

November 6, 1964

R.S. 40:72-1

LEGISLATIVE HISTORY OF R.S. 40:72-1
(Municipal commissioners - number and qualifications)

COPY NO. 1



- L. 1911, Chapter 221 - A321 § 2
Introduced February 20, 1911.
No statement.
Section 2 not amended during passage.

This is the basic Walsh act.

- L. 1912, Chapter 366 - A116
We cannot locate original bill.

- L. 1915, Chapter 228 - A594
Introduced March 2 by Mr. Sullivan.
Bill had statement.

This statute does not change wording of the section which is now R.S. 40:72-1.

- L. 1922, Chapter 120 - A56
Introduced January 23 by Mr. George.
Not amended during passage.
Statement:

The purpose of this bill is to clarify the language of the Commission Government Act so as to give clear effect to the evident purpose of section two thereof with respect to the discharge or termination of terms of employees, et cetera.

- L. 1948, Chapter 21 - A6
Introduced January 19 by Mr. McCay.
Section 2 not amended during passage.
Bill had statement (Photostat of original bill with statement enclosed).

- L. 1953, Chapter 365 - A299
Introduced February 9 by Evans, Cahill, Knight.
Not amended during passage.
No statement.

Results certified.

missioners" or "against compensation to the fire commissioners," and the vote on the adoption and rejection of the provisions of this act shall be certified to the city council by the county board of election at the time when said board is required to furnish other information concerning such election to the city council or other legislative body of such city, and in the event of a majority of the legal votes in such city being cast in favor of the adoption of the payment of compensation to such fire commissioners, they shall thereafter and from the date of such election be entitled to the said salary as compensation; and provided further, that the submission of this act to the voters at any general election shall not in the event of its defeat at any election preclude its resubmission at any future general election upon a request therefor being made to the city clerk of any such city by a petition signed by one hundred voters of such city, which petition shall be filed at least thirty days preceding the time for holding such election.

Proviso.

2. This act shall take effect immediately.
Approved April 24, 1911.

CHAPTER 221.

An Act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State.

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

APPLICATION OF THIS ACT.

Municipalities to which act applicable.

1. All cities, towns, boroughs and other municipalities of this State that hereinafter adopt the provisions of this act shall be governed as herein set forth, and wherever the word "city" or "cities" appears in this act

it shall be construed to mean "town" or "towns," "borough" or "boroughs" or other "municipality" or "municipalities."

ORGANIZATION.

2. At the first election held in such city next after the adoption of the provisions of this act as herein provided, there shall be elected in such cities, by the duly authorized voters therein, the number of persons as hereinafter provided to be commissioners of such city, each of whom shall have been a citizen and resident of such city for at least two years immediately preceding his election as such commissioner, who shall serve as such commissioners until the third Tuesday in May in the fourth year following such election and until their successors are elected and shall have duly qualified; and every fourth year thereafter, at the regular municipal election in such city, there shall be elected the number of persons as hereinafter provided as commissioners with like qualifications to serve for the term of four years and until their successors have been elected and duly qualified. Should any vacancy occur among such commissioners the remaining commissioners shall, within thirty days thereafter, elect a properly qualified person to fill such vacancy to serve for the unexpired term. The term of office of such commissioners first elected under the provisions of this act shall commence on the first Tuesday following such election and the term of office of all succeeding commissioners shall commence on the third Tuesday of May next ensuing after their election, at twelve o'clock, noon, and, upon the organizing of the commissioners in any such city, elected under this act, the City Council or other governing body or bodies theretofore acting as governing body or bodies in such city and having any other functions shall be ipso facto abolished, and the terms of all councilmen, or aldermen, and all other officers whether elective or appointive, shall immediately cease and determine; providing, however, that nothing herein contained shall be construed to affect in any way the term of office of any policeman, fireman or other employe of any police

Election of commissioners.

Residence required.

Term.

Vacancies.

When term begins.

Existing government abolished.

