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Local Finance Notice

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Distribution

Municipal and Freeholder Clerks

“Citizen Service Act” Signed into Law

The recent enactment of [P.L. 2009, c.141](#) (S-1426/A-2784), also known as the “Citizen Service Act” requires the **immediate attention of every municipal clerk**. While the Notice applies primarily to municipalities, the section on vacancies in office also applies to counties. Each section of this Notice addresses the four sections of the new law:

1. Changes law **to require** oaths of office for members of local authorities, boards and commissions (hereafter, “municipal entities”);
2. Creating responsibility for municipal clerks requiring creation and maintenance of a directory of municipal entities, their membership and vacancies;
3. Creation of a form to permit citizens to apply for service on municipal entities (“Citizen Leadership Form”); and,
4. Change in laws regarding when absences of officials turn into vacancies. This section applies to municipalities and counties.

The law took effect upon enactment, October 19, 2009.

1. Oaths of Office

N.J.S.A. 40A:9-9.1 (Section 1 of the new law) specifically requires anyone newly appointed to a municipal entity to take an oath of office for that specific position. Under previous law, individuals should have already taken the general oath of office pursuant to N.J.S.A. 41:1-1, but not an oath of office for these specific positions.

The new law **requires** an additional oath relating to the specific entity to be sworn pursuant to N.J.S.A. 41:1-3. If another State law provides an oath specific to the entity, that oath would supersede the requirement of N.J.S.A. 40A:9-9.1.

The law permits the oath of office to be administered by the chairperson of a municipal entity, or by any other person authorized under law to administer oaths (N.J.S.A. 41:2-1). The law does not explicitly require individuals who are reappointed to an entity to retake the oath, but, the law does not prevent a new oath, if local officials decide to require one.

All of these oaths should be filed with the municipal clerk. A copy of the sections of law cited above is on page 3 of this Notice.

2. Directory of Municipal Entities

\Section 2 of the law requires the municipal clerk to compile and maintain a directory of the entities: all local authorities, boards and commissions. The law requires the directory to include, but not be limited to, the following, information for each entity:

- a) the name of the authority, board or commission;
- b) the number of members or positions;
- c) a list of currently appointed members, along with their terms of office;
- d) vacancies;
- e) general frequency of meetings;
- f) the appointing authority, and enabling statute, ordinance or resolution that describes

the entity and responsibilities of the members.

The Division also recommends that the directory include any required financial disclosure requirements of members. To the extent known, we also recommend the schedule of meeting dates and times, although this is not statutorily required.

Municipal clerks should act promptly to set up the basics of a directory that will also serve to facilitate record keeping of appointment information. For the long term, local officials should consider establishing an online directory (the legislation anticipates and encourages this approach).

Many Municipal Clerks may be aware of the Municipal Contact List (MCL) that is accessible through GovConnect, and is available to the public. Because, the current version of the MCL does not possess all the features required by the law, the Division is studying changes to the program that will facilitate all the requirements of the law. We will keep local officials apprised of this effort through GovConnect News.

3. Citizen Leadership Form

The law also requires any persons interested in serving on a municipal authority, board or commission to file a one-page 'Citizen Leadership Form' with the municipal clerk. The Division has prepared a model version of the form that the user can fill out by computer or handwritten. Additional information may be added if deemed necessary by the municipal clerk. This model is included with this Notice and is [posted online](#).

Municipalities may also want to advise potential volunteers that they will be subject to the Local Government Ethics Law and that they may be required to file a Financial Disclosure Statement.

The law also deems several items as restricted from public disclosure under the Open Public Records Act. This includes home address, phone number, and e-mail address. The design of the form facilitates OPRA disclosure and redaction of the restricted information by locating those fields at the bottom of the form.

While the law is specific by requiring its application to all boards, commissions and authorities, it is silent regarding locally established advisory or informal committees. While not required, the spirit of the law would warrant municipal officials to consider treating these other bodies in a similar manner regarding the oaths, the Directory, and the Citizen Leadership Form.

4. Vacancy in Positions

Chapter 141 also amended [N.J.S.A. 40A:9-12.1](#), the law that determines when a position becomes vacant due to unexcused absences. The law now permits any municipality (local unit) to adopt, by ordinance, a policy to reduce the number of unexcused absences from the statutory limit to amounts shown in the following table:

Table of Unexcused Absences		
Circumstance	Statutory Default	Local Option
# of weeks	8	6 or 7
	Or	Or
# of regular meetings	4	3
	Whichever is longer	Whichever is longer

An appointment would be deemed vacant only after the required period of unexcused absences (majority of body can excuse) the law requires has lapsed and full requirements of N.J.S.A. 40A:9-12.1 have been met. Local officials should consult legal counsel whenever considering applying this law.

Approved: Susan Jacobucci, Director

Table of Web Links

Page	Shortcut text	Internet Address
1	P.L. 2009, c.141	http://www.njleg.state.nj.us/2008/Bills/PL09/141_.PDF
3	posted online	http://www.nj.gov/dca/lgs/miscpubs/other/Citizen_Leadership_Form.doc
4	N.J.S.A. 40A:9-12.1	http://tinyurl.com/ykyxu5b

State Laws Regarding Oaths

41:1-1. Oath of allegiance; form

Every person who is or shall be required by law to give assurance of fidelity and attachment to the Government of this State shall take the following oath of allegiance:

"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 bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people So help me God."

41:1-3. Oath of allegiance; persons required to take; form

Every person who shall be elected, or appointed to any public office in this State or in any county, municipality or special district other than a municipality therein, or in any department, board, commission, agency or instrumentality of any thereof, and is required to take and subscribe an oath of office shall, before he enters upon the execution of his said office take and subscribe the oath of allegiance set forth in R.S. 41:1-1 and, in addition, (a) any specially prescribed official oath, or (b) if no text is specially prescribed for such oath of office, the following official oath of office:

"I, _____ do solemnly swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of according to the best of my ability. So help me God."

Amended by L.1949, c. 22, p. 68, s. 1; L.1962, c. 202, s. 1, eff. Dec. 18, 1962; L.1971, c. 217, s. 7.

40A:9-9.1 Oath of office administered.

1. a. Notwithstanding the provisions of R.S.41:2-1, concerning persons authorized to administer oaths and affirmations, the chairperson of an authority, board or commission of a municipality may administer an oath of office to any person appointed to that authority, board or commission.

b. In addition to the oath of office required by R.S.41:1-3, and in addition to any other oath that may be specially prescribed, every new appointee to an authority, board or commission shall be sworn in by the chairperson of their respective authority, board or commission, or by another person authorized by law to administer oaths.

L.2009, c.141, s.1.

<Name of Municipality>

Citizen Leadership Form

I, _____, hereby apply to perform public service on the following municipal authorities, boards or commissions:

a) _____

b) _____

c) _____

Name

City, State

Zip

Please list any: education, prior volunteer experience, work related experience; or other civic involvement which could be of use to the authorities, boards or commissions which you listed above:

Personal Information Not Subject to Public Disclosure*

Primary Phone Number

Address of Residence

Email Address

****The information in this section is considered personal information, and is therefore deemed confidential for the purpose of P.L. 1963, c. 73 (C.47:1A-1 et seq.) and P.L. 2001, c. 404 (C.47:1A-5 et al.).***