



# **MUNICIPAL CONSOLIDATION**

## **Municipal Consolidation Act**

N.J.S.A. 40:43-66.35 et seq.

## **Sparsely Populated Municipal Consolidation Law**

N.J.S.A. 40:43-66.78 et seq.

## **Local Option Municipal Consolidation**

N.J.S.A. 40A:65-25 et seq.

New Jersey Department of Community Affairs  
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## **MUNICIPAL CONSOLIDATION ACT**

### **40:43-66.35. Short title**

This act shall be known and may be cited as the "Municipal Consolidation Act."

L.1977, c. 435, s. 1, eff. March 1, 1978.

### **40:43-66.36. Legislative findings and declarations**

The Legislature hereby finds and declares that it is in the public interest to encourage contiguous municipalities to consider consolidation as a means of insuring more rational control of growth and development, more efficient provision of local services and more effective public administration; that the existing laws of this State are inadequate to encourage local consideration of consolidation in many instances where such action might be desirable; and, that the State should provide technical and financial assistance to encourage such consideration in those instances where it may be appropriate, and where voluntarily agreed to by the municipalities involved.

The Legislature further declares that, since political and administrative consolidation of separate municipalities is an act of high public importance to which are attached many unforeseen difficulties and obstacles, the successful completion of a plan of consolidation, once approved by a vote of the residents of the municipalities involved, shall constitute a public purpose of this State; and, therefore, that the grant of powers under this act is intended to be as broad as is consistent with the Constitution of New Jersey and with general law relating to local government, and shall be construed as liberally as possible in regard to the consolidated municipality's right to organize its own form of government, to organize its structure and to alter or abolish previously existing municipal agencies, subject to the general mandate of performing services and to the provisions of the plan of consolidation approved by the voters.

L.1977, c. 435, s. 2, eff. March 1, 1978.

### **40:43-66.37. Definitions**

As used in this act, unless the context requires another or different meaning:

- a. "Commissioner" means the Commissioner of Community Affairs;
- b. "Consolidated municipality" means the single new municipality that results from an affirmative consolidation effort pursuant to the provisions of this act;
- c. "Consolidation commission," or "commission," means a joint municipal consolidation study commission created pursuant to the provisions of this act;
- d. "Department" means the Department of Community Affairs;

e. "Eligible consolidated municipality" means a municipality consolidated pursuant to the provisions of this act under a plan approved by the department; and,

f. "Participating municipalities" means any two or more municipalities involved in a consolidation effort, or which have been consolidated together into a consolidated municipality, pursuant to the provisions of this act.

L.1977, c. 435, s. 3, eff. March 1, 1978.

**40:43-66.38. Authorization**

Any two or more contiguous municipalities in the same county may be consolidated into a single municipality pursuant to the provisions of this act.

L.1977, c. 435, s. 4, eff. March 1, 1978.

**40:43-66.39. Proposal for formation of joint municipal consolidation study commission**

The governing body of any municipality proposing to consolidate with one or more other municipalities may, by ordinance or resolution, propose the formation of a joint municipal consolidation study commission as provided for in section 7 of this act. The ordinance or resolution shall state that the governing body is seeking the formation of a joint municipal consolidation study commission pursuant to the provisions of this act, and shall name the municipalities for which a consolidation study is proposed. Upon adoption of such ordinance or resolution, the clerk of the municipality adopting the ordinance or resolution shall forthwith transmit a certified copy thereof to the municipal clerk of each of the other municipalities named in the ordinance or resolution and to the clerk of the county in which such municipalities are located.

L.1977, c.435, s.5; amended 2001, c.342, s.5.

**40:43-66.40. Petition for formation of joint municipal consolidation study commission; certification of sufficiency; transmittal**

The registered voters of any municipality may, by petition, propose the formation of a joint municipal consolidation study commission. The petition, or each petition paper, as the case may be, shall state the purpose of the petition, and shall name the municipalities for which a consolidation study is proposed. The petition to be sufficient shall be signed by the registered and qualified voters of the municipality in a number at least equal to 10% of the total votes cast in the municipality at the last preceding general election at which members of the General Assembly were elected. The petition shall be filed with the clerk of the municipality who shall, upon said filing, forthwith ascertain and certify the number and validity of the signatures affixed thereto. If the petition is determined to be insufficient, the person designated in the petition for such purpose shall have 10 days from the notification of insufficiency to file a supplementary petition designed to rectify such insufficiency, which shall be in the same form and shall be filed in the same manner as the original petition. If no supplementary petition is filed within 10 days after such notification of insufficiency, or if

the clerk shall, within 5 days after such a supplementary petition is filed, examine it and determine it to be still insufficient, the clerk shall file his certificate of insufficiency in his office and notify such person of the insufficiency. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose, provided that such new petition otherwise conforms to the requirements of this act.

If the petition is determined to be sufficient, the clerk of the municipality shall so certify, and shall forthwith transmit a certified copy to the governing body of the municipality, to the municipal clerk of each of the other municipalities named in the petition, and to the clerk of the county in which such municipalities are located.

L.1977, c. 435, s. 6, eff. March 1, 1978.

**40:43-66.41. Question of forming consolidation commission submitted to voters; alternative methods**

a. If, within one year after the date on which the first ordinance or resolution, pursuant to section 5 of P.L.1977, c.435 (C.40:43-66.39), or the first petition, pursuant to section 6 of P.L.1977, c.435 (C.40:43-66.40), is filed with the clerk of the county, either an ordinance or a resolution or a certified petition is transmitted to the county clerk by each of the other municipalities named in the first such ordinance or a resolution or petition, then one of the following shall occur:

(1) The question of forming a consolidation commission shall be submitted to the voters of each of the municipalities named in such ordinances or resolutions or petitions in the following form:

"Shall a joint municipal consolidation study commission be formed to study the feasibility of consolidating (insert the names of each of the municipalities named in such ordinances or resolutions or petitions) into a single new municipality, to study the question of the form of government under which such new municipality should be governed, to study the feasibility of consolidating the local school districts of the aforesaid municipalities, and to make recommendations thereon; or, in the alternative, to make recommendations on the consolidation of certain municipal services?"

The question shall be submitted to the voters of each municipality so named in the ordinances or resolutions or petitions on the date for the next general election or on the date for the next regular municipal election, whichever shall first occur at least 60 days after the date of the filing with the county clerk of the final ordinance or resolution or petition necessary to require the submission of the question to the voters.

The public question submitted to the voters shall be deemed adopted, and a consolidation commission formed, if a majority of the votes cast on the question in each of the municipalities in which the question is submitted shall be in the affirmative; or

(2) An ordinance or resolution expressly creating a consolidation commission shall be adopted by each of the municipalities named in such ordinances or resolutions or petitions. The ordinance or resolution shall state that the governing body will not be submitting the question of forming a consolidation commission to the voters of that municipality by referendum. The ordinance or resolution shall state that the governing body is seeking the formation of a consolidation commission pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.), and shall name the participating municipalities for which a consolidation commission is proposed. Upon adoption of the ordinance or resolution, the clerk of each participating municipality adopting the ordinance or resolution shall forthwith transmit a certified copy thereof to the municipal clerk of each of the other participating municipalities named in the ordinance or resolution, to the clerk of the county in which each participating municipality is located, and to the Commissioner of Community Affairs.