Proviso.

Tenure of office act to apply.

or fire department, veteran of any war, or other official or employe now protected by any tenure of office act. Wherever heretofore or hereafter the provision of an act entitled "An act regulating the employment, tenure and discharge of certain officers and employes of this State and of the various counties and municipalities thereof, and providing for a Civil Service Commission, and defining its powers and duties," approved April tenth, one thousand nine hundred and eight, and the acts supplementary thereto and amendatory thereof, have been adopted by any county or municipality in this State prior to the adoption of the provisions of this act; then, and in that event, nothing in this act contained shall apply to any person holding any position or office coming within the classified service of the civil service law.

DUTIES OF BOARD.

Number of commis-sioners.

3. Every city having by the last preceding State or national census ten thousand population or more shall be governed by a board of commissioners consisting of five commissioners, and every city having by the last census less than ten thousand population shall be governed by a board of commissioners consisting of three commissioners, chosen as provided in this act, each of whom shall have the right to vote on all questions coming before the board of commissioners; *provided, however,* that the number of the commissioners in any city may be increased from three to five or decreased from five to three by an ordinance adopted by the board of commissioners in accordance with all the provisions of this act. A majority of the members of the board of commissioners shall constitute a quorum and the affirmative vote of a majority of all the members shall be necessary to adopt any motion, resolution or ordinance, or pass any measure unless otherwise provided for in this act. Every resolution or ordinance shall be reduced to writing and read before the vote is taken thereon, and the vote upon every such motion, resolution or ordinance shall be by yeas and nays and shall be recorded. At the first meeting after their election,

Proviso.

Quorum.

Ordinances.

Organ-ization.

the said commissioners shall choose one of their number to preside at all meetings of the board of commissioners and he shall be designated "Mayor," but he shall have no power to veto any measure. Every resolution or ordinance passed by the board of commissioners must be in writing and signed by a majority of all the commissioners.

Mayor. Resolutions and ordinances signed.

POWERS OF BOARD.

4. The board of commissioners shall have and possess all administrative, judicial and legislative powers and duties now had and possessed and exercised by the Mayor and City Council and all other executive or legislative bodies in said city, and have complete control over the affairs of the city adopting the provisions of this act. The executive, administrative and legislative powers, authority and duties in such city shall be distributed into and among five departments, except that in any city having but three commissioners, three departments shall be designated and provided by the consolidation of the first and third departments and the fourth and fifth departments as follows:

All powers vested in board of commis-sioners.

City de-partments.

1. Department of Public Affairs.
2. Department of Revenue and Finance.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.

The board of commissioners shall determine the powers and duties to be performed by each department and assigns such powers and duties to the appropriate departments, and they shall prescribe the powers and duties of all officers and employes, and they may assign particular officers and employes to one or more departments and may require any officer or employe to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city. ✓

Powers and duties pre-scribed by board.

The Mayor shall be the director of the Department of Public Affairs, and the board of commissioners shall, at the first regular meeting after the election of

Commis-sioners assigned to depart-ments as directors.

Mayor cant be removed 180 A 401

its members, designate by majority vote one commissioner to be director of the Department of Revenue and Finance, one to be director of the Department of Public Safety, one to be director of the Department of Streets, and Public Improvements, and one to be director of the Department of Parks and Public Property, except that upon the organization of a board of three commissioners but three departments shall be designated, as above provided, and but three directors voted therefor, and such designation may be changed whenever it appears that the public service would be benefited thereby.

Subordinate
boards and
officers.

The board of commissioners shall at the first meeting, or as soon as may be after organization, create such subordinate boards and appoint such officers as it may deem necessary for the proper and efficient conduct of the affairs of the city. Any board created may be abated, or any officer or employe appointed by the board of commissioners may be removed from office at any time for cause, after public hearing, and such board of commissioners shall be the sole judge of the sufficiency of the cause of such removal.

Salaries in
first, second
and third
class cities.

