPAL JUDGE.** The Municipal Judge presides over the city's Municipal Court. He will attend a special seminar at the New Jersey State Courthouse about his position.

**PROSECUTOR.** The Municipal Prosecutor is responsible for instituting and carrying on the legal proceedings against those charged by the Police Department. He will attend a special seminar at the New Jersey State Courthouse about his position.

**PUBLIC DEFENDER.** The Municipal Public Defender is responsible for arguing cases on behalf of defendants. He will attend a special seminar at the New Jersey State Courthouse about his position.

**COURT CLERK.** The Court Clerk is responsible for maintaining records of all Municipal Court cases. In addition, he is responsible for finding time to conduct Municipal Court and for notifying the city of these arrangements.

**DIRECTOR OF PUBLIC SAFETY.** The Director of Public Safety is responsible for ensuring that all athletic participants have sneakers and are properly attired when reporting to recreation. He is also responsible for submitting a written report of any accidents that occur, or any hazardous conditions that exist, to the city's elected leadership and the City Counselors immediately.

**POLICE CHIEF.** The Police Chief, along with his two Deputy Police Chiefs from different floors, is collectively responsible for maintaining order within the city.

**DEPUTY POLICE CHIEF (2).** The Deputy Police Chiefs, along with the Police Chief, are collectively responsible for maintaining order within the city.

**FIRE CHIEF.** The Fire Chief, in conjunction with the Police Department, is responsible for strictly enforcing all fire regulations. In addition he must plan and explain to the city evacuation procedure in the event of a fire.

**CHIEF HEALTH OFFICER.** The Chief Health Officer is responsible for maintaining a clean and healthy community. This should include, but not be limited to: making daily inspections of the individual rooms and ensuring the bathrooms and hallways are maintained in a clean and healthy fashion. The Police Department is contacted for any assistance needed in enforcement.

**BOARD OF EDUCATION (5).** The Board of Education is responsible for working with the Superintendent of Schools and their City Counselors to develop an educational plan for the city. Key topics will be reviews of assigned readings, preparation for the ALJBS Exam, and discussions of learnings from the week's General Assemblies.

**SUPERINTENDENT OF SCHOOLS.** The Superintendent of Schools will work with the Board of Education to draft a plan for educating the members of his city. He will also be responsible for implementing the Board of Education's decisions.

**DIRECTOR OF PUBLIC WORKS.** The Director of Public Works manages functions that require construction and maintenance. He will work with the Building Inspector and Supervisor of Streets to report any needed repairs to the city's elected leadership and City Counselors.

**BUILDING INSPECTOR.** The Building Inspector is in charge of issuing permits for the erection and alteration of buildings so that they comply with municipal ordinances. He will work with the Director of Public Works and Supervisor of Streets to report any needed repairs to the city's elected leadership and City Counselors.

**SUPERVISOR OF STREETS.** The Supervisor of Streets prioritizes and oversees street maintenance projects. He will work with the Director of Public Works and the Building Inspector to report any needed repairs to the city's elected leadership and City Counselors.

**DIRECTOR OF PARKS AND PUBLIC PROPERTY.** The Director of Parks and Public Property is responsible for maintaining the lounges and outside of the city in a neat and presentable condition.

## **County Appointments**

**CLERK OF THE BOARD OF COUNTY COMMISSIONERS** - The Clerk of the Board of County Commissioners is the Secretary to the Board. He will keep minutes of meetings and records of all Commissioner activities. He is a key resource in the creation of the County Manual.

**COUNTY COUNSEL** - The County Counsel serves as attorney and provides legal advice and representation to the Board of County Commissioners and all County Departments. The Counsel also provides legal advice and assistance to the constitutional officers upon request.

**COUNTY TREASURER** - The County Treasurer is responsible for providing accounting records and preparing the Annual Financial Statement. He is also responsible for preparing the annual budget along with all supporting schedules.

**COUNTY MEDICAL EXAMINER** - The County Medical Examiner will report any illnesses or injuries to the County Commissioners and maintain health records that will go into the County Manual.

**COUNTY ENGINEER** - The County Engineer will be in charge of keeping all of the documents and plans that his county may use for building bridges or highways. His documents will be necessary for the County Manual.

**COUNTY ROAD SUPERVISOR** - The County Road Supervisor will be responsible for keeping documents pertaining to the state of the roads in his county. His records will be necessary for the County Manual.

**COUNTY ADJUSTER** - The County Adjuster is responsible for the supervision of and preparations of papers relating to the commitment of those with mental illness and in cases arising in other causes where the legal settlement appears to be in his county.

**PURCHASING AGENT** - The County Purchasing Agent will be in charge of all materials and supplies to be purchased for all institutions, departments, boards and commissions of the county and shall purchase all supplies and materials for their use.

**COUNTY WARDEN** - The County Warden will be in charge of any citizens who have been given the punishment of imprisonment or other lesser sentences.

**PARKS & RECREATION COMMISSIONER** - The County Parks & Recreation Commissioner, along with each city's Director of Parks and Public Property are responsible for maintaining the outside of the county in a neat and presentable condition reflective of the integrity of his county. He is also responsible for coordinating efforts with each city's Athletic Director to ensure full participation in the Sports Program and avoid forfeits.

**COUNTY UNDERSHERIFF** - The County Undersheriff will assist the County Sheriff in the enforcement of the county laws. He may also assist in county court proceedings.

**PROBATION OFFICER** - He will be responsible for fully investigating and submitting written reports to the county court detailing all pertinent information about the cases they may be handling. He will also assist the Warden in enforcement of the sentences that the Court hands down to its citizens.

**COUNTY WELFARE BOARD** - The members of the board will assist the county leadership in assigning responsibilities to citizens to ensure timely completion of the County Manual. In addition, members of the County Welfare Board may assist municipal Directors of Welfare in the collection of unpaid taxes.

## **Gubernatorial Appointments**

The Constitution of the State of New Jersey, Article V, Section 1, provides that the Governor shall grant commissions to all officers elected or appointed pursuant to the Constitution. He shall nominate and appoint, with the advice and consent of the Senate, all officers for whose election or appointment provision is not otherwise made by the Constitution or by law.