The ordinance or resolution forming a consolidation commission shall be deemed adopted, and a consolidation commission formed, if each participating municipality adopts an ordinance or resolution agreeing to participate in a consolidation commission pursuant to this subsection; or

(3) One or more of the municipalities named in such ordinances or resolutions or petitions shall submit the question of forming a consolidation commission to the voters pursuant to paragraph (1) of this subsection, and one or more of those municipalities shall adopt an ordinance or resolution expressly creating a consolidation commission pursuant to paragraph (2) of this subsection, in any combination, provided that each of the participating municipalities adopts the formation of a consolidation commission.

b. Nothing herein contained shall be construed to prevent the submission of the question of forming a consolidation commission to the voters of the municipalities pursuant to paragraph (1) of subsection a. of this section, or the forming of a consolidation commission by ordinance or resolution pursuant to paragraph (2) of subsection a. of this section, named in any combination of such ordinances or resolutions pursuant to section 5 of P.L.1977, c. 435 (C.40:43-66.39) and petitions pursuant to section 6 of P.L.1977, c.435 (C.40:43-66.40), provided that such ordinances or resolutions and petitions are substantively similar.

L.1977, c.435, s.7; amended 1999, c.58, s.1; 2001, c.342, s.6.

**40:43-66.42. Election of members of consolidation commission**

a. Members of a consolidation commission formed pursuant to paragraph (1) of subsection a. of section 7 of P.L.1977, c.435 (C.40:43-66.41) shall be elected by the qualified voters at the same time as the public question is submitted.

Duly nominated candidates for the office of commission member shall be placed upon the ballot containing the public question in the same manner as is provided by law for candidates nominated by petition for other elective offices of a single municipality, except that they shall be listed without any designation or slogan. Each voter shall be instructed to vote on



the question and, regardless of the manner of the voter's vote on the question, to vote for the elected members of a commission.

The five candidates for commission member receiving the greatest number of votes shall be elected and shall constitute the commission members from the participating municipality in which they reside, provided that if a majority of those voting on the public question in any of the municipalities in which the question was submitted shall have voted against the formation of a commission, none of the candidates in any of the municipalities shall be elected. In the instance that the vote for commission members results in six or more candidates in any one participating municipality receiving sufficient votes to be elected, then those candidates receiving the least and equal number of votes shall draw lots to determine which shall be elected.

b. Members of a consolidation commission formed pursuant to paragraph (2) of subsection a. of section 7 of P.L.1977, c.435 (C.40:43-66.41) shall be appointed by the governing body of the participating municipality.

Five members shall be appointed to the consolidation commission by the governing body of the participating municipality. The governing body shall appoint not more than one individual who holds a paid or volunteer position with the appointing municipality. Each member, except a member holding a paid or volunteer position with the appointing municipality, shall be a resident of the appointing municipality.

L.1977, c.435, s.8; amended 1999, c.58, s.2.

**40:43-66.43. Qualifications of candidates of consolidation commission**

a. The candidates from each participating municipality for a consolidation commission formed pursuant to paragraph (1) of subsection a. of section 7 of P.L.1977, c.435 (C.40:43-66.41) shall be registered voters of that municipality. They may be nominated by petitions signed by the registered and qualified voters of the municipality in a number at least equal to one percent of the total votes cast in the municipality at the last preceding general election at which members of the General Assembly were elected, or by 25 registered and qualified voters of the municipality, whichever is less, and filed with the municipal clerk not less than 40 days prior to the date of the election.

b. Each nominating petition shall set forth the names, places of residence, and post-office addresses of the person or persons therein nominated, and a statement that the nomination is for the office of commission member and that the petitioners are registered voters of the municipality. Every voter signing a nominating petition shall, in addition to the voter's signature, give the voter's place of residence, post-office address and street number, if any.

c. Before being filed with the municipal clerk, each nominating petition shall have fixed or appended thereto, or, if the same person or persons are named in more than one petition, fixed or appended to one of such petitions, a written acceptance of such nomination signed by the person or persons nominated therein. Such acceptance shall certify that the nominee is

a registered voter of the municipality, that the nominee consents to stand as a candidate at the election and that, if elected, the nominee agrees to take office and serve.

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

e. If any nominating petition, or any oath, affirmation or written statement attached thereto, is defective, the person designated in the petition for such purpose may cause such petition or oath, affirmation or written statement to be amended in the manner prescribed for the amendment of defective petitions for nominating candidates for general elections in R.S.19:13-13.

L.1977, c.435, s.9; amended 1999, c.58, s.3

**40:43-66.45. Membership of joint municipal consolidation study commission**

The membership of a joint municipal consolidation study commission formed pursuant to the provisions of P.L.1977, c.435 (C.40:43-66.35 et seq.) shall consist of five members from each participating municipality.

L.1977, c.435, s.11; amended 1999, c.58, s.4.

**40:43-66.46. Certification of election results**

The results of the election in each municipality in which the question was submitted shall be certified in accordance with Title 19 of the Revised Statutes, and the county clerk shall, in turn, not more than 5 days after said certification, notify the Commissioner of Community Affairs of said election results.

L.1977, c. 435, s. 12, eff. March 1, 1978.

**40:43-66.47. Appointment of commissioner's representative**

The Commissioner of Community Affairs shall appoint a person to act as the commissioner's representative to the commission. The commissioner's appointee shall not be a member or an officer of the commission, shall not be a resident of any of the participating municipalities, but shall participate in all meetings, activities and proceedings of the commission.

L.1977, c.435, s.13; amended 1999, c.58, s.5.

**40:43-66.48. Organization, meeting of consolidation commission**

As soon as possible and in any event no later than 15 days after the election or appointment of all its members, the consolidation commission shall organize and hold its first meeting.

The commission shall elect from its membership a chair and a vice-chair. The commission shall fix its hours and places of meeting, adopt such rules for the conduct of its business as it may deem necessary and advisable, and appoint a secretary, who need not be a member of the commission. A majority of the total membership of the commission shall constitute a quorum for the transaction of business, but no recommendation of said commission shall have any legal effect pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.), unless adopted by a majority of the five commission members from each of the participating municipalities.

At its first meeting, or as soon thereafter as possible, the commission shall establish a schedule for the conduct of its business which shall take into account the following mandatory dates:

- a. The five-month date set forth in section 20 of P.L.1977, c.435 (C.40:43-66.54) by which the Department of Community Affairs is required to report its fiscal findings to the commission;
- b. (Deleted by amendment, P.L.1999, c.58.)
- c. (Deleted by amendment, P.L.1999, c.58.) and,
- d. The 10-month date set forth in section 22 of P.L.1977, c.435 (C.40:43-66.56) by which the commission is required to submit its final report.

A copy of such schedule shall be filed with the commissioner and with the clerk of each of the participating municipalities within 30 days after the first meeting.

L.1977, c.435, s.14; amended 1999, c.58, s.6.

#### **40:43-66.49. Vacancies**

In case of any vacancy in the membership of the commission, the governing body of the participating municipality in which the vacancy occurred shall, within 10 days after notification of such vacancy, fill it by appointing thereto a registered voter of said municipality.

L.1977, c. 435, s. 15, eff. March 1, 1978.

