

MEMORANDUM

TO: NEW JERSEY LAW REVISION COMMISSION
FROM: JOHN M. CANNEL, EXECUTIVE DIRECTOR
DATED: OCTOBER 12, 2004
RE: RECOMPILATION

The power of the Office of Legislative Services to assign compilation numbers to laws is in N.J.S. 1:3-1. Since that section is long, I have put the critical language in bold type:

1:3-1 Preparation of laws for printing.

The Legislative Services Commission shall direct the Office of Legislative Services that, as soon as practicable after any law is enacted, it shall prepare the same for printing and in so doing, it shall make such corrections in the text thereof, as shall be directed by the Legislative Services Commission, and shall omit from the text thereof all material inserted therein, which is enclosed in bold-faced brackets, together with the brackets and all footnotes relating thereto, and shall cause material, appearing in the text underlined or printed in italics, to be printed in the same manner as other material is printed. In preparing the annual appropriations act for printing, the Office of Legislative Services shall include all displays of summaries of appropriations as may appear within the act and include a legend affixed to the bottom of the first page of the law indicating that material included within the displays is intended to be for the purpose of displaying summaries of the items of appropriations set forth elsewhere within that law and, while included within the text of the law, is not intended to be part of the law. The office shall cause the several acts of each year to be designated as chapters, numbered in Arabic according to the order of time when they respectively became laws; and shall cause headnotes, descriptive of the contents, to be printed at the beginning of such sections as it shall deem appropriate, **and shall cause such sections of the several acts of each year to be marked with such compilation numbers as shall be appropriate in its judgment**; and it shall, in like manner, cause the joint resolutions of the Senate and General Assembly and the concurrent resolutions of the Senate and General Assembly agreeing to any proposed amendment or amendments of the Constitution or providing for the publication and submission to the people of any such proposed amendment or amendments to be prepared for printing.

The Office of Legislative Services, through its Legislative Counsel, is authorized to correct in the text, but not in the title, of any law, such errors in references to other laws and in punctuation and spelling, and other obvious errors in form, which will not affect the substance of the

law, as shall be concurred in by the Attorney General and shall make such corrections in preparing the law for printing.

The Office of Legislative Services, through its Legislative Counsel, is further authorized to correct errors caused when two or more amendments to the same section of law are enacted, at the same or different sessions of the Legislature, but such amendments inadvertently omit provisions of, and fail to refer to, one another. Only amendments that may be put into simultaneous operation may be reconciled. Corrections shall be concurred in by the Attorney General and, thereafter, the office shall prepare the law for printing.

The Office of Legislative Services shall also cause the proclamations of the Governor made during the previous year, which the Governor shall direct to be printed, to be copied and prepared for printing.

The Office of Legislative Services shall prepare but one index, alphabetically arranged, to all the acts and joint resolutions of the year and the proclamations of the previous year.

This power is repeated in N.J.S. 52:11-61(g). The power to compile laws is stated in the context of the process that takes place immediately after enactment. As a result, the Office of Legislative Services has been hesitant to claim the power to change the compilation number assigned to a statute, at a later time. The parallel power, to make technical corrections to statutes, has been interpreted somewhat more broadly. While the overwhelming majority of corrections are made immediately, some occur years after enactment. There have been a number of instances where the compilation numbers assigned to statutes have been changed. The most significant of these, where material was moved between titles of the statutes, occurred many years ago. But there have been a some instances in the past few years where statutes have been renumbered, usually within the same chapter. While the Office of Legislative Services may now recognize a recompilation power it has used it cautiously and in very limited cases.

Obviously, the power to recompile statutes would be useful. Not all decisions on compilation turn out to be right. Some may be errors, but others, correct when made, become less good with the passage of time and of more legislation on related subjects. Minor arrangement problems and problems of numeration could be solved. However, recompilation of a statute years after it was enacted can cause problems. A person who follows an old citation and looks for the statute is apt to find a blank without explanation. Certainly, some form of paper trail needs to be provided to prevent confusion. When a statute is repealed, a note is made indicating the law that repealed it. A similar note could be made to the order of recompilation.

Corrections to the statutes occasionally raise similar problems. Most changes are so obvious and technical (correcting spelling or the numbering of subsections) that there is no likelihood of confusion. However, there are occasions when a person could be surprised to see a change between two sources for a law without an explanation. It might be desirable to provide for notation of changes in these cases as well.

If the Commission decides to commence a project in this area, it will involve some revision of Title 1, Chapter 3 of the Statutes. Chapter 3 states the whole old process of producing the printed laws. That process continues, but the annual printing of session laws is no longer the heart of the law publication process. Long before the Session Laws are published, laws are available on the Legislature's website and through commercial publishers in both printed and internet form. Much of that process has been affected by the creation of a Legislative website as provided by 52:11-78. Bills and laws are now available generally through that medium. It may be desirable to consider parts of Title 1 in the context of a system heavily affected by the Legislature's internet website.