

<p><b>MC-98-4</b> Notice Number</p>	<p><b>New Jersey Department of Community Affairs</b> Division of Local Government Services</p>	<p><b>03/23/98</b> Date</p>
<p><b>Local Finance Notice</b></p>		

<p>Christine Todd Whitman Governor</p>	<p>Jane M. Kenny Commissioner</p>	<p>Stephen R. Sasala, II Acting Director</p>
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**MUNICIPAL CLERKS CERTIFICATION LAW (AMENDED 1/6/98)  
P.L. 1997, C. 279**

On January 6, 1998, the "Municipal Clerks Certification Law" (N.J.S.A. 40A:9-133 et seq.) was amended. These amendments substantially change the original law. This Notice reviews the major changes and the impact on municipal clerks. A copy of the law is enclosed. The municipal attorney should review th law in its entirety to determine the impact on the municipality.

**Background**

There has been a certification requirement for municipal clerks since 1985. It is part of a program to assure that local governments have qualified, license professionals working in the positions of chief financial officer, tax collector and public works manager, as well as municipal clerk. Unlike the other position current law permits a person who does not hold a Registered Municipal Clerk (RMC certificate to be appointed Municipal Clerk for an initial three year term This allows for the possibility that a municipality may never have an RMC in the position. This legislation, however, assures that, in the future, an RMC will be appointed as Municipal Clerk in each municipality.

In addition, unlike the other professionals licensed by the Division, prior law did not require RMCs to obtain continuing education in order to maintain the certification. Under the amendments, RMCs will also have to renew their certification through continuing education.

**Pending Technical Amendments**

The amended law was passed with obsolete dates required for recertification and a new course. A bill has been introduced proposing the needed amendments. It is expected that such amendments will pass and you will be notified in the future as to the correct dates. The other dates specified in this Notice are proper and will not be amended.

**Municipalities Required to Appoint a Registered Municipal Clerk**

As noted earlier, governing bodies are still permitted to appoint a non-RMC the position of Municipal Clerk for an initial three year term. However, under the new law, after January 1, 2002, no person may be appointed or reappointed as Municipal Clerk, unless they are an RMC.

**Vacancy Provision**

When an RMC has been appointed to the position of Municipal Clerk and the office is then vacated, within 90 days of the date of the vacancy, a governing body can appoint a non-RMC as Acting Clerk for a one year term. With permission of the Director of the Division of Local Government Services, the governing body may appoint an Acting Clerk for two additional one year terms.

If an RMC has been appointed prior to January 1, 2002, and then vacates the office of Municipal Clerk, a governing body may utilize the vacancy provision. Under this circumstance, a non-RMC may be Acting Clerk through January 1, 2002, provided that they have not already served in the position for more than three consecutive years as of that date.

Time served as Acting Clerk may not be credited as time served as Municipal Clerk for the purposes of acquiring tenure.

A governing body may not appoint someone who holds an RMC certificate as Acting Clerk.

### **Restricted Certificates**

Within six months of the effective date of the amendments, that is, by July 6, 1998, any Municipal Clerk who has been granted tenure pursuant to P.L. 1981, C. 394, or P.L. 1985, C. 174, but who does not hold an RMC certificate must apply to the Director for an RMC certificate, which will be restricted to the municipality employing the Municipal Clerk. There is no fee for the initial application. Those holding a restricted certificate are subject to the recertification requirements described below.

If the Municipal Clerk in your municipality is subject to this provision, please contact the Division immediately for a restricted RMC application. No applications will be accepted, which are postmarked after July 6, 1998.

### **Recertification Requirements**

Municipal Clerks will now be required to obtain 20 hours of continuing education every two years to maintain their RMC certificate. The Division will be working closely with the Municipal Clerks Association of New Jersey and other groups to ensure that there are an ample number of opportunities for RMCs to obtain the necessary hours.

All RMCs, including those holding a restricted certificate, will be required to obtain the necessary continuing education every two years, in order to maintain their RMC certificates. Pursuant to the law, failure to renew a certificate is grounds for removal as a Municipal Clerk, even if that Clerk is tenured in the position.

The law allows for a six month grace period beyond the expiration date of a certificate; however, under this provision, those utilizing the six month grace period must submit an additional fee above the normal renewal fee.

### **Increase in Fees**

The new fees, as prescribed in the legislation, are \$50 for the initial application, \$50 for issuance of the certificate, and \$50 for renewal. The late renewal fee is an additional \$50.

### **Municipalities not Required to Pay for Continuing Education**

Municipal governing bodies are not required to pay any of the costs that an individual may incur for renewing an RMC certificate. Governing bodies may, by resolution, agree to pay any portion of such costs, including course registration application fees, transportation, leaves of absence, etc. A general resolution allowing for payment of such costs is suggested. It is not necessary to pass a resolution each time an RMC is attending a continuing education program. Resolutions are not filed with the Division.

The law takes effect immediately, except, as noted earlier, those dates requiring technical amendments. If you have any questions regarding the amendments, or need one of the applications or forms noted herein, please contact the Certification Unit of the Division at (609) 292-9757.

Beth Gates, Director  
Division of Local Government Services

Enclosure  
Distribution: Mayor and Governing Body