#### **40:43-66.50. Duties and function; report of findings and recommendations**

It shall be the duty and function of the joint municipal consolidation study commission to study the question and feasibility of consolidating the participating municipalities into a single new municipality. In carrying out its duties and functions, the commission shall also study the plans or forms of government available under the "Optional Municipal Charter Law" (P.L.1950, c. 210; C. 40:69A-1 et seq.), the "commission form of government law" (R.S. 40:70-1 et seq.), the "municipal manager form of government law" (R.S. 40:79-1 et seq.), and the plans or forms of government of the participating municipalities, and shall exercise all of the functions and powers of a charter commission under this act and under the "Optional Municipal Charter Law," insofar as the provisions of that law may be consistent

with the provisions of this act. The commission shall prepare a report setting forth its findings and recommendations. Should the commission determine to recommend the consolidation of the participating municipalities into a single municipality, the commission shall in such report recommend a plan of consolidation which shall set forth:

- a. The name, type, plan or form of government of the proposed new municipality;
- b. Details of adjustment of the indebtedness and other obligations of the participating municipalities, and if appropriate, of the school districts therein, in such manner as to preserve a fair and equitable burden of taxation for debt service;
- c. The transfer of property and assets of the participating municipalities to the proposed new municipality, and, if appropriate, from their constituent school districts to the proposed new school district;
- d. The extent to which participating municipalities may authorize or issue bonds or other obligations or incur contractual duties during the period between the date of the election held pursuant to section 25 of this act and the date of consolidation as provided for in section 29 of this act;
- e. Any adjustments or changes in offices, positions, or employment, including the abolition thereof that may be necessitated by the consolidation;
- f. The number and manner of election of the members of the governing body of the proposed new municipality, including, if appropriate, the designation of the number of wards into which the proposed consolidated municipality is to be divided, which shall be consistent with the plan or form of government recommended and shall be in accordance with law;
- g. Those ordinances, rules and regulations of the participating municipalities which may be adopted by the governing body of the consolidated municipality to temporarily take effect within the consolidated municipality; and,
- h. In accordance with the pertinent provisions of Title 18A of the New Jersey Statutes and the provisions of this act: the manner of school district consolidation, if any; the type of school district or districts to be operated by or in the consolidated municipality; and, the number of school board members of the recommended school district or districts as shall be necessary.

L.1977, c. 435, s. 16, eff. March 1, 1978.

**40:43-66.51. Meetings and hearings; application of Open Public Meetings Act; subpoenas**

The commission shall hold its meetings and hearings in accordance with the provisions of the "Open Public Meetings Act" (P.L.1975, c. 231; C. 10:4-6 et seq.), and shall generally provide for the widest possible public information and discussion with regard to the purposes and progress of its work.

The commission shall have the power to take testimony and issue subpoenas; to compel the attendance of officers and employees of the participating municipalities; to compel the production of all books, documents and other papers of the participating municipalities; and, to administer oaths to persons appearing before it to testify. Any such subpoenas shall be enforceable, and misconduct of a witness may be dealt with, in the manner provided by the "County and Municipal Investigations Law" (P.L.1953, c. 38; C. 2A:67A-1 et seq.).

L.1977, c. 435, s. 17, eff. March 1, 1978.

**40:43-66.52. Compensation of members; reimbursement of expenses**

Members of the consolidation commission shall serve without compensation, but shall be reimbursed for necessary expenses incurred by them in the performance of their official duties.

L.1977, c. 435, s. 18, eff. March 1, 1978.

**40:43-66.53. Budget; apportionment among municipalities; acceptance of aid; facilities and employees; audit**

a. The joint municipal consolidation study commission shall prepare a proposed budget for its activities showing anticipated expenses and anticipated receipts of funds from all sources, which shall be submitted to the governing bodies of the participating municipalities for their review. The governing bodies shall approve a budget for the commission within 30 days of submission thereof. To the extent that funds from other sources are not adequate to cover the expenses of the commission, expenses approved by the governing bodies of the participating municipalities shall be apportioned among such municipalities according to the proportion that the assessed valuation of all taxable real property within each such municipality bears to the total assessed valuation of all such property within all participating municipalities. Such apportionment shall be based upon the most current abstract of ratables prepared for the purpose of levying taxes in the respective participating municipalities.

b. The commission may apply for and accept a State grant from the Department of Community Affairs to conduct a feasibility study or studies, or may request the department to conduct such study or studies in accordance with the provisions of sections 5 and 6 of the "Interlocal Services Aid Act" (P.L.1973, c. 289; C. 40:8B-5 and 40:8B-6). The commission may also accept privately contributed funds, and any Federal assistance or grants that may be available. Participating municipalities shall be reimbursed, in the same manner prescribed in subsection a. for apportioning commission expenses among such municipalities, for any advance payments made by such municipalities to the commission in anticipation of the commission's receipt of revenues from such sources as are set forth in this subsection, if funds from such source were included as a revenue item in the commission's budget approved by the participating municipalities. Reimbursement shall be made immediately upon receipt of such anticipated revenues.

c. The participating municipalities shall make available to the commission such facilities and such professional, technical and clerical assistance as said municipalities may jointly agree.

d. Within the limits of available funds, the commission may appoint a secretary, consultants and such other clerical and professional assistants as it may require, who shall serve at the pleasure of the commission. The commission may fix a reasonable compensation to be paid for such services. Any commission established pursuant to the provisions of this act shall not be subject to the provisions of the "Local Public Contracts Law" (P.L.1971, c. 198; C. 40A:11-1 et seq.), or to the provisions of Title 11 (Civil Service) of the Revised Statutes.

e. All expenditures of funds by the commission shall be subject to audit in the same manner as municipal expenditures.

f. Amounts necessary to fund budget requests made by a commission pursuant to the provisions of this section may be appropriated by participating municipalities as emergency appropriations pursuant to N.J.S. 40A:4-53.

L.1977, c. 435, s. 19, eff. March 1, 1978.

**40:43-66.54. Study of fiscal aspects of proposed consolidation**

a. The Department of Community Affairs shall, within five months from the date of its receipt of all the election results or ordinances, or both, establishing a commission pursuant to section 7 of P.L.1977, c.435 (C.40:43-66.41), prepare an objective study of the fiscal aspects of the proposed consolidation, and shall report its findings to the commission.

b. The department shall, to every possible extent, advise and cooperate with any consolidation commission created pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.) and shall make available its facilities, records, and technical and professional resources. The department shall consider promptly any commission application for a State grant to conduct, or any commission request for the department to conduct, any other feasibility study or studies consistent with the provisions of P.L.1977, c.435 (C.40:43-66.35 et seq.); provided, however, that whenever any such study or studies are to be conducted by a party other than the department, said party shall be approved by, and conduct such study or studies under the supervision of, the department. Upon approval of such study or studies, the commissioner shall certify the amount approved therefore to the State Treasurer, who shall make immediate payment thereon. Any application for financial assistance submitted by a commission created pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.) shall have first claim on any moneys appropriated under any State aid or grant program that authorizes the use of funds for these purposes. At the written request of such a commission, a reservation of moneys shall be made by the commissioner prior to the formal filing of an application therefore by such commission.

L.1977, c.435, s.20; amended 1999, c.58, s.7.

**40:43-66.56. Filing of final report, recommendations**

a. The joint municipal consolidation study commission shall publish and file its final report and recommendations within ten calendar months from the date all of its members are elected

or appointed. A copy of such final report signed by the chairman of the commission shall be filed with the Secretary of State, the department, the county clerk and with the municipal clerk of each participating municipality. Included in such final report shall be: a statement, if any, by any member of the commission dissenting from the findings and recommendations set forth in the final report; and the department's findings on the fiscal aspects of the proposed consolidation. The municipal clerks shall deliver a copy of such final report to each member of the governing body of their respective municipalities. The commission shall cause a reasonable number of copies of the final report to be printed and made available to the general public upon request.

b. If the commission recommends consolidation, it shall prepare an "official abstract" of its report and recommendations and plan of consolidation consisting of a concise statement, which shall be objective in content and presentation, and shall be descriptive of the substance of the plan. At the time the commission publishes and files its final report, and again on a date not less than 30 days preceding the date fixed for the election, the commission shall cause the official abstract to be published at least once in a newspaper of general circulation in the participating municipalities, together with notice of:

- (1) The time, place and purpose of the election;
- (2) The manner in which copies of the commission's final report and recommendations may be obtained;
- (3) (Deleted by amendment, P.L.1999, c.58.)
- (4) The fact that if the voters favor the consolidation by a majority vote in each of the participating municipalities, the consolidation plan shall become binding and legally enforceable between or among such municipalities.