The following is a list of principal positions within the Executive Branch of the State government (modified for use at ALJBS) to be filled by the newly elected Governor.

|                                       |   |   |
|---------------------------------------|---|---|
| Chief of Staff                        | Chief Justice of the Supreme Court                                | Commissioner, Dept. of Children & Families            |
| Secretary of State                    | Associate Justice of the Supreme Court                            | CEO, Economic Development Authority                   |
| Counsel to the Governor               | Associate Justice of the Supreme Court                            | Commissioner, Dept. of Community Affairs              |
| Attorney General                      | Associate Justice of the Supreme Court                            | Adjutant General, Dept. of Military & Veteran Affairs |
| Deputy Attorney General               | Associate Justice of the Supreme Court                            | Chair & CEO, Civil Service Commission                 |
| Halsey County Prosecutor              | Associate Justice of the Supreme Court                            | Secretary, Dept. of Agriculture                       |
| Marshall County Prosecutor            | Associate Justice of the Supreme Court                            | Commissioner, Dept. of Transportation                 |
| Nimitz County Prosecutor              | Presiding Judge, Part A, of the Superior Court Appellate Division | Superintendent, New Jersey State Police               |
| Macarthur County Prosecutor           | Presiding Judge, Part B, of the Superior Court Appellate Division | Secretary of Higher Education                         |
| Ridgeway County Prosecutor            | Presiding Judge, Part C, of the Superior Court Appellate Division | Commissioner, Dept. of Education                      |
| Vandenberg County Prosecutor          | Presiding Judge, Part D, of the Superior Court Appellate Division | Commissioner, Dept. of Banking and Insurance          |
| Eisenhower County Prosecutor          | Presiding Judge, Part E, of the Superior Court Appellate Division | Commissioner, Dept. of Corrections                    |
| Bradley County Prosecutor             | Presiding Judge, Part F, of the Superior Court Appellate Division | State Comptroller                                     |
| Schwarzkopf County Prosecutor         | Presiding Judge, Part G, of the Superior Court Appellate Division | Commissioner, Dept. of Environmental Protection       |
| State Treasurer                       | Presiding Judge, Part H, of the Superior Court Appellate Division | Chair & Chief Administrator, Motor Vehicle Commission |
| Commissioner, Dept. of Human Services | Director, Office of Homeland Security                             | President, Board of Public Utilities                  |
|                                       | Commissioner, Dept. of Labor & Workforce Development              | Commissioner, Dept. of Health                         |

# SAMPLE ORDINANCE

CITY OF \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE TO PROHIBIT CERTAIN DISORDERLY CONDUCT OF ALL PERSONS WITHIN THE CITY OF \_\_\_\_\_, IN THE COUNTY OF \_\_\_\_\_, AMERICAN LEGION JERSEY BOYS STATE, AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THOSE PROHIBITIONS

BE IT ORDAINED by the Mayor and Council of the city of \_\_\_\_\_, in the County of \_\_\_\_\_, that

**SECTION 1.** Any person who smokes, consumes, chews, or otherwise uses tobacco, a tobacco extract, or any other tobacco substitute in any place within the City Limits, including but not limited to Citizens Homes, stairwells, bath rooms, linen closets, but excluding the specifically designated lounge area wherein said uses are permitted, shall be adjudged a disorderly person.

**SECTION 2.** The lounge area in which the uses of tobacco permitted by Section 1 above shall be designated by at least two (2) signs each at least twelve (12") inches high by twelve (12") inches wide with red letters on a white background stating "SMOKING PERMITTED" each letter being at least two (2") inches, and such signs shall be posted at least three (3') feet from the floor of said lounge area and at least ten (10') feet from each other.

**SECTION 3.** Any Citizen of the City of \_\_\_\_\_, who fails to maintain his Home in a clean, neat, and orderly condition or otherwise allows his Home to become dirty, untidy, disorderly, or unkempt shall be adjudged a disorderly person.

**SECTION 4.** Any person who litters or otherwise allows the disposal of any trash other than in the designated or customary refuse containers within the City Limits shall be adjudged a disorderly person.

**SECTION 5.** Any person who uses vile, obscene, lewd, lascivious, or profane language within the City Limits shall be adjudged a disorderly person.

**SECTION 6.** Any person adjudged a disorderly person pursuant to this Ordinance shall be set to hard labor under the supervision of the Chief of Police and the Health Officer to clean and set in order all City controlled areas, including but not limited to the lounge area and the bathroom, for a period of at least one (1) day but no more than (2) days.

**SECTION 7.** If any one section of this Ordinance shall be adjudged to be unconstitutional or invalid, the other sections shall continue to be in full force and effect.

**SECTION 8.** This Ordinance shall be effective immediately upon passage by the Mayor and Council.

Dated: June \_\_\_\_\_, 2\_\_\_\_\_

\_\_\_\_\_, Mayor                      \_\_\_\_\_, City Clerk

I do hereby CERTIFY that the above Ordinance was duly moved, seconded, and passed by the Mayor and Council of the City of \_\_\_\_\_ at its meeting on June \_\_\_\_\_, 2\_\_\_\_\_.

Dated: June \_\_\_\_\_, 2\_\_\_\_\_

\_\_\_\_\_, City Clerk

# **THE ALJBS LEGISLATURE**

## **GENERAL INFORMATION APPLICABLE TO ALJBS SENATE AND GENERAL ASSEMBLY**

**DEFINITIONS.** The term "bill" shall mean a draft of a formal proposal which, if enacted, will become law.

The term "joint resolution" shall mean a formal resolution separately adopted by both Houses of the Legislature and, since it has the effect of law, must be submitted to the Governor for approbation.

The term "concurrent resolution" shall mean a formal resolution passed by a majority of the members of one House of the Legislature with the other House concurring therein, which expresses the sentiments of both Houses. A concurrent resolution is also the form of legislation used to propose an amendment or amendments to the Constitution. No action is required by the Governor.

The term "resolution" shall mean a formal resolution, passed by a majority of the members of the (Senate) (General Assembly) which expresses its policy or opinion or provides for subsidiary or procedural matters and requires no action either concurrently or jointly by the opposite member of the Legislature.

The term "motion" shall mean a proposal by a member that that body (Senate) (General Assembly), on approval by a majority vote, take a certain specific action.

## **GENERAL RULES FOR SENATE AND GENERAL ASSEMBLY**

### **ORGANIZATION**

MEMBERS of the Senate/General Assembly shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will faithfully discharge the duties of a member of the Senate/General Assembly according to the best of my ability." This oath will be administered by a staff member prior to the opening of the first Legislative meeting.

Each meeting shall be opened with a prayer and a salute to the flag of the United States. The majority party will designate a chaplain in their caucus for each House.

At the first meeting, the Senate chooses a Senate President and a President Pro Tem, from among its members, a Majority Leader, and a Minority Leader. Similarly, the General Assembly elects a Speaker and a Speaker Pro Tem from among its members, a Clerk, an Assistant Clerk, a Majority Leader, a Minority Leader, a Sergeant-at-Arms, and a Chaplain. The majority and minority parties in each house select their majority and minority floor leaders.

Every OFFICER shall, before entering upon his duties, take and subscribe the following oath or affirmation: "I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office to the best of my ability and understanding; that I will carefully preserve all records, papers, writing, or property entrusted to me for safekeeping by virtue of any office, and make such disposition of the same as may be required by law." (Oath will be administered by a staff member of American Legion Jersey Boys State.)

A majority of all the members of the House shall constitute a quorum.

## **OFFICERS OF THE SENATE AND THEIR DUTIES**

**PRESIDENT.** The President shall take the chair and call the members to order and, upon the appearance of a quorum, shall take up the business of the meeting.

The President shall have a general direction of the Senate Chamber and the lobby and gallery thereof, together with such rooms, corridors and passages as may be assigned to the use of the Senate. In case of disturbance or disorderly conduct in the gallery or in the lobby, he may cause the same to be cleared or the offending persons to be arrested and removed.