The Mayor and board of commissioners shall have suitable offices and their total compensation shall, in cities of the first, second and third classes, be as follows: In such cities having, by the last preceding State or National census, more than two hundred thousand population, the Mayor's salary shall be not more than fifty-five hundred dollars, and that of each commissioner shall be not more than five thousand dollars. In cities having by the last census a population of over ninety thousand and not exceeding two hundred thousand, the Mayor's annual salary shall be not more than three thousand five hundred dollars, and that of each commissioner shall be not more than three thousand dollars. In cities having from forty thousand to ninety thousand population, the Mayor's annual salary shall be not more than two thousand five hundred dollars, and that of each commissioner shall be not more than two thousand dollars. In cities having from twenty to forty thousand population, the Mayor's annual salary

shall be not more than one thousand eight hundred dollars, and that of each commissioner shall be not more than one thousand five hundred dollars. In cities having from ten to twenty thousand population, the Mayor's annual salary shall be not more than one thousand five hundred dollars, and that of each commissioner shall be not more than one thousand two hundred dollars. In cities having from five thousand to ten thousand population, the Mayor's annual salary shall be not more than one thousand dollars, and that of each commissioner shall be not more than seven hundred and fifty dollars. In cities having from twenty-five hundred to five thousand population the Mayor's annual salary shall be not more than seven hundred and fifty dollars, and that of each commissioner shall be not more than five hundred dollars. In cities having from one thousand to twenty-five hundred population the Mayor's annual salary shall be not more than five hundred and that of each commissioner not more than three hundred and fifty dollars. In cities having from five hundred to one thousand population, the Mayor's salary shall be not more than two hundred and fifty and that of each commissioner shall be not more than two hundred dollars, and in cities having less than five hundred population the Mayor's salary shall be not more than seventy-five and that of each commissioner shall be not more than fifty dollars.

The compensation of the Mayor and the commissioners shall, in cities of the fourth class be as follows: In such cities having, at the last preceding State or National census, more than ninety thousand population, the Mayor's annual salary shall be not more than fifty-five hundred, and that of each commissioner shall be not more than five thousand dollars. In cities having from forty thousand to ninety thousand population, the Mayor's annual salary shall be not more than four thousand and that of each commissioner shall be not more than three thousand dollars. In cities having from twenty thousand to forty thousand population, the Mayor's annual salary shall be not more than three thousand, and that of each commissioner shall be not

Salaries in
fourth
class cities.

more than twenty-five hundred dollars. In cities having from ten thousand to twenty thousand population, the Mayor's annual salary shall be not more than twenty-five hundred, and that of each commissioner shall be not more than two thousand dollars. In cities having from five thousand to ten thousand population, the Mayor's annual salary shall be not more than two thousand, and that of each commissioner shall be not more than fifteen hundred dollars. In cities having from twenty-five hundred to five thousand population, the Mayor's annual salary shall be not more than fifteen hundred, and that of each commissioner shall be not more than twelve hundred and fifty dollars. In cities having from one thousand to twenty-five hundred population, the Mayor's annual salary shall be not more than twelve hundred and fifty, and that of each commissioner shall be not more than one thousand dollars. In cities having from five hundred to one thousand population, the Mayor's annual salary shall be not more than seven hundred and fifty, and that of each commissioner shall be not more than five hundred dollars. And in cities having less than five hundred population, the Mayor's annual salary shall be not more than five hundred dollars and that of each commissioner shall be not more than two hundred and fifty dollars. Such salaries shall be payable in equal monthly installments.

Other salaries.

Proviso.

The salary or compensation of all other officers and employes of the city shall be fixed by the board of commissioners and shall be payable monthly or at shorter periods as they shall determine; *provided, however,* that the compensation of the commissioners shall be fixed by an ordinance adopted by the board of commissioners immediately after the organization of the board, in accordance with all the provisions of this act. The compensation so fixed shall not be increased during the term for which such commissioners are elected.