L.1977, c.435, s.22; amended 1999, c.58, s.8.

#### **40:43-66.57. Discharge of commission**

The consolidation commission shall be discharged:

- a. On the date of the filing of its final report and recommendations, if such report recommends against the consolidation of the participating municipalities;
- b. On the date of the certification of the results of the referendum, if such certification establishes that the consolidation recommended by the commission has not been approved by the voters of each of the participating municipalities; or,
- c. If the plan of consolidation is approved by the voters of the participating municipalities, on the one hundredth and eighty-first day following the date of consolidation, or on such date as the governing body of the consolidated municipality shall adopt permanent ordinances, rules and regulations for the consolidated municipality, whichever shall occur sooner, during which interval the commission shall serve as an advisory body to the governing body of the consolidated municipality.

L.1977, c. 435, s. 23, eff. March 1, 1978.

**40:43-66.58. Recommendations in final report**

In its final report the consolidation commission may recommend:

a. That a referendum be held to submit to the registered voters of the participating municipalities the question of whether or not the participating municipalities shall be consolidated into a single new municipality pursuant to the plan of consolidation set forth in the report. In which case, the commission shall also recommend:

(1) The adoption of one of the plans or forms of government authorized under the "Optional Municipal Charter Law," the "commission form of government law," or the "municipal manager form of government law;" or,

(2) That the governing bodies of the participating municipalities shall petition the Legislature, pursuant to Article IV, Section VII, Paragraph 10, of the Constitution, for the enactment of the special charter set forth in the final report of the commission; or,

(3) That the plan or form of government of one of the participating municipalities be retained as the plan or form of government of the consolidated municipality.

b. That the participating municipalities not be consolidated into a single new municipality. In which case, the commission may, if it deems appropriate, make alternative findings and recommendations to the governing bodies of the participating municipalities, in lieu of political consolidation, concerning the consolidation or regionalization of separate municipal services and functions pursuant to any of the statutes of this State that authorize and permit joint action, consolidation or regionalization of municipal services and functions; provided, however, that in the case of a finding or recommendation concerning the consolidation or regionalization of law enforcement services and functions, the joint action, consolidation, or regionalization shall be accomplished in accordance with the provisions of the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.) or the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.). Such alternative findings and recommendations may take either of the following forms:

(1) A recommendation for the consolidation or regionalization of specific functions and services, which may include a designation of which functions or services are to be consolidated or regionalized and a suggested schedule therefore; or,

(2) A recommended schedule for the staged regionalization or consolidation of the functions and services of the participating municipalities over some specific period of time leading to the reconsideration of the question of political consolidation at a later date.

L.1977, c.435, s24; amended 1992,c.145,s.1.



**40:43-66.59. Referendum**

If the commission recommends the submission of the question of consolidation to the voters, the municipal clerk of each participating municipality shall cause the question of consolidation to be submitted to the registered voters of each participating municipality on the date for the next general or municipal election, whichever shall occur sooner. At that election, the question shall be submitted in the same manner as other public questions in each such municipality, and in the following form or such part thereof as shall be applicable:

Shall (insert the names of the participating municipalities) be consolidated into a single municipality to be known as (insert name and type of municipality) and governed under (insert alternative a., b., c., d., or e. below, as may be appropriate)?"

(a. the present plan or form of government of (insert name of appropriate municipality) and (if appropriate) providing for a division of the municipality into (insert number) wards, with (insert number) (insert title of members of governing body) to be elected from each ward and (insert number) to be elected at large);

(b. a special charter to be enacted by the Legislature as recommended by the consolidation commission);

(c. the (insert name of plan) of the "Optional Municipal Charter Law," providing for a division of the municipality into (insert number) wards, with (insert number) councilmen, (one to be elected from each ward and (insert number) to be elected at large));

(d. the commission form of government to be adopted pursuant to chapters 70 to 76 of Title 40 of the Revised Statutes (R.S. 40:70-1 et seq.)); or,

(e the municipal manager form of government to be adopted pursuant to chapters 79 to 85 of Title 40 of the Revised Statutes (R.S. 40:79-1 et seq.)).

For Consolidation                       Against Consolidation

L.1977, c. 435, s. 25, eff. March 1, 1978.

**40:43-66.60. Special charter; petition to legislature upon approval of plan by voters**

If any consolidation plan approved by the voters shall involve a special charter for the consolidated municipality, the governing bodies of the participating municipality shall, forthwith upon the approval by the voters of such consolidation plan, petition the Legislature, pursuant to Article IV, Section VII, Paragraph 10, of the Constitution, for the special charter set forth in the Commission's report. Such special charter shall set forth the date of election of the first officers of the consolidated municipality, and the manner in which such charter shall be ratified in order for it to become operative.

L.1977, c. 435, s. 26, eff. March 1, 1978.

**40:43-66.61. Prohibition on creation of joint municipal consolidation study commission while proceedings pending**

No ordinance or resolution may be adopted and no petition may be filed for the creation of a joint municipal consolidation study commission pursuant to sections 5 and 6 of this act while proceedings are pending under any other petition filed or ordinance adopted pursuant to the provisions of the "Optional Municipal Charter Law" or any other general law relating to a change in the form of government in any of the participating municipalities. No ordinance or resolution may be adopted and no petition may be filed for the creation of such a commission pursuant to the provisions of this act within four years after the date on which the question of consolidation has been submitted to the voters pursuant to section 25 of this act; provided, however, that the adoption of an ordinance or resolution or the filing of a petition and the holding of any referendum thereafter under the provisions of the "Optional Municipal Charter Law" or other general law relating to a change in the form of government in any of the participating municipalities, if such proceedings have been completed, shall not preclude the participating municipalities from proceeding under the provisions of this act notwithstanding the fact that four years may not have expired since the completion of said proceedings.

L.1977, c.435, s.27; amended 2001, c.342, s.7.

**40:43-66.62. Vote necessary**

The question submitted pursuant to section 25 of this act shall be deemed approved and adopted only if a majority of those voting on the question in each of the participating municipalities votes in favor of the question.

L.1977, c. 435, s. 28, eff. March 1, 1978.

**40:43-66.63. Consolidation of municipalities; election of officers; date of consolidation; ward boundaries; election district boundaries**

a. Following the adoption of the question of consolidation in each of the participating municipalities, the nomination and election of officers for the consolidated municipality shall be conducted in accordance with the plan or form of government adopted for the consolidated municipality, and the participating municipalities shall be deemed consolidated on the date on which such officers shall be authorized to take office under such plan or form of government; provided, however, that, if the commission shall have recommended submission to the Legislature of a special charter, the provision for the election of new officers and the date of consolidation shall be at such time following the approval of such special charter by the Legislature as shall be set forth in such charter.

b. Ward boundaries for the consolidated municipality, if any shall be required by the charter or form of government adopted, shall be fixed and determined pursuant to the "Municipal Ward Law" (P.L.1981, c. 496; C. 40:44-9 et seq.)

c. Within 45 days after the adoption of the question of consolidation, the county board of elections shall establish the election district boundaries for the consolidated municipality in the manner prescribed in Article 2 of chapter 4 of Title 19 of the Revised Statutes.

d. For the purpose of conducting the nomination and election of officers for the consolidated municipality as provided in subsection a. of this section, the municipal clerks of the participating municipalities shall organize themselves as a committee. Such committee shall, as prescribed by law for the plan or form of government adopted for the consolidated municipality: furnish forms for, and receive, petitions of nomination for such officers; conduct the certification of such petitions; prepare, cause to be printed, and authenticate the ballot for the election of such officers; cause any notices for such election to be published; and receive and canvass the returns of such election.