He shall rise to put a question (motion). He shall preserve order and decorum and in debate shall prevent personal reflections, and confine members to the question under discussion; but he shall not engage in any debate, nor propose his opinion on any questions without first calling on some member to occupy the Chair. When two or more members arise at the same time, he shall name the one entitled to the floor.

He shall decide questions of order and transgressions in debate, subject to an appeal to the Senate, by any members. The Senate shall, if appealed to, decide on the case, but without debate, and the votes of a majority of those present and voting shall prevail.

He shall state all questions before the Senate and shall distinctly put such questions in the following form: "As many as are in favor of (the question) will vote "aye"; and after the affirmative is expressed, "Those of a contrary opinion will vote "no". If the President doubts the results, he will order a roll call vote to be taken.

He shall appoint all committees, unless otherwise specially directed by the Senate.

He shall from day to day prepare a Calendar of Bills and Recommendations for consideration in the order of his pleasure.

He shall sign certificates as to the passage by the Senate of all acts and joint resolutions and all concurrent resolutions when so directed by the Senate.

If the President desires to temporarily vacate the Chair during any meeting, he shall request the President pro tem or name another member to perform the duties of the Chair.

The President pro tem shall possess all the powers and discharge all the duties of the President when the latter is absent.

The President shall, at the annual organization meeting, assign seats in the Senate to the several Senate districts (counties in ALJBS) for the use of their members.

**SECRETARY AND ASSISTANT SECRETARY.** The Secretary shall be the Chief administrative officer of the Senate, subject to the supervision of the President.

He shall, at each meeting of the Senate, read the number, title and Committee reference of each bill and resolution delivered to him by the President, and shall also read the petitions and communications addressed to the Senate.

He shall record the votes on all motions, bills and resolutions and inform the President of the final vote.

The Assistant Secretary assists the Secretary and performs the duties of the Secretary in his absence.

**SERGEANT-AT-ARMS AND ASSISTANT SERGEANT-AT-ARMS.** The President shall appoint a Sergeant-At-Arms and Asst. Sergeant-At-Arms for the Senate.

The Sergeant-At-Arms shall attend the Senate during its sittings and such public hearings of Committees as the President shall direct, and maintain order under the direction of the President or Chairman.

He shall, as directed by the President, enforce the rules relating to the privileges of the Chamber.

Prior to the meeting of the Senate he shall see that the Chamber is cleared of all persons except those privileged to remain and keep it so until after adjournment.

The Assistant Sergeant-At-Arms shall aid the Sergeant-At-Arms in the performance of his duties and shall, in the absence of the Sergeant-At-Arms, perform the duties of the Sergeant-At-Arms.

#### **OFFICERS OF THE GENERAL ASSEMBLY AND THEIR DUTIES**

**SPEAKER.** The Speaker shall take the chair at the hour to which the General Assembly shall have adjourned and immediately call the members to order and, on the appearance of a quorum, shall cause the journal of the preceding day to be read, unless dispensed with by order of the General Assembly, which journal may be corrected immediately after such reading, or at any meeting thereafter. He shall have a general direction of the Assembly Chamber and the lobby and gallery thereof, together with such rooms and corridors and passages in the area as may be assigned to the use of the General Assembly. In the case of disturbance or disorderly conduct in the gallery or in the lobby, he may cause the same to be cleared.

He shall preserve order and decorum and in debate shall prevent personal reflections and confine members to the question under discussion; but he shall not engage in any debate, nor propose his opinion on any question without first calling on some member to occupy the Chair. When two or more members arise at the same time, he shall name the one entitled to the floor.

He shall decide questions of order, subject to an appeal to the General Assembly, when demanded by any member, on which appeal no member shall speak more than once, unless by the leave of the General Assembly. The appeal shall be decided by the same number of votes as was requisite for the original motion.

He shall state all questions before the General Assembly and shall distinctly put such questions in the following form, to wit: "As many as are in favor of (the question) will vote "aye" and after the affirmative is expressed, "Those of a contrary opinion will vote "no." If the Speaker doubts or a decision be called for, a roll call vote shall be taken.

He shall appoint all committees, unless otherwise specially directed by the General Assembly. He may, during the inability of a committee member to serve, appoint another member of the General Assembly to serve during such a period.

He shall from day to day prepare a Calendar of Bills and Resolutions for consideration, which Calendar shall be subject to the following: Any bill, joint resolution, concurrent resolution, or resolution may be made the order for a particular day, on which day it shall be taken up, whether or not it is upon the Calendar for said day, in preference to any others whether or not they are on the Calendar.

He shall sign all acts, addresses, and joint resolutions, and all concurrent resolutions when so directed by the General Assembly. All writs, warrants, subpoenas issued by the order of the General Assembly shall be under his hand and seal and attested by the Clerk.

If the Speaker shall desire temporarily to vacate the Chair during any meeting, he shall name a member to perform the duties of the Chair.

He shall present all petitions, memorials and other papers addressed to the General Assembly.

He shall, at the annual organization meeting, assign seats in the General Assembly to the several counties for the use of their members.

**CLERK AND ASSISTANT CLERK.** The clerk shall be the Chief administrative officer of the General Assembly, subject to the supervision of the Speaker.

He shall, at each session of the General Assembly, read the number, title and Committee reference of each bill and resolution delivered to him by the Speaker, and shall also read all petitions and communications addressed to the General Assembly.

He shall record the votes of all motions, bills and resolutions and inform the Speakers of the final vote.

He shall attest all writs, warrants and subpoenas issued by the order of the General Assembly.

He shall send all messages required to be sent from the General Assembly to the Senate.

The Assistant Clerk shall aid the Clerk in the performance of his duties and shall, in the absence of the Clerk, perform the duties of the Clerk.

**SERGEANT-AT-ARMS AND ASSISTANT SERGEANT-AT-ARMS.** The Speaker shall appoint a Sergeant-At-Arms and Asst. Sergeant-At-Arms for the Assembly.

The Sergeant-At-Arms shall attend the Assembly during its sittings and such public hearings of Assembly Committees as the Speaker shall direct, and maintain order under the directions of the Speaker or Chairman.

He shall, as directed by the Speaker, enforce the rules relating to the privileges of the Chamber.

Prior to the meeting of the Assembly he shall see that the Chamber is cleared of all persons except those privileged to remain and keep it so until after adjournment.

The Assistant Sergeant-At-Arms shall aid the Sergeant-At-Arms in the performance of his duties and shall, in the absence of the Sergeant-At-Arms, perform the duties of the Sergeant-At-Arms.