MEETINGS OF BOARD.

Meetings.

5. The board of commissioners shall designate the time of holding regular meetings, which shall be at

least once a week, and special meetings may be called from time to time by the mayor or by two commissioners. All meetings of the commissioners, whether regular or special, shall be open to the public, and any citizen may have access to the minutes upon application to the city clerk.

Open to public.

The mayor shall be president of the board and shall preside at its meetings and supervise all departments and report to the board for its action all matters requiring the attention of the board on any department. Director of the department of revenue and finance shall be vice-president of the board, and, in case of vacancy in the office of mayor, shall perform the duties of that office.

Mayor to preside.

Vice-president.

PASSAGE OF ORDINANCES AND FRANCHISES.

6. Every ordinance or resolution appropriating money, or ordering any street improvement, or sewer, or authorizing the making of any contract or granting any franchises, or the right to occupy or use the streets, highways, bridges or public places of the city for any purpose, shall be complete in the form in which it is finally passed and remain on file with the city clerk for public inspection at least two weeks before the final passage or adoption thereof. No franchises, or right to occupy or use the streets, highways, bridges or public places in any city shall be granted, renewed or extended except by ordinance; and every ordinance shall be published in said city before being finally passed upon and must receive the approval, by vote, of one more than a majority of all the members before being finally adopted.

Ordinances.

Franchises.

Vote necessary for adoption.

PROHIBITIONS UPON OFFICIALS.

7. No officer or employe, elected or appointed in any such city, shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city, and no such officer or employe shall be interested, directly or indirectly, in any contract or job for

Officials and employes not to be interested in contracts, etc.

No favors
to be
granted or
accepted.

work or materials or the profits thereof, or services to be furnished or performed, for any person, firm or corporation, operating interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of said city. No such officers or employes shall accept or receive, directly or indirectly, from any person, firm or corporation, operating within the territorial limits of said city any interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket, or free service, or accept or receive, directly or indirectly, from any such person, firm or corporation, any other service upon terms more favorable than is granted to the public generally. And for the violation of these provisions the offender shall be punished as now provided, or may be provided hereafter by law or ordinance.

As to fire-
men and
policemen.

Such prohibition of free transportation shall not apply to policemen or firemen in uniform; nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected by this section.

BOND RESTRICTION.

Enforce-
ment of
ordinances.

8. All cities adopting the provisions of this act shall be and are hereby vested with the general powers and authority to enact and enforce by imposition of reasonable fines or by imprisonment or both all ordinances necessary for the protection of life, health and property; to declare and prevent and summarily to abate nuisances; to preserve and enforce the good government and general welfare, order and security of such city, and shall have all powers necessary for its government not in conflict with the laws applicable to all cities of this State or the provisions of the Constitution. *Provided, however,* that no ordinance increasing the net bonded indebtedness of the city to a sum in excess of ten per centum of the assessed valuation of all property within said city shall be valid unless the same shall be

Proviso;
limit to
bonded in-
debtedness.

first submitted, by a special election, to the voters of the city and receive the approval of a majority of the voters actually voting at such election.

All ordinances or resolutions heretofore passed in any such cities, not inconsistent with the rights and powers herein granted shall remain in full force and effect until altered or repealed by the commissioners in the manner herein provided.

Former
legislation
effective.

CONTROL OF CANDIDATES.

9. All officers and employes in any such city shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without reference to their political faith or party affiliations. It shall be unlawful for any candidate for office, or any officer in any such city, directly or indirectly to give or promise any person or persons any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person or persons under the penalty of being disqualified to hold the office to which he may have been elected or appointed.

Qualifica-
tions sole
test.

No reward
to be
promised.

Every elective officer in any such city shall, within ten days after qualifying, file with the city clerk, and publish at least once in a newspaper printed and published in such city, and if no newspaper is printed or published in such city, then in a newspaper of general circulation in such city, his sworn statement of all his election and campaign expenses, and by whom such funds were contributed. Any violation of the provisions of this section shall be a misdemeanor and a ground for removal from office.