L.1977, c. 435, s. 29, eff. March 1, 1978. Amended by L.1981, c. 496, s. 16, eff. Jan. 12, 1982.

**40:43-66.64. New corporate entity; adoption of ordinances by resolution; notice; publication; application of general laws of state**

From and after the date of consolidation, as set forth in section 29 of this act, the participating municipalities shall constitute and be a single municipality under the name, type, plan or form of government set forth in the report and recommendations of the commission. The inhabitants of the territory, comprising the consolidated municipality shall thereafter be a body politic and corporate in fact and in law under such name. During the first 20 days following the date of consolidation, the governing body of the consolidated municipality may, by resolution, adopt any ordinances which were in effect in any of the participating municipalities, and make any provisions for officers and for the organization and administration of the consolidated municipality. Such resolutions shall not be subject to any publication requirements, or any referendum or initiative provisions, of any law of this State; provided, however, that subsequent to the adoption thereof the governing body shall cause notice of such adoption to be published in the manner provided by law for municipal ordinances. All such resolutions shall expire not later than 180 days after the date of consolidation.

The general laws of the State applying to municipalities of such type, plan or form of government and class, if any, shall apply to the consolidated municipality created pursuant to this act.

L.1977, c. 435, s. 30, eff. March 1, 1978.

**40:43-66.65. Succession in government**

From and after the date of consolidation, the consolidated municipality or new school district, if any, shall be vested with and subject to the assets, contracts, debts and other obligations of the participating municipalities, or constituent school districts, as the case may be, to the extent set forth in the recommendations contained in the final report of the joint municipal consolidation study commission. The consolidated municipality, or such new school district, as the case may be, shall have the power to complete any work, service or

improvement, and to confirm and collect previously levied taxes and assessments of the participating municipalities or constituent school districts, as may be appropriate, which are incomplete, unconfirmed, or uncollected on the date of consolidation. The consolidated municipality or new school district shall carry out those provisions of the plan of consolidation approved by the voters of the participating municipalities which are not inconsistent with this act or other laws of this State.

L.1977, c. 435, s. 31, eff. March 1, 1978.

**40:43-66.66. Cooperation of officers and employees of participating municipalities**

All officers and employees of the participating municipalities are authorized and directed to cooperate fully with any officers elected to govern the consolidated municipality, who have not yet taken office, in order to insure an orderly transition of government.

L.1977, c. 435, s. 32, eff. March 1, 1978.

**40:43-66.67. Transfer of funds and property; tax levy for property subject to separate taxation**

Immediately upon the installation of the government of the consolidated municipality, the officers having custody of the funds of the participating municipalities shall deliver all funds in their possession into the custody of the proper fiscal officer of the consolidated municipality, who shall acknowledge delivery by giving his receipt therefore.

The mayor or other chief executive officer of the consolidated municipality shall supervise and direct the transfer of all personal property, books, papers, vouchers, or other documents belonging to the participating municipalities, to the proper officers of the new government. He shall cause a complete inventory to be made of all assets, real and personal, received by the new government.

The department shall cause an audit and settlement of officer's accounts to be made forthwith. The official bonds of the officers and officials shall continue in force and effect until the audit and settlement have been completed.

Whenever a plan of consolidation provides that property within a participating municipality or school district therein, shall remain subject to separate taxation, after consolidation, for the payment of interest and principal on any preexisting indebtedness, such property shall be taxed and assessed therefore at the same time and in the same manner as provided by law for general taxation of real property for the support of the municipality or school district, as the case may be.

L.1977, c. 435, s. 33, eff. March 1, 1978.

**40:43-66.68. Officers and appointees of governing body of participating municipalities; termination of office**

The terms of office and appointments of all local officers and employees elected or appointed by, in, or for the participating municipalities shall, except as otherwise provided in this act, cease and terminate on the date of consolidation. The terms of office of any members appointed by the governing body of any participating municipality to any special district or public authority shall cease and terminate on the date of consolidation.

L.1977, c. 435, s. 34, eff. March 1, 1978.

**40:43-66.69. Legal proceedings**

No suit, action, or proceeding pending in any court or before any board or department wherein one of the participating municipalities or constituent school districts is a party, or in which it is interested, or by the determination of which it might be affected, shall abate by reason of the consolidation, but the consolidated municipality or new school district shall be substituted in the place and stead of such participating municipality or constituent school district, and the suit, action, or proceeding shall continue as if the consolidation had not taken place, and in accordance with the applicable laws, ordinances and regulations of the relevant participating municipality or school district.

L.1977, c. 435, s. 35, eff. March 1, 1978.

**40:43-66.70. Debt obligations and bond issues**

During the period between the date of election of new officers for the consolidated municipality, and the date of consolidation, no new debt obligations, excepting emergency notes issued pursuant to N.J.S. 40A:4-51, shall be authorized and issued by any participating municipality or constituent school district. Any bonds of the participating municipalities, or any constituent school districts to be combined into a new school district, which have been authorized prior to the date of such election, or in anticipation of the issuance of which temporary notes have been issued prior to the date of such election, may be issued and delivered or permanent bonds issued, as the case may be.

L.1977, c. 435, s. 36, eff. March 1, 1978.

**40:43-66.71. Permits, licenses and franchises**

Permits, licenses and franchises granted to any place or person by any of the participating municipalities shall, subject to their conditions, remain in full force and effect and be recognized by the consolidated municipality until the expiration of the term for which they were granted. But this section shall not be construed as to prevent the revocation of any such permit or license before its expiration, in the manner provided by law.

L.1977, c. 435, s. 37, eff. March 1, 1978.

**40:43-66.72. Succession in school districts**

If so provided in the plan of consolidation approved by the voters of the participating municipalities pursuant to this act, from and after the date of consolidation the school districts of the consolidated municipalities shall be a single school district which shall be administered pursuant to the provisions of Title 18A of the New Jersey Statutes, subject to the following provisions:

- a. If the school districts of the participating municipalities are all classified as either a type I or type II district, such classification shall be retained;
- b. If the school districts of the participating municipalities are classified as both type I and type II districts, the classification of the single school districts within the consolidated municipality shall be specified in the plan of consolidation;
- c. If all of the participating municipalities are members of the same regional school district, the consolidated municipality shall continue as a member of such regional school district; provided, however, that the consolidation commission may recommend that the governing body of the consolidated municipality shall, by resolution, apply forthwith to the county superintendent of schools to make an investigation as to the advisability of constituting the consolidated municipality as a single school district; and,
- d. If one or more of the participating municipalities is a member of a regional school district and the other participating municipalities are not, the school districts existing at the time of consolidation shall retain their territory and jurisdiction; provided, however, that the consolidation commission may recommend that the governing body of the consolidated municipality shall, by resolution, apply forthwith to the county superintendent of schools to make an investigation as to the advisability of constituting the consolidated municipality as a single school district, or of enlarging such regional district so as to include all the territory of the consolidated municipality.