## MOTIONS

- 1) Every motion shall be reduced to writing if the (President) (Speaker) or any member desires it.
- 2) When a motion is made and seconded, it shall be put (stated) by the (President) (Speaker), or being in writing, it shall be delivered to the chair and read aloud by the Clerk. It shall then be deemed to be in the possession of the (Senate) (General Assembly) and open to debate; but it may be withdrawn at any time before a decision or amendment.
- 3) When any motion shall be made and seconded, the same shall be entered on the Journal of the (Senate) (General Assembly).
- 4) When a question is under debate, no motion shall be received but—
  - a) To adjourn
  - b) A call of the membership
  - c) To lay on the table
  - d) For the previous question
  - e) To postpone indefinitely
  - f) To postpone to a day certain
  - g) To go into a Committee of the Whole on the pending subject immediately
  - h) To commit to a Committee of the Whole

- i) To commit to a Committee
  - j) To amend, which several motions shall have precedence in the order in which they are stated, and no motion to postpone to a day certain, to commit, or to postpone indefinitely being decided, shall be again allowed on the same day, and at the same stage of the bill or proposition
- 5) A motion to adjourn shall be always in order, except when the (Senate) (General Assembly) is voting, or when the (General Assembly) is under call, or while a member is addressing the (Senate) (General Assembly), or immediately after a question to adjourn has been lost; that, and the motion to lay on the table, shall be decided without debate.

### **DEBATE**

There are two forms of debate used at Boys State. The first is Structured Debate, wherein the sponsor of a motion is allotted three (3) minutes to speak, and where the first speaker in opposition to the motion is also allotted three (3) minutes.

Subsequent speakers are given two (2) minutes each. Example:

|                         |           |
|-------------------------|-----------|
| Sponsor of the motion:  | 3 Minutes |
| First speaker opposed:  | 3 Minutes |
| Second speaker for:     | 2 Minutes |
| Second speaker against: | 2 Minutes |

The other form is General Debate, in which each speaker is given one (1) minute to present his case. The chair will see to it that the speakers alternate, one for, one against.

In both instances, no member may speak twice until all who desire have spoken.

### **OTHER RULES**

The time of the speaker does not run during questions (points of inquiry, query) or while other motions are being entertained.

A resolution is an opinion, which does not become law. A bill, on the other hand, if passed, becomes law.

The chair votes if his vote will break a tie. If his "No" vote will result in a tie (i.e. a defeat) he must decide prior to ballot voting whether he will participate.

The assembly has the right to make or enforce its own law.

The assembly has the right, either by rule (of the chair) or vote, to eject anyone from its place of meeting.

As a vote is being taken no motion will be entertained except privilege, order or information—but PLEASE hold these to a minimum.

### **PROCESSING OF BILLS IN THE ALJBS LEGISLATURE**

The reading by the Secretary in the Senate and the Clerk in the General Assembly of the number, title and committee reference, if any, of each bill and resolution delivered to him by the Presiding Officer shall be taken as the introduction and first reading of the bill or resolution.

Upon release by the Committee, it should be moved for second reading. A Committee may report any bill, joint resolution or concurrent resolution before it by committee substitute, at any time. On second reading, any bill, joint resolution or concurrent resolution shall be open to amendment. None shall be open to amendment on third reading.

In order to expedite enactment of legislation within the short time that American Legion Jersey Boys State is in session, members of the Legislature should confer within their county, party, or House of Legislature to introduce generally acceptable and meaningful legislation. Such legislation could be passed on second reading if so moved.

### **STARTING PROCEDURE IN THE SENATE AND THE GENERAL ASSEMBLY**

Temporary (President/Speaker): (hits gavel) The (Senate)/(General Assembly) will now come to order. Members will stand and Divine blessing will be invoked by our Chaplain.

Chaplain (leads in prayer—remain standing)

Temporary (President/Speaker) leads (Senators)/(Assemblymen) in a salute to the flag of the United States, after which all are seated.

Temporary (President/Speaker) states: I believe a quorum is present; therefore, we will now proceed to the election of officers. Parties nominate those chosen in caucus for offices in the following order:

| <u>Senate</u>                     | <u>General Assembly</u>         |
|-----------------------------------|---------------------------------|
| President                         | Speaker                         |
| President Pro Tempore             | Speaker Pro Tempore             |
| Secretary of the Senate           | Clerk of the Assembly           |
| Assistant Secretary of the Senate | Assistant Clerk of the Assembly |
| Sergeant-at-Arms                  | Sergeant-at-Arms                |
| Assistant Sergeant-at-Arms        | Assistant Sergeant-at-Arms      |
| Chaplain                          | Chaplain                        |

Temporary (President/Speaker) asks newly elected OFFICERS to come forward to be sworn in by a staff member of ALJBS.

Elected (President)/(Speaker) states: Members will be seated as follows. (Assigns seats by ALJBS counties)

Prior to separate action in each House of the Legislature on General Assembly Concurrent Resolution No. 1, both Houses will cause a message to be sent to the opposite House, which will be read as follows:

On arrival: The presiding officer will state: We now have a message from the (Senate)/(General Assembly). The (Secretary of the Senate)/(Clerk of the Assembly) will read:

Mr. (President)/(Speaker), I am directed by the (Senate)/(General Assembly) to inform the (Senate)/(General Assembly) that the (Senate)/(General Assembly) is organized with the following officers:

**Senate**

President (insert name)  
President Pro Tempore (insert name)  
Secretary of the Senate (insert name)  
Assistant Secretary of the Senate (insert name)  
Sergeant-at-Arms (insert name)  
Assistant Sergeant-at-Arms (insert name)  
Chaplain (insert name)

**General Assembly**

Speaker (insert name)  
Speaker Pro Tempore (insert name)  
Clerk of the Assembly (insert name)  
Assistant Clerk of the Assembly (insert name)  
Sergeant-at-Arms (insert name)  
Assistant Sergeant-at-Arms (insert name)  
Chaplain (insert name)

and await the pleasure of the (Senate)/(General Assembly).

This message is signed by (Secretary)/(Clerk), depending on House of origin.

**ACTION IN THE GENERAL ASSEMBLY ON CONCURRENT RESOLUTION NO. 1**

Majority Leader: Mr. Speaker, I introduce General Assembly Concurrent Resolution No. 1.

Speaker: asks Clerk to read Assembly Concurrent Resolution No. 1.

The Clerk reads:

General Assembly Concurrent Resolution No. 1.

A Concurrent Resolution relating to the Committee to wait upon the Governor:

BE IT RESOLVED, by the General Assembly, the Senate concurring therein: That a Committee of three members of the General Assembly and two members from the Senate be appointed to wait upon the Governor and inform him that the two Houses of the Legislature are ready to receive any communication he may have to present at the first session held at the State House in Trenton.

Speaker: You have heard the motion. The question is on the motion to adopt General Assembly Concurrent Resolution No. 1. As many as are in favor of the motion will vote "Aye;" (and after the affirmative is expressed), those of a contrary opinion will vote "No." The resolution is adopted and the Chair appoints the following as a Committee on the part of the General Assembly to wait upon the Governor.

Assembly Member \_\_\_\_\_

Assembly Member \_\_\_\_\_

Assembly Member \_\_\_\_\_

The Clerk signs and sends a copy of the resolution to the Senate.

**ACTION IN THE SENATE ON GENERAL ASSEMBLY CONCURRENT RESOLUTION NO. 1**

President Pro Tem: Mr. President, I call up General Assembly Concurrent Resolution No. 1 and move its adoption

President: The Secretary will read.

Secretary reads aloud:

General Assembly Concurrent Resolution No. 1.