Election
expenses
to be
published.

PUBLISH FINANCIAL STATEMENTS.

10. The board of commissioners shall each month publish in at least one newspaper in such city, or print in pamphlet form, a detailed itemized statement of all the receipts and expenses of the city and a summary of its proceedings during the preceding month, and shall file and furnish printed copies thereof to all persons

Itemized
statements
published
monthly.

Annual audit.

who shall apply therefor at the office of the city clerk. At the end of each year the board of commissioners shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of this examination in the manner above provided for the publication of monthly expenditures.

CONTROL OF APPROPRIATIONS.

Charge and revision of expenditures.

11. If, at the beginning of the term of office of the first board of commissioners elected in such city under the provisions of this act, the appropriations for the expenditures of the city government for the then current fiscal year have been made, the said board of commissioners shall have power, by ordinance, to revise, repeal or change such appropriations and to make additional appropriations.

PUBLIC INSTRUCTION EXEMPTED.

Schools not affected.

12. The system of public instruction in any city adopting the provisions of this act shall in no way be affected by this act.

RETURN REQUIREMENT.

Primary for commissioners.

13. In every such city there shall be held a primary election for nominations for commissioners to be elected under the provisions of this act, and the first primary election for such nominations shall be held on the fourth Tuesday following the election at which the voters shall have voted to adopt the provisions of this act, and thereafter the primary election for such nominations shall be held on the second Tuesday in April in the fourth succeeding year and on the second Tuesday in April in the fourth year thereafter.

Conduction of election.

The election officers conducting the last general annual election shall be the officers of the primary election as well as the officers of the general municipal election, and the primary and municipal elections shall be held at the same places and conducted in the same manner so far as possible, and the polls shall be opened

and closed at the same hours as provided by the general primary and election laws.

The names of candidates for commissioners shall, at least ten days prior to the primary election, be filed with the city clerk in the manner and form and under the conditions hereafter set forth, and the petition of nominations shall consist of individual certificates equal in number to at least one-half of one per centum of the entire vote at the last preceding general election, but in no event less than twenty-five, and said petition shall read substantially as follows:

Petitions for commissioners.

PETITION OF NOMINATION.

I, the undersigned, a qualified elector of the city of, residing atcertify that I do hereby join in a petition for the nomination of, whose residence is at for the office of commissioner, to be voted for at the primary election to be held in such city on the....., 19.., and I further certify that I know this candidate to be a qualified elector of said city and a man of good moral character, and qualified in my judgment for the duties of such office, and I further certify that I have not signed more petitions or certificates of nominations than there are places to be filled in the above office.

Form of petition.

(Signed)

Being duly sworn, deposes and says that he is the person that signed the foregoing certificate; that the statements contained therein are true and correct.

(Signed)

Subscribed and sworn to before me.....

It shall be the duty of the city clerk to furnish upon application a reasonable number of forms of individual certificates of the above character.

Each certificate must be a separate paper and must contain the name of but one signer thereto, and no more, and shall contain the name of but one candidate, and no more. Each signer must not, at the time of signing the certificate, have signed more certificates for

Separate certificate for each signer and candidate.

candidates for that office than there are places to be filled in such office, and in case an elector has signed two or more conflicting certificates, all such certificates shall be rejected.

Petitions examined before filing.

When such a petition of nomination is presented for file to the city clerk, he shall forthwith examine the same and ascertain whether it conforms to the provisions of this section, and if not found in conformity thereto, he shall designate the defect and return the petition to the person signing it, which may again be presented when properly amended.

List of candidates published.