L.1977, c. 435, s. 38, eff. March 1, 1978.

**40:43-66.73. Principals, teachers and employees in public schools**

All principals, teachers, and employees in the public schools of the participating municipalities, or of any regional school district or portion thereof abolished by the consolidation, shall, when the consolidation becomes effective, be principals, teachers and employees respectively in the public schools of the school district established pursuant to section 38 of this act.

L.1977, c. 435, s. 39, eff. March 1, 1978.

**40:43-66.74. Members of school boards of education**

- a. The members of the first board of a type I school district shall be appointed and take office on the date of consolidation in the manner provided in subarticle 4A of chapter 12 of Title 18A of the New Jersey Statutes. All subsequent appointments of members shall be made in accordance with that statute.

b. The members of the first board of a type II school district shall be appointed by the county superintendent of schools, in accordance with the provisions of N.J.S. 18A:13-38, and shall take office on the date of consolidation. The first elected members of the board shall be elected in the manner set forth in N.J.S. 18A:13-39. All subsequent elected members shall be elected in the manner prescribed in subarticle 4B of chapter 12 of Title 18A of the New Jersey Statutes.

c. When any of the participating municipalities is a member of a regional school district, the respective board of education or each of the boards of education in the participating municipalities shall retain their territory and jurisdiction, and the members of such board or boards of education shall continue in office after consolidation until the completion of their terms of office. All subsequent members shall be elected or appointed as provided by law.

L.1977, c. 435, s. 40, eff. March 1, 1978.

#### **40:43-66.75. Officers and employees**

All officers and employees of the participating municipalities whose employment is continued following consolidation shall be employees of the consolidated municipality. They shall be subject to the orders and control of the mayor or other chief executive officer of the consolidated municipality, and of such other officers of the consolidated municipality as he shall authorize, or as shall be authorized under the plan or form of government of the consolidated municipality.

The tenure and pension rights under State laws of officers and employees of the participating municipalities, or of any public authority thereof, shall not be affected by the consolidation of the participating municipalities, but the provisions of this section shall not preclude the revision, consolidation or elimination of offices and positions as may be required by the consolidation, all of which shall be carried out in conformity with the provisions of the consolidation plan approved by the voters pursuant to section 28 of this act.

Nothing in this section, or chapter 27 of Title 11 of the Revised Statutes, or R.S. 11:28-2 or R.S. 38:16-1 shall be construed as to limit the discretion of the appointing authority of the consolidated municipality in making appointments to any position which may be placed in the unclassified service pursuant to R.S. 11:22-2, or any other applicable law, following consolidation or the adoption of the permanent ordinances of the consolidated municipality. Any person appointed to any such unclassified position at such time, and who, at the time of such appointment, holds a similar, or substantially similar, position in the classified service of one of the participating municipalities, shall be required to be separated from the classified service, and shall, thereafter, serve in the unclassified service of the consolidated municipality; provided, however, that nothing in this section shall adversely affect the pension, tenure or seniority rights, or the right to employment or reemployment in a comparable position, to which any person, not designated for appointment hereunder, may be entitled pursuant to section 1 of P.L.1952, c. 323 (C. 11:22-10.1).

L.1977, c. 435, s. 41, eff. March 1, 1978.

**40:43-66.76. Joint service program grant; application; limitations**

Within 3 months from the date of consolidation, the governing body of the consolidated municipality shall, in accordance with the provisions of this section, file an application with the department for a joint service program grant to be paid out of the appropriations made pursuant to the "Interlocal Services Aid Act." The application shall include a 2-year schedule of anticipated expenses and such other information as may be required by the commissioner. State financial assistance shall be, insofar as adequate funds are available therefore, rendered for not more than 2 successive years for any extraordinary administrative and operating expenses incurred in the first 2 years of the consolidation by the applicant municipality for joint services compensable under that act, that would not have otherwise been incurred if the consolidation had not taken place; except that, such expenses shall not include costs which are considered capital costs as set forth in N.J.S. 40A:2-22.

The amount of the grant of assistance made pursuant to this section shall not exceed, for any 12-month period, \$150,000.00 or, one-fourth of the appropriation made pursuant to the "Interlocal Services Aid Act" in the fiscal year in which said grant is to be made, whichever is the lesser amount. In addition, the commissioner may, at the end of the fiscal year, allocate to said municipality any unexpended and uncommitted moneys from the sums appropriated under the "Interlocal Services Aid Act" in order to provide such additional financial assistance for which the consolidated municipality would have been eligible if the aforesaid limitations were not in effect. Any such consolidated municipality shall have first claim on any moneys appropriated under the "Interlocal Services Aid Act" which have not been committed at the time of application. The commissioner shall reserve the necessary moneys for meeting the certified expenses of any such consolidated municipality. Reservation of moneys shall also be made at any time after the consolidation plan has been approved by the electorate and prior to the filing of an appropriate application, provided that a written request for such reservation is made by the concerned governing body or bodies.

Within 30 days of the receipt of an application from the consolidated municipality, the commissioner shall certify to the State Treasurer the amount of financial assistance to be provided hereunder to the consolidated municipality, and said amount shall thereupon be paid to the consolidated municipality. Payments of aid moneys shall be paid on a quarterly basis for the 2-year period by the State Treasurer in the manner set forth in section 8 (C. 40:8B-8) of the "Interlocal Services Aid Act," and all such moneys expended by the consolidated municipality shall be certified by the commissioner in accordance with paragraph (3) of section 7 (C. 40:8B-7d(3)) of said act.

L.1977, c. 435, s. 42, eff. March 1, 1978.

**40:43-66.77. Liberal construction of act; severability**

a. This act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purpose thereof.



b. If the provisions of any article, section or clause of this act or the application thereof to any person shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any article, section or clause of this act or the application of any part thereof to any other person or circumstance and to this end, the provisions of each title, section and clause of this act are hereby declared to be severable.

L.1977, c. 435, s. 43, eff. March 1, 1978.

## **SPARSELY POPULATED MUNICIPAL CONSOLIDATION**

### **40:43-66.78. Findings, declarations relative to consolidation of sparsely populated municipalities**

The Legislature finds and declares that the consolidation of sparsely populated municipalities into contiguous municipalities having larger populations should be encouraged as a means to reduce the costs of local government. The Legislature also finds that there should be a simplified consolidation process when a municipality seeking consolidation is sparsely populated and when the resulting consolidated municipality will have the same form of government as the municipality absorbing the sparsely populated municipality.

L.1995, c.376, s.1.

### **40:43-66.79. Definitions**

For the purposes of this act:

"Absorbing municipality" means a municipality into which a contiguous sparsely populated municipality situate in the same county intends to be consolidated pursuant to the provisions of P.L.1995, c.376 (C.40:43-66.78 et seq.).

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Consolidated municipality" means the single new municipality that results from an affirmative consolidation effort pursuant to the provisions of P.L.1995, c.376 (C.40:43-66.78 et seq.).

"Sparsely populated municipality" means a municipality with a population of less than 500 persons according to the most recent federal decennial census.

L.1995, c.376, s.2.

