

ASSEMBLY, No. 280

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen BATEMAN and KAVANAUGH

1 AN ACT concerning municipal sidewalk improvements and amending  
2 R.S.40:65-1, R.S.40:65-3, R.S.40:65-8 and R.S.40:65-9.

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

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7 1. R.S.40:65-1 is amended to read as follows:  
8 40:65-1. The governing body may make, amend, repeal and enforce  
9 ordinances:

10 To regulate and provide for the construction and reconstruction,  
11 paving and repaving, curbing and recurbing, repairing and improving  
12 of the sidewalks of the streets and highways of the municipality,  
13 wholly at the cost of the municipality or wholly at the cost of the  
14 owner or owners of the real estate in front of which the improvement  
15 is made, or at the cost of the municipality and such owner or owners,  
16 to prescribe the method thereof, the materials to be used therein and  
17 the inspection thereof. Wherever sidewalks are provided for only on  
18 one side of a street or highway, the ordinance may provide that both  
19 the owner or owners of the real estate in front of the improvement as  
20 well as the owner or owners of the real estate directly across the street  
21 or highway from the improvement shall share in the cost. When the  
22 grade of the street, or highway, or part thereof, shall have been  
23 previously legally established, the proposed improvement shall  
24 conform, as nearly as practicable, to such established grade. If any  
25 street, parkway or public highway so to be improved be under the  
26 control of any county board or commission, the approval of said body  
27 of the plans of improvement shall be obtained before the improvement  
28 is begun. Nothing herein contained shall be construed as permitting  
29 the governing body of any municipality to improve any road, street or  
30 highway entirely within the limits of a county park.  
31 (cf: P.L.1958, c.133, s.1)

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

**Matter underlined thus is new matter.**

1       2. R.S.40:65-3 is amended to read as follows:

2       40:65-3. The notice may be served upon all owners residing in the  
3       municipality, personally, or by leaving the same at their usual place of  
4       residence with a member of the family above the age of fourteen years.  
5       In the case of infants and incompetents such notice shall be served  
6       upon their guardians; when any real estate is held in trust, upon the  
7       trustee; when held by joint tenants, tenants in common or by the  
8       entirety, upon any one such tenant. If the owner of any such real  
9       estate is a nonresident of the municipality the notice may be served  
10      upon him personally, or upon his agent in charge of the property, or  
11      upon the occupant thereof[, or mailed to the nonresident] .  
12      Alternatively, notice may be served upon any owner by mail at his last  
13      known post-office address.

14      (cf: R.S.40:65-3)

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16      3. R.S.40:65-8 is amended to read as follows:

17      40:65-8. The officer of the municipality in charge of such  
18      improvement shall keep an accurate account of the cost thereof and if  
19      such cost or any part thereof is to be assessed upon the several  
20      properties fronting on , or directly across the street or highway from,  
21      the improvement, shall assess such cost or the proportion thereof  
22      required to be assessed under said ordinance upon such properties in  
23      proportion to their respective frontage [thereon], and file a report  
24      thereof under oath with the municipal clerk. The governing body shall  
25      examine such report, and if properly made, confirm and file it with the  
26      officer charged with the collection of assessments, who shall record  
27      such sidewalk assessments in the book in which other assessments of  
28      the municipality are recorded. Before confirming the report the  
29      governing body shall give notice to the owner or owners named  
30      therein of the time and place fixed for examination of the report. The  
31      notice shall be served in the same manner as required for service of  
32      notices before consideration by a governing body of a municipality of  
33      assessments for benefits for local improvements, but failure to give any  
34      such notice shall not invalidate the proceedings.

35      (cf: P.L.1958, c.133, s.4)

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37      4. R.S.40:65-9 is amended to read as follows:

38      40:65-9. Such sidewalk assessments shall bear interest from the  
39      time of confirmation at the same rate and with the same penalties for  
40      nonpayment as assessments for local improvements in the municipality,  
41      and from the confirmation thereof shall be a first and paramount lien  
42      upon the real estate assessed to the same extent and be collected and  
43      enforced in the same manner as assessments for local improvements.  
44      The governing body may provide for the payment and collection of  
45      such assessments in installments in the same manner and at the same  
46      rate of interest as assessments for local improvements are payable in

1 installments in the municipality. No such assessments shall be invalid  
2 by reason of error in the statement or omission of the name of any  
3 owner or owners of real estate assessed, or for any other informality,  
4 where such real estate has been actually improved or is directly across  
5 the street or highway from real estate that actually has been improved.  
6 (cf: R.S.40:65-9)

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8 5. This act shall take effect immediately.

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## STATEMENT

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13 This bill corrects an inequity in charging for the construction or  
14 repair of municipal sidewalks. Currently, R.S.40:65-1 et seq., permits  
15 charges for the construction or repair of sidewalks to be assessed  
16 against "the owner or owners of the real estate in front of which the  
17 improvement is made." This language apparently does not  
18 contemplate suburban neighborhoods where sidewalks have been  
19 placed only on one side of the street. Under the present law, sidewalk  
20 charges would be imposed only on the properties situated on the same  
21 side of the street as the sidewalks. Properties across the street, which  
22 have the same benefit of neighborhood sidewalks, pay nothing.

23 This bill would permit charges for the construction or repair of  
24 sidewalks to be assessed against properties directly across the street  
25 where the sidewalks have been located only on one side of the street.

26 The bill also clarifies the present law by permitting the required  
27 notices to property owners to be served by mail, rather than hand  
28 delivery, in all cases. Service by mail is consistent with the present  
29 law for assessments for local improvements.

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34 Changes law governing assessment charges for sidewalk  
35 improvements.