A Concurrent Resolution relating to the Committee to wait upon the Governor;

BE IT RESOLVED, by the General Assembly, the Senate concurring therein: That a Committee of three members of the General Assembly and two members from the Senate be appointed to wait upon the Governor and inform him that the two Houses of the Legislature are ready to receive any communication he may have to present at the first session held at the State House in Trenton.

President: You have heard the motion. The question is on the motion to adopt General Assembly Concurrent Resolution No. 1. As many as are in favor of the motion will vote "Aye"; (and after the affirmative is expressed) those of a contrary opinion will vote "No". The resolution is adopted and the Chair appoints the following as a committee on the part of the Senate to wait upon the Governor.

Senator \_\_\_\_\_

Senator \_\_\_\_\_

### JOINT SESSION OF THE LEGISLATURE

Preliminary Arrangements in the General Assembly  
Responsibility of the Sergeant-at-arms and Assistant:  
Check facilities, chairs, water, microphones, lectern, etc.  
Clear the floor of unauthorized persons  
Reserve seats at front for members of the Senate

Speaker: (raps gavel) The General Assembly will now come to order. The chair appoints the following Assemblymembers to invite the Senate to a joint session:

Assembly Member \_\_\_\_\_,

Assembly Member \_\_\_\_\_,

Assembly Member \_\_\_\_\_, and

Assembly Member \_\_\_\_\_.

(Committee leaves and carries out its mission)

When appropriate, the Sergeant-at-arms states: Mr. Speaker, the President of the Senate and other members are at the door of the Assembly awaiting without.

Speaker: Sergeant, will you escort them to special seats. (Speakers hits gavel; members stand and applaud.)

Sergeant-at-arms and Assistant escorts the Senators to special seats up front and the President takes a seat to the left of the Speaker.

Speaker: (hits gavel; all sit down) On behalf of the General Assembly, the Chair appoints the following to escort the Governor to the joint session of the Legislature:

Assembly Member \_\_\_\_\_,

Assembly Member \_\_\_\_\_, and

Assembly Member \_\_\_\_\_.

President of Senate: On behalf of the Senate, the chair appoints the following to escort the Governor to the joint session of the Legislature:

Senator \_\_\_\_\_, and

Senator \_\_\_\_\_.

(Joint committee leaves and carries out its mission)

General Assembly Sergeant-at-arms, when appropriate, states: Mr. Speaker, the Governor of American Legion Jersey Boys State, together with the Committee on Escort, are at the door awaiting without.

Speaker: Sergeant, will you escort the Governor to the platform. (Hits gavel; members of both Houses stand and applaud)

(Members sit down after the Governor shakes hands with the President and Speaker.)

President: Gentlemen of the Legislature, it gives me great pleasure to introduce the Governor of American Legion Jersey Boys State. (Members applaud)

Governor: Mr. President, Mr. Speaker, Members of the Senate and General Assembly (he then goes on to give his address, after which, members applaud)

(Committee escorts the Governor from Assembly chambers)

President: The joint session of the Legislature is dissolved. Senators will return to their chamber.

(Senators leave with the President and Senate Sergeant-at-arms and Assistant leading)

Speaker: The General Assembly will now come to order.

(Proceed with regular order of business)

### **CLOSING CEREMONIES OF THE GENERAL ASSEMBLY**

When the business seems to have been disposed of at the final session:

Speaker Pro Tem: Mr. Speaker, I introduce the following concurrent resolution and move its adoption

Speaker: The Clerk will read.

Clerk: General Assembly Concurrent Resolution No. \_\_\_\_\_.

A concurrent Resolution relating to a committee to be appointed to wait upon the Governor:

BE IT RESOLVED, by the General Assembly, the Senate concurring therein, that a committee of three from the Assembly and two from the Senate be appointed to wait upon the Governor and inform him that the Legislature has completed the business before it, and to ask him if there are any other communications to be transmitted.

Speaker: You have heard the motion. The question is on the motion to adopt Concurrent Resolution No. \_\_\_\_\_. As many as are in favor of the motion will vote "Aye"; (and after the affirmative is expressed) those of a contrary opinion will vote "No." The resolution is adopted and the Chair appoints the following as a committee on the part of the General Assembly to wait upon the Governor:

Assembly Member \_\_\_\_\_,

Assembly Member \_\_\_\_\_, and

Assembly Member \_\_\_\_\_.

(Committee joins with a similar committee of the Senate and carries out its mission.)

Speaker: The Assembly will remain at ease until the sound of the gavel. (When committee is ready to report, sound the gavel and say): The Assembly will come to order. The chair recognizes Assembly Member \_\_\_\_\_ of the Committee.

Assembly: Mr. Speaker, I ask the Clerk to read the committee report and move its adoption.

Clerk: Mr. Speaker, your committee appointed in compliance with Concurrent Resolution No. \_\_\_\_\_ requests leave to submit the following report. We have waited upon the Governor, and have been informed that he has nothing further to present to the Legislature for its consideration.

Assembly Member \_\_\_\_\_ Senator \_\_\_\_\_

Assembly Member \_\_\_\_\_ Senator \_\_\_\_\_

Assembly Member \_\_\_\_\_

On the part of the General Assembly

Speaker: (Puts the motion and report is adopted.)

Majority Leader: Mr. Speaker, I move we adjourn sine die.

Speaker: (Puts motion) after it is carried states: By virtue of the authority vested in me as speaker, I now declare the 2\_\_\_\_ General Assembly session of American Legion Jersey Boys State adjourned sine die.

### CLOSING CEREMONIES OF THE SENATE

When the business seems to have been disposed of at the final session:

President: There is a message from the General Assembly. The Secretary will read.

Secretary: Mr. President, I have been directed by the General Assembly Concurrent Resolution No. \_\_\_\_\_ relating to a committee to wait upon the Governor.

President Pro Tem: Mr. President, I call up General Assembly Concurrent Resolution No. and move its adoption.

President: Secretary will read.

Secretary: General Assembly Concurrent Resolution No. \_\_\_\_\_.

A concurrent resolution relating to a committee to be appointed to wait upon the Governor:

BE IT RESOLVED, by the General Assembly, the Senate concurring therein, that a committee of three from the General Assembly and two from the Senate be appointed to wait upon the Governor and inform him that the Legislature has completed the business before it, and to ask him if there are any other communications to be transmitted

President: You have heard the motion. The question is on the motion to adopt General Assembly Concurrent Resolution No. \_\_\_\_\_. As many as are in favor of the motion will vote "Aye;" (and after the affirmative is expressed), those of a contrary opinion will vote "No." The resolution is adopted and the chair appoints the following as a committee on the part of the Senate to wait upon the Governor.

Senator \_\_\_\_\_, and

Senator \_\_\_\_\_.

(Committee joins with those appointed by the General Assembly and carries out its mission.)

President: The Senate will remain at ease until the sound of the gavel. (After the committee returns with its report.)

The Senate will come to order. The Chair recognizes Senator \_\_\_\_\_ of the Committee.

Senator: Mr. President, I ask the Secretary to read the committee report and move its adoption.

Secretary: Mr. President, your committee appointed in compliance with General Assembly Concurrent Resolution No. \_\_\_\_\_ requests leave to submit the following report. We have waited upon the Governor, and have been informed he has nothing further to present to the Legislature for its consideration.