### **40:43-66.80. Ordinance proposing municipality's consolidation; consent**

a. The governing body of a sparsely populated municipality may adopt, by two-thirds vote of its full membership, an ordinance proposing the municipality's consolidation into a contiguous municipality.

b. The clerk of a municipality that adopts an ordinance pursuant to subsection a. of this section shall forward a copy of the ordinance to the governing body of the absorbing municipality and to the director within seven days of the effective date of the ordinance.

c. If the governing body of the absorbing municipality consents to the consolidation it shall, within 120 days after receipt of the ordinance adopted by the governing body of the sparsely populated municipality pursuant to subsection a. of this section, adopt an ordinance consenting to consolidation with the sparsely populated municipality by a two-thirds vote of the full membership of the governing body and shall forward a copy of the ordinance to the director and the clerk of the sparsely populated municipality.

L.1995, c.376, s.3.

**40:43-66.81. Question of consolidation submitted to voters**

a. Whenever the governing body of a sparsely populated municipality with a population between 100 and 500 persons according to the most recent federal decennial census and the governing body of an absorbing municipality have both adopted ordinances proposing and consenting to the consolidation of their respective municipalities, the municipal clerk of each municipality shall cause the question of consolidation to be submitted to the registered voters of each municipality on the date for the next general or regular municipal election occurring not less than 60 days after the adoption of the ordinance of the absorbing municipality. At that election, the question shall be submitted in the same manner as other public questions in each such municipality, and in the following form or such part thereof as shall be applicable:

"Shall (insert the names of the municipalities) be consolidated into a single municipality to be known as (insert name of absorbing municipality) and governed under (insert the present plan or form of government of the absorbing municipality)?"

b. The question submitted pursuant to subsection a of this section shall be deemed approved and adopted only if a majority of those voting on the question in each of the municipalities votes in favor of the question.

c. The results of the election in each municipality in which the question was submitted shall be certified in accordance with Title 19 of the Revised Statutes, and the county clerk shall, in turn, not more than five days after said certification, notify the director of the election results.

L.1995, c.376, s.4.

**40:43-66.82. Meeting with mayors; timetable of consolidation**

a. Within 20 days of either: (1) receipt of an ordinance consenting to consolidation pursuant to subsection c. of section 3 of P.L.1995, c.376 (C.40:43-66.80), with regard to a consolidation involving a sparsely populated municipality with a population of less than 100 persons according to the most recent federal decennial census, or (2) the certification of the results of elections approving a consolidation pursuant to section 4 of P.L.1995, c.376 (C.40:43-66.81), the director shall meet with the mayors and such other municipal officials as

the director shall require from the sparsely populated municipality and the absorbing municipality.

b. In consultation with the mayors the director shall establish a timetable for the consolidation to become effective and shall make such budget, financial and educational district adjustments as shall be required to complete the consolidation. The Commissioner of Education also shall be consulted with regard to the adjustment of educational district matters. The director shall also establish a timetable for the preparation of a new official map of the consolidated municipality showing the new boundaries.

c. The director, in consultation with the mayors, shall have all of the powers of a consolidation commission under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.).

L.1995, c.376, s.5.

**40:43-66.83. Effects of consolidation**

a. The consolidated municipality shall continue the form of government and name of the absorbing municipality.

b. The clerk of the consolidated municipality shall notify the Secretary of State and the county clerk of the consolidation.

c. The offices and positions of the elected and appointed municipal officials of the sparsely populated municipality shall terminate upon the completion of the consolidation.

d. The elected and appointed officers of the absorbing municipality shall continue their terms of office or appointment upon creation of the consolidated municipality as if no consolidation had occurred and the ordinances of the absorbing municipality shall be applicable to the entire consolidated municipality.

L.1995, c.376, s.6.

**40:43-66.84. Tuition, transportation costs of students on federal property**

In the event children in a consolidated municipality reside on federal property within the former boundaries of a sparsely populated municipality, the State shall assume fiscal responsibility for the tuition and transportation costs of such children. The Department of Education shall pay the tuition to the school district in which the children are enrolled and pay the transportation costs to the district in which the children reside.

L.1995, c.376, s.7.

## LOCAL OPTION MUNICIPAL CONSOLIDATION

### **40A:65-25 Findings, declarations relative to municipal consolidation.**

25. a. The Legislature finds and declares that in order to encourage municipalities to increase efficiency through municipal consolidation for the purpose of reducing expenses borne by their property taxpayers, more flexible options need to be available to the elected municipal officials and voters than are available through the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.).

b. (1) In lieu of the procedures set forth in the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), the governing bodies from two or more contiguous municipalities may apply to the board for either:

- (a) approval of a plan to consolidate their municipalities; or
- (b) creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section.

(2) A representative committee of registered voters from two or more contiguous municipalities may petition the board for the creation of a Municipal Consolidation Study Commission, as described in subsection c. of this section. The petition, to be sufficient, shall be signed by the registered and qualified voters of the municipalities in a number at least equal to 10% of the total votes cast in those municipalities at the last preceding general election at which members of the General Assembly were elected. The board shall also accept a combination of applications from local governing bodies, pursuant to subparagraph (b) of paragraph (1) of this subsection, and petitions from representative committees of registered voters, pursuant to this paragraph from two or more contiguous municipalities, requesting the creation of a Municipal Consolidation Study Commission; however, if each municipality submits an application from its governing body, any proposed consolidation plan shall be approved by voter referendum in each of the municipalities.

(3) The board shall provide application forms and technical assistance to any governing bodies or voters desiring to apply to the board for approval of a consolidation plan or the creation of a Municipal Consolidation Study Commission.

(4) A consolidation commission established pursuant to P.L.1977, c.435 (C.40:43-66.35 et seq.) in the year prior to enactment of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) may apply to the Local Finance Board for approval to use the provisions of section 25 through 29 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-29).

c. An application to create a Municipal Consolidation Study Commission shall propose a process to study the feasibility of consolidating the participating municipalities into a single new municipality or merging one into the other. The application shall include provisions for:

- (1) the means of selection and qualifications of study commissioners;

- (2) the timeframe for the study, which shall be no more than three years, along with key events and deadlines, including time for review of the report by State agencies, which review shall be no less than three months;
- (3) whether a preliminary report shall be issued in addition to the final report;
- (4) whether the development of a consolidation implementation plan will be a part of the study;
- (5) the means for any proposed consolidation plan to be approved; either by voter referendum, by the governing bodies, or both; and
- (6) if proposed by a representative group of voters, justification of that group's standing to serve as the community advocate for the consolidation proposal.

d. (1) An application to the board for consideration of a consolidation plan or to create a Municipal Consolidation Study Commission shall be subject to a public hearing within each municipality to be studied, and a joint public hearing in a place that is easily accessible to the residents of both or all of the municipalities.

(2) The public hearings shall be facilitated by the board and conducted in accordance with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

(3) After approval of a plan by the board, it may be amended upon petition to the board by the applicant. Based on the nature of the amendment, the board may decide to hold a public hearing in any of the municipalities affected by the plan, or at a regular meeting, or both.

e. Every Municipal Consolidation Study Commission shall include a representative of the Department of Community Affairs as a non-voting representative on the commission. The representative shall not be a resident of a municipality participating in the study. The department shall prepare an objective fiscal study of the fiscal aspects of a consolidation and shall provide it to the commission in a timely manner.

f. If the consolidation would include the consolidation of boards of education, a person appointed by the Commissioner of Education shall serve as a non-voting member of that Municipal Consolidation Study Commission. The representative of the Commissioner of Education shall not be a resident of a community participating in the study. The county superintendent of schools shall conduct a study on the impact of consolidation on the educational system and its finances. The report shall be provided to the commission in a timely manner.

g. There shall be no more than one of either a consolidation plan study, a Municipal Consolidation Study Commission, or a joint municipal consolidation created under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), active in a single municipality at the same time. In the event that more than one application is filed with the

board or is being considered by the governing bodies while another action affecting the same municipality or municipalities is under consideration, the board shall consider the applications and shall join any proposed creation of a joint municipal consolidation together and approve only one action as the board deems to be in the public interest. Prior to approving a single action, the board shall hold a public hearing permitting all parties to present testimony on the merits of their action in relation to the other proposals. Once an action is approved by the board, another action from the same combination of municipalities shall not be approved for at least five years.

h. In considering its decisions under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), the Local Finance Board and any other State agency shall take into account local conditions, the reasonableness of proposed decisions, and the facilitation of the consolidation process in making decisions concerning consolidation.

L.2007, c.63, s.25, eff. April 3, 2007, L. 2011, c. 55, eff. April 20, 2011.

#### **40A:65-26 Required information included in Municipal Consolidation Study Commission Reports.**

26. a. A consolidation plan or report of a Municipal Consolidation Study Commission shall include the provisions of sections 16 and 24 of P.L.1977, c.435 (C.40:43-66.50 and 40:43-66.58), insofar as they are consistent with the provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). In addition, a consolidation plan shall address the following implementation issues:

- (1) a timetable for implementing the consolidation plan;
- (2) duplicate positions, including those held by tenured, certified officers, listing those positions proposed to be abolished for reasons of economy, efficiency or other good cause and listing those positions proposed to be merged; and
- (3) applicability of the provisions of Title 11A, Civil Service, of the New Jersey Statutes, if Title 11A has been adopted by one or more consolidating municipalities.

b. The following policies may be considered and implemented under an application for approval of a consolidation plan, and may be included as part of a study under the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), or as part of a study conducted by a Municipal Consolidation Study Commission pursuant to sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.):

- (1) creation of a consolidation implementation plan to establish a timetable of significant events and goals to be achieved as part of a consolidation study;
- (2) a phase-in of a consolidation over a fixed period of time. Such a plan shall be subject to review and approval of the Local Finance Board prior to it being approved by the governing bodies or subject to voter referendum;

- (3) variations from existing State law or State department rules that may not have anticipated a phase-in or consolidation of services. When variations are proposed, they shall be submitted to the board which shall refer it to the agency with oversight responsibility. After due consideration, the referee agency is empowered to waive such law or rules if a waiver is found reasonable to further the process of consolidation. Where no such agency exists, the Commissioner of Community Affairs shall act on behalf of the State. These requests shall be acted on within 45 days of their receipt by an agency, and they shall be deemed approved, subject to approval of a consolidation proposal by the municipalities, by the end of that time unless the agency has responded with a denial, conditions that must be met in order for it to be approved, or an alternative approach to resolving the matter;
- (4) the use of advisory planning districts, comprised of residents living in the former territories of each former municipality, to provide advice to the planning board and the zoning board of adjustment on applications and master plan changes affecting those areas. A consolidation study plan shall specify the types and nature of the development and zoning applications that the advisory planning districts shall review and the official boards shall be required to respond, at a public meeting, to each suggestion made by an advisory planning district;
- (5) the establishment of service districts comprised of the boundaries of any or all of the former municipalities which may be used to allocate resources and used for official geographic references in the new municipality;
- (6) the continued use of boundary lines of any or all of the former municipalities to continue local ordinances that existed prior to consolidation that the governing body deems necessary and appropriate. The need for any such differentiation shall be reviewed by the governing body at least every five years and shall only be continued upon the affirmative vote of the full membership of the governing body, and if such continuance fails, the governing body shall then adopt uniform policies for the entire area; and
- (7) the apportionment of existing debt between the taxpayers of the consolidating municipalities, including whether existing debt should be apportioned in the same manner as debt within special taxing districts so that the taxpayers of each consolidating municipality will continue to be responsible for their own pre-consolidation debts.

c. When one of the municipalities is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, the question of whether the new municipality shall be subject to the provisions of that Title shall be the subject of a public referendum before all of the voters of the consolidating municipalities. Upon the approval by a majority of those voting, regardless of their municipality of residence, the new municipality shall be subject to the provisions of that Title.

L.2007, c.63, s.26, eff. April 3, 2007 .

**40A:65-27 Creation of task force to facilitate consolidation.**

27. a. Once a consolidation has been approved by the affected municipal governing bodies or voters, the division shall create a task force of State departments, offices and agencies, as it deems appropriate, and representatives of affected negotiations units, to facilitate the consolidation and provide technical assistance.

b. When a consolidation plan provides that the consolidated municipality will be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes the Department of Personnel is specifically authorized to create a consolidation implementation plan to vest non-civil service employees, based on the education and experience of the individuals, in appropriate titles and tenure.

c. Whenever a referendum question to decide if a consolidated municipality shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes fails, the employees of a municipality already subject to that Title shall be given non-civil service titles in the new entity and previously held tenure shall be vacated.

d. The Public Employment Relations Commission is authorized to provide technical advice, pursuant to section 12 of P.L.1968, c.303 (C.34:13A-8.3), to assist a new municipality and existing labor unions to integrate separate labor agreements into consolidated agreements and to adjust the structure of collective negotiations units, as the commission determines appropriate for the consolidated municipality.

L.2007, c.63, s.27, eff. April 3, 2007.

**40A:65-28 Equalization of property assessments for apportionment of taxes.**

28. a. If a revaluation of property for the consolidated municipality is not implemented for the first local budget year of the consolidated municipality, then the assessments on the properties owned by the taxpayers of the former municipalities shall be equalized for the apportionment of taxes for the consolidated municipality, in the same manner as assessments are equalized for the apportionment of county taxes.

b. The owners of any residential property or residential tenants of any municipality consolidated under sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.), or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.), who experience a municipal or school district purposes real property tax increase in the first tax year following the municipal consolidation shall be entitled to annual property tax relief until such time as they sell or transfer their home or no longer reside as tenants in the rental unit they occupied just prior to the municipal consolidation. In the case of the owner of residential property, the property tax relief shall be reflected as a credit on the property tax bill equal to the difference between the municipal and school district purposes real property tax payable by the taxpayer for the tax year, subject to any adjustment as determined necessary by the Director of the Division of Local Government Services in the Department of Community Affairs to reflect operating budgets for a normal pre-consolidated fiscal year, and the municipal and school district purposes real property tax billed to that taxpayer for the tax year during which the



consolidation is effectuated, as may be adjusted by the Director of the Division of Local Government Services in the Department of Community Affairs to reflect normal post consolidation operating budgets for the municipalities and school districts. In the case of a residential tenant, the tax credit applied to an apartment property shall be distributed to eligible tenants pursuant to the provisions of the "Tenants' Property Tax Rebate Act," P.L.1976, c.63 (C.54:4-6.2 et seq.) and this section. The total of all such relief in the municipality shall be paid by the State to the municipality on a schedule determined by the Local Finance Board. For the purpose of this subsection, a "normal" budget year shall be one that, in the determination of the director, does not reflect expenses made in anticipation of, or in implementation of, a municipal consolidation.

L.2007, c.63, s.28, eff. April 3, 2007.

**40A:65-29 Construction of law on consolidation appeals.**

29. The provisions of sections 1 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.) shall be liberally construed to effectuate the intention of sections 25 through 28 of P.L.2007, c.63 (C.40A:65-25 through C.40A:65-28). The board is empowered to act to provide guidance, interpretation, and to resolve disputes regarding these sections or the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et al.). Decisions of the board may be appealed directly to the Appellate Division of the Superior Court.

L.2007, c.63, s.29, eff. April 3, 2007.