Assembly Member \_\_\_\_\_ Senator \_\_\_\_\_

Assembly Member \_\_\_\_\_ Senator \_\_\_\_\_

Assembly Member \_\_\_\_\_

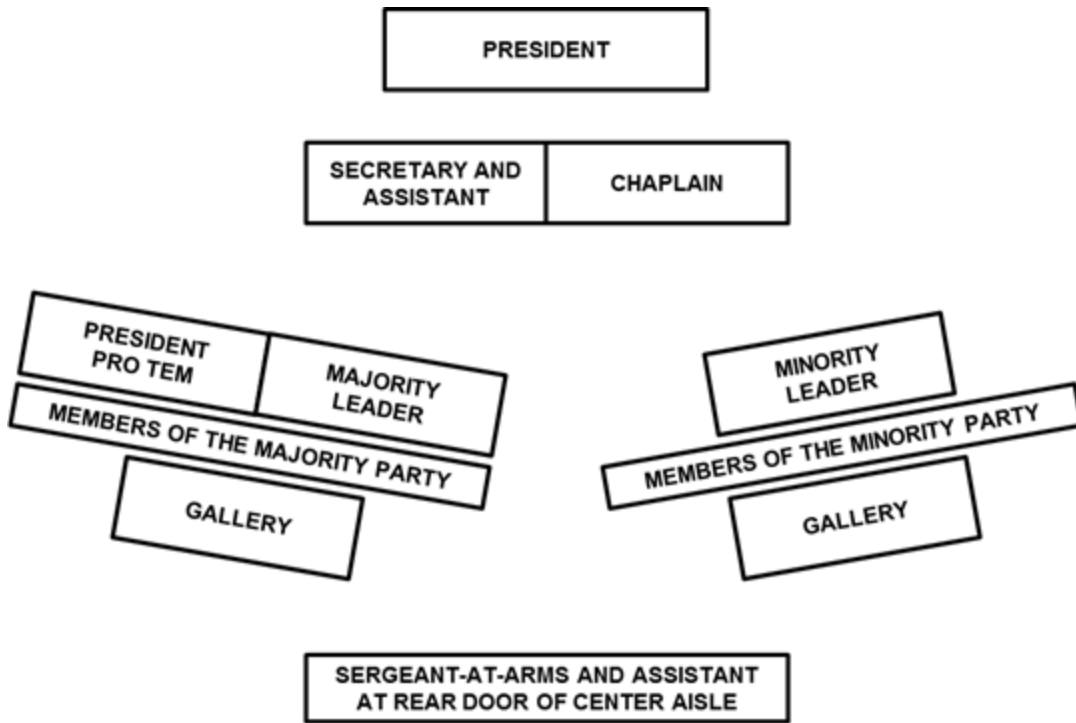
On the part of the Senate

President: (Puts the motion and report is adopted)

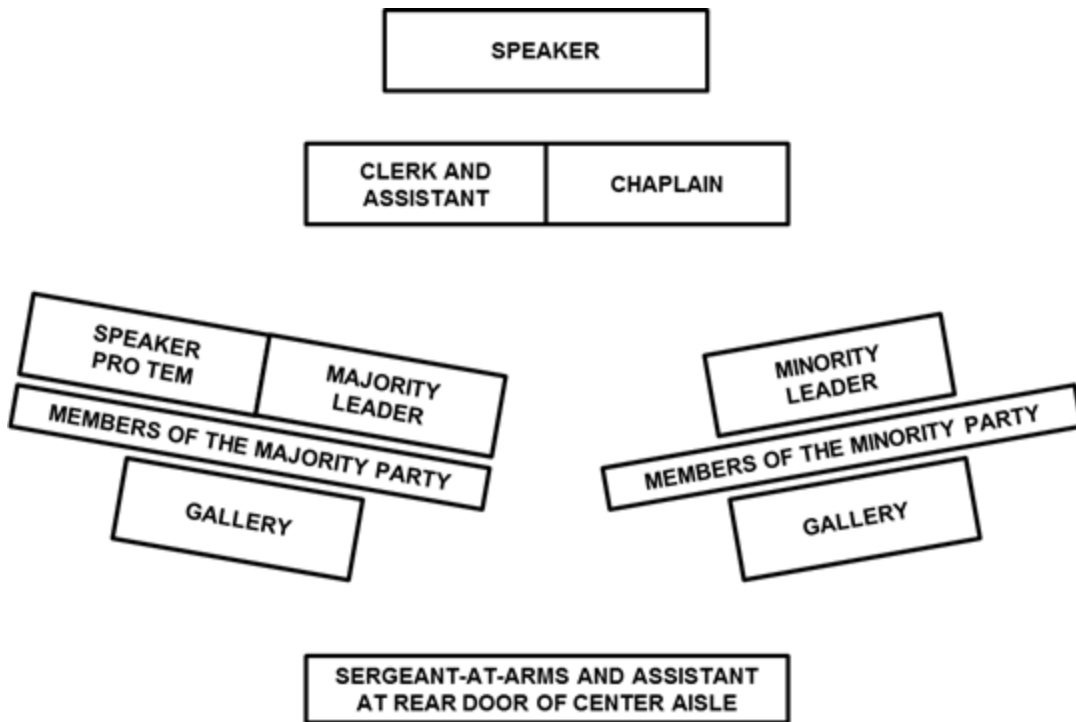
Majority Leader: Mr. President, I move we adjourn sine die.

President: (Put motion) After it is carried states: By virtue of the authority vested in me as President, I now declare the 20\_\_\_\_ Senate session of American Legion Jersey Boys State adjourned sine die.

ALJBS FLOOR PLAN OF SENATE



ALJBS FLOOR PLAN OF GENERAL ASSEMBLY



# PARLIAMENTARY PROCEDURE

The object of parliamentary law is to provide a formula for conducting all types of meetings and public gatherings. It provides a set of rules and principles for an orderly and systematic method of conducting business meetings and oral discussions of controversial matters. It is the means by which the will of the majority is determined in an orderly manner. Many people think that parliamentary law is too difficult and technical for the average citizen to understand; others believe that it is a tool used by the unscrupulous to accomplish selfish aims contrary to the wishes of the group at large. While it is true that parliamentary law is at times subject to human abuses, it exists as a protection against the unworthy motives of individuals.

Free and open debate, as made possible by parliamentary law, will in the end assure a fair hearing of all factions and interests on controversial questions. For this reason, parliamentary law remains a bulwark against tyranny and stands as a constant force for justice and fair dealing. Parliamentary law is practical for every type of meeting or gathering, no matter how formal or informal, how important or insignificant. While its basic principles are flexible enough to serve every type of gathering, we must remember that it is not infallible. It has its limitations and weaknesses, and its highest success will always depend to some degree upon the common sense and good judgment exercised by those in charge and by those who take part in the debate.

For the guidance of the citizens of ALJBS, a brief summary of approved procedures will suffice. (The Senate and Assembly of ALJBS will run under full parliamentary law). Robert's Rules of Order (Pyramid Publications, 1967; 204pp.) is recommended for those who wish to further pursue their study of Parliamentary Procedure.

Please remember that:

- 1) a meeting is assembled to transact certain business in an orderly and efficient manner
- 2) the will of the majority is to prevail, and
- 3) all Statesmen are entitled to free and full expression of their views on the subject at hand

Use this outline procedure wisely. It exists to make the legislative process smooth and manageable, and to cure confusion, not cause it. Look to your chairman and/or your counselors for leadership and guidance. They are there for your benefit.

Because of the time constrictions and rapid pace of the ALJBS schedule, it is not expected or advised that Statesmen conduct Municipal, County, or Party meetings under the strict governance of the full body of parliamentary laws. In every meeting however, an order must be maintained which will allow for all relevant opinions to be expressed. For this reason, it is suggested that the following format be adhered to when conducting any local level business.

## **General Information**

**THE CHAIRPERSON AND ITS DUTIES.** The chairperson is the presiding officer and hence, supreme authority at any meeting. All questions and/or motions are addressed to the chair and all business is conducted through the authority of the chair. The highest elected official of the body that is convened is the chairperson (e.g., at a Federal city party meeting, the Federal City Party Chair presides). In the absence of the chairperson, the second-ranking elected official, usually the vice-chair, automatically becomes the presiding officer.

At the outset, the chair should call to order and briefly explain the purpose of the current meeting. The chair should read all papers, evidence, etc. before the convened body and levy a brief charge to the members as per their duties for the day. The meeting will then be ready for business.

Bear in mind that the chair is merely a presiding officer chosen by the group to assist and guide them in their deliberations. The chair is not to take part in the discussions, nor try to influence decisions in any way, but is an impartial official subject to the wishes of the meeting. Accordingly, the chair must exercise their best judgment to see that neither a motion nor a nomination is "steamrolled."

**MOTIONS.** The only way anything can come before a meeting is by a motion duly made and seconded, or by a report made by an officer or committee. Remember that all questions, motions, comments, opinions, etc. are to be addressed to the chair. Ergo, no motion, even though it is duly made and seconded, is subject to discussion and vote until it is put (that is, recognized and repeated) by the presiding officer. When a motion has been made, seconded and put to the meeting, ample opportunity should be allowed for full and free discussion before a vote is called. At ALJBS, again because of our time limitations, the sponsor of a motion is usually given two (2) minutes to present an argument and each following speaker is allowed one (1) minute to rebut. To insure impartiality, the chair should alternate speakers for and against the motion as follows:

|                       |           |
|-----------------------|-----------|
| Sponsor of the Motion | 2 Minutes |
| 1st Speaker against   | 1 Minute  |
| 1st Speaker for       | 1 Minute  |
| 2nd Speaker against   | 1 Minute  |
| 2nd Speaker for       | 1 Minute  |
| etc.                  | 1 Minute  |

When those at the meeting are not too well acquainted with each other, as will be the case in at least the earlier meetings and caucuses at ALJBS, the chair should see to it that every speaker, either when making or seconding a motion, or speaking on the question, waits to be recognized by the chair, and then gives their name and their city or county or party before starting their remarks.

It is the duty of the presiding officer to keep the discussion on the subject, and to prevent personalities from entering the debate. The chair must keep the meeting in order at all times and permit nothing to be said to disrupt the harmony of the proceedings. Shutting off of debate while members still wish to discuss the matter at hand should never be permitted.

**THE DUTIES OF THE SPEAKER.** It is the responsibility of every speaker to keep remarks pertinent to the subject under discussion and to see that what is said, as well as how it is said, is not disruptive or irrelevant. A speaker should always address the chair, should always be courteous to the opinions of others, and should do their utmost to keep the rules of order from being violated. A public meeting is everyone's business and everyone's responsibility. If it gets out of hand, everyone is to blame.

**NOMINATIONS.** During the making of nominations, whether for officers of the group or candidates on the various slates being prepared for city, county or state, the presiding officer should not recognize nor put a motion to close the nominations until it is apparent that no one wants to make any further nominations.

Nominations do not have to be opposed. The only purpose served by seconding a nomination is to present the opportunity for an additional speech endorsing the nominee and to show possible strength and support for the candidacy. An un-seconded nomination is just as valid and legal as one which has had any number of "seconds."

## **Voting Procedures**

**PREVIOUS QUESTION.** Before any voting is done on any motion at any meeting, a vote on whether to take a vote should be taken. This may at first sound redundant or confusing, but it turns out to be an excellent way to ensure that all members are indeed ready to close debate and move to a vote. A member who still wishes to be heard on a particular topic, for example, should not allow this "vote for a vote" to succeed. Instead, efforts should be made to defeat it and thus allow debate to continue. This motion—a vote on whether to vote on the topic being debated—is called the Previous Question.

In most cases the general feeling of a group will indicate when a vote should be taken, and a sensitive chair who picks up on such a feeling should call for someone to move the Previous Question. If the Previous Question succeeds by a two-thirds majority, the group shall move directly to a vote.

**VOTING METHODS.** The easiest and most expedient method of voting is, of course, the voice or "aye/nay" vote. If this vote seems at all indecisive, however, the chair should immediately call for a hand vote. Alternatively, if the chair or the group at large wishes, the body may vote by individual roll call (i.e., each member's name called aloud and the member's responding "aye," "nay," "abstain" or "present") or by secret ballot.

As a vote is being taken, no motions will be entertained.

A chair votes only if the vote will break a tie. If a "nay" vote would result in a tie—that is, a defeat—the chair must decide previous to voting whether they will participate. This implies that a chair should know how many members are present at each meeting so that this decision can be made quickly and effectively.

**AMENDMENTS.** At ALJBS, an amendment to any motion can be introduced during debate. The sponsor of the amendment must obtain the floor directly in order to introduce the amendment. When recognized, the speaker puts forth the amendment or asks the secretary to read it, after which the sponsor of the main motion is asked whether they find it friendly or unfriendly. If it is found friendly, it immediately becomes part of the motion. If unfriendly, it is debated as a separate entity. If a sponsor proposes an amendment to one's own motion, it must automatically be debated.

An amendment may take the following forms:

- 1) to add or insert certain words or paragraphs
- 2) to strike out certain words and insert others
- 3) to substitute another resolution or paragraph on the same subject as the one pending
- 4) to divide the question into two or more questions in order to get a separate vote on any particular point or points.

An amendment may not change the overall purpose of the legislation.

An amendment may be amended, but an amendment to an amendment may not.

**ADJOURNMENT.** After all business that was supposed to have been completed is completed, the chair may call for a motion to adjourn. This motion shall close any and all debate, discussion, and voting for that particular meeting. A motion to adjourn must be seconded and must pass with a two-thirds majority.

The following page contains a chart setting forth Parliamentary Procedure at a glance.

## PARLIAMENTARY PROCEDURE

| TO DO THIS:                                   | YOU SAY THIS:                                | May You Interrupt The Speaker ? | Do you need a second? | Is It Debatable? | Can It Be Amended? | What Vote Is Needed? | Can It Be Reconsidered? |
|---|--|---------------------------------|-----------------------|------------------|--------------------|----------------------|-------------------------|
| ADJOURN MEETING                               | "I move that we adjourn"                     | NO                              | YES                   | NO               | NO                 | MAJORITY             | NO                      |
| CALL AN INTERMISSION                          | "I move that we recess for..."               | NO                              | YES                   | NO               | YES                | MAJORITY             | NO                      |
| COMPLAIN ABOUT HEAT, NOISE, ETC.              | "I rise to a question of privilege"          | YES                             | NO                    | NO               | NO                 | NO VOTE              | NO (usually)            |
| TEMPORARILY SUSPEND CONSIDERATION OF AN ISSUE | "I move to table the motion"                 | NO                              | YES                   | NO               | NO                 | MAJORITY             | NO                      |
| END DEBATE AND AMENDMENTS                     | "I move the previous question"               | NO                              | YES                   | NO               | NO                 | 2/3                  | NO <sup>1</sup>         |
| POSTPONE DISCUSSION FOR A CERTAIN TIME        | "I move to postpone the discussion until..." | NO                              | YES                   | YES              | YES                | MAJORITY             | YES                     |
| GIVE CLOSER STUDY OF SOMETHING                | "I move to refer the matter to committee"    | NO                              | YES                   | YES              | YES                | MAJORITY             | YES <sup>2</sup>        |
| AMEND A MOTION                                | "I move to amend the motion by..."           | NO                              | YES                   | YES <sup>3</sup> | YES                | MAJORITY             | YES                     |
| INTRODUCE BUSINESS                            | "I move that..."                             | NO                              | YES                   | YES              | YES                | MAJORITY             | YES                     |

### THE MOTIONS LISTED ABOVE ARE IN ORDER OF PRECEDENCE...BELOW THERE IS NO ORDER...

|   |  |     |     |                |    |                       |                |
|---|--|-----|-----|----------------|----|-----------------------|----------------|
| PROTEST BREACH OF RULES OR CONDUCT          | "I rise to a point of order"               | YES | NO  | NO             | NO | NO VOTE <sup>4</sup>  | NO             |
| VOTE ON A RULING OF THE CHAIR               | "I appeal from the chair's decision"       | YES | YES | YES            | NO | MAJORITY <sup>5</sup> | YES            |
| SUSPEND RULES TEMPORARILY                   | "I move to suspend the rules so that..."   | NO  | YES | NO             | NO | 2/3                   | NO             |
| AVOID CONSIDERING AN IMPROPER MATTER        | "I object to consideration of this motion" | YES | NO  | NO             | NO | 2/3 <sup>6</sup>      | — <sup>7</sup> |
| VERIFY A VOICE VOTE BY HAVING MEMBERS STAND | "I call for a division" or "Division!"     | YES | NO  | NO             | NO | NO VOTE               | NO             |
| REQUEST INFORMATION                         | "Point of information"                     | YES | NO  | NO             | NO | NO VOTE               | NO             |
| TAKE UP A MATTER PREVIOUSLY TABLED          | "I move to take from the table..."         | NO  | YES | NO             | NO | MAJORITY              | NO             |
| RECONSIDER A HASTY ACTION                   | "I move to reconsider the vote on..."      | YES | YES | — <sup>8</sup> | NO | MAJORITY              | NO             |

### NOTES:

- <sup>1</sup>Unless vote on question is not yet taken.
- <sup>2</sup>Unless the committee has already taken up the subject.
- <sup>3</sup>Only if the motion to be amended is debatable.
- <sup>4</sup>Except in doubtful cases.
- <sup>5</sup>A majority vote in negative needed to reverse ruling of chair.
- <sup>6</sup>A 2/3 vote in negative needed to prevent consideration of main motion.
- <sup>7</sup>Only if the main question or motion was not, in fact, considered.
- <sup>8</sup>Only if motion to be reconsidered is debatable.

## PLEDGE OF CITIZENSHIP

Citizenship in American Legion Jersey Boys State shall be contingent upon the acceptance of the following pledge of Citizenship:

I, \_\_\_\_\_, DO SOLEMNLY SWEAR OR AFFIRM THAT AS A CITIZEN OF AMERICAN LEGION JERSEY BOYS STATE:

I pledge myself to live up to the highest obligations of its citizenship. I will obey the rules of American Legion Jersey Boys State.

I will take a serious and conscientious interest in discharging my duties as a citizen of American Legion Jersey Boys State.

I will adhere to the program of American Legion Jersey Boys State, participating in governmental and recreational activities.

If elected to office, I will serve that office to the best of my ability.

I will take notes on all speeches, discussions and events, so that I may be better able to make a formal report (written or oral) to my sponsor or sponsors, on my impression of Boys State upon my return home.

Insofar as possible, I will take an active part in the affairs of the Party in the City and County to which I am assigned.

I will respect the rights of my fellow citizens of American Legion Jersey Boys State. I will endeavor to keep my City, County, and State in the best condition.

## OATH OF OFFICE

I, \_\_\_\_\_, / do solemnly swear or affirm / that I will support the Constitution of the United States of America / and the Constitution of the State of New Jersey / and abide by the rules and regulations of American Legion Jersey Boys State.

I will faithfully, impartially, and justly / perform all the duties of the [city or county] office of Boys State / to which I have been elected, / to the best of my ability and understanding, /

[OPTIONAL] so help me God.

## **BOYS STATE CREED**

“American Citizenship is my most priceless possession. I believe in the constitutional form of government of the United States of America – which gives me the right to worship God as I choose and as a citizen, equal opportunity, and equal educational rights.

It is my obligation to participate in and contribute my effort to the civic and political welfare of my community, state and nation.

I resolve to learn and understand government and the civic needs of my community and I hereby dedicate myself to the task of arousing and maintaining a like interest in my fellow citizens.

Therefore, may the experience of Boys State be ever with me as a reminder of my obligation to my country.”

## **BOYS STATE SONG**

WE'RE STATESMEN, WE'RE STATESMEN,  
OF BOYS STATE USA  
WE'RE STATESMEN, FIRST RATE MEN  
LOOKING FORWARD, COME WHAT MAY,  
TO BUILD A NATION AND GUARD OUR LIBERTY  
WE SERVE TOGETHER WITH FAITH AND LOYALTY  
AND WITH OUR THUMB UP,  
WE'LL FACE A NEW DAY,  
FOR BOYS STATE USA.



## **PREAMBLE TO THE CONSTITUTION OF THE AMERICAN LEGION**

**FOR GOD AND COUNTRY WE ASSOCIATE OURSELVES TOGETHER  
FOR THE FOLLOWING PURPOSES:**

To uphold and defend the Constitution of the  
United States of America;

To maintain law and order;

To foster and perpetuate a one hundred percent Americanism;

To preserve the memories and incidents of our  
associations in the Great Wars;

To inculcate a sense of individual obligation to  
the community, state and nation;

To combat the autocracy of both the classes and the masses;

To make right the master of might;

To promote peace and goodwill on earth;

To safeguard and transmit to posterity the principles of justice,  
freedom and democracy;

To consecrate and sanctify our comradeship by our devotion to  
mutual helpfulness.