Immediately upon the expiration of the time of filing certificates, statements and petitions for candidates, the said clerk shall cause to be published for three successive days in all the daily newspapers published in such city, in proper form, the names of the persons as they are to appear upon the primary ballots, and if there be no daily newspapers, then in two issues of any other newspapers that may be published in said city; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot arranged in alphabetical order shall appear the names of the candidates for commissioners with a square at the left of each name, and below the names of such candidates in cities of ten thousand or over shall appear the words "Vote for five," and in cities of less than ten thousand population shall appear the words "Vote for three." The ballots shall be printed upon plain, substantial white paper, and shall be headed:

Arrangement of names.

No party designation.

Candidates for Nomination for Commissioners of City at the Primary Election, but shall have no party designation indicative of the source of the candidacy or of the support of any candidate or mark whatever. The ballots shall be substantially the following form:

Form of ballots to be used at primary election.

(Place a cross in the square preceding the names of the persons you favor as candidates for the respective positions.)

OFFICIAL PRIMARY BALLOT.

Candidates for Nomination for Commissioners of City at the Primary Election.



For Commissioner (Name of Candidate)

(Vote for (give number)

Official ballot attest

(Signature City Clerk.

Having caused said ballot to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general election. The persons who are qualified to vote at the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges made at a general municipal election shall be applicable to challenges at such primary election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the city clerk, upon proper blanks, to be furnished by the said clerk, within six hours of the closing of the polls. On the day following the said primary election the said city clerk shall canvass said returns so received from all the polling precincts, and shall immediately make and file in the office of the city clerk the result thereof. Said canvass by the city clerk shall be publicly made.

Delivery of ballots.

Voters.

Count and returns.

Returns canvassed.

MUNICIPAL ELECTION.

14. And in every city of ten thousand population or more, five commissioners, and in cities of less than ten thousand population three commissioners, shall be elected, at an election to be held on the fourth Tuesday following the primary election, following the election at which the voters shall have voted to adopt the pro-

Municipal election.

Number of candidates.

visions of this act, and on the second Tuesday in May in each fourth year thereafter. The number of candidates equal to twice the number of places to be filled, receiving the highest number of votes at the primary election, shall be the candidates, and the only candidates whose names shall be placed upon the ballot at the succeeding municipal election, and the number of candidates equal to twice the number of places to be filled, receiving the highest number of votes for commissioners, or all such candidates, if less than twice the number of places to be filled, shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for commissioners at such municipal election, and the ballot at such primary election shall be in the same general form as for said primary election so far as possible, and at all elections in such city the election precincts, voting places, methods of conducting election, canvassing the votes and announcing the results, shall be the same as herein provided for the selection of candidates at the primary election, and the number of candidates equal to the number of places to be filled receiving the highest number of votes shall be elected as commissioners as herein provided.

Election, how conducted.

RECALL.

Removal from elective office.

15. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by the electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five per cent. of the entire vote at the last preceding general election demanding an election of a successor of the person sought to be removed, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought.

Twenty-five per cent. of voters to petition.

Reasons given.

Signatures.

The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall

make an oath before an officer competent to administer oaths that the statement therein made is true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city clerk shall examine, ascertain whether or not said petition is signed by the requisite number of qualified electors, and he shall attach to said petition his certificate, showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate.

Examination of petitions.

The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if this certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the board of commissioners without delay.

Further examination and action taken.

If the petition shall be found to be sufficient the board of commissioners shall, if the officer sought to be removed shall not resign within five days after the date on the clerk's certificate, order and fix a date for holding the said election, not less than thirty days or more than forty days from the date on the clerk's certificate to the board of commissioners that a sufficient petition is filed.

Ordering election to recall officer.

The board of commissioners shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent re-

Conduction of election.

Successor and term.

Incumbent may be candidate.

ceives the highest number of votes the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the person who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The same method of removal shall be cumulative and additional to the methods heretofore provided by law. No person who has been recalled from an elective office, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one year after such recall or resignation.

No recall petition shall be filed against any officer until he has actually held his office for at least twelve months, and but one recall petition shall be filed against the same officer during his term of office.

Failure to qualify.

Incumbent may continue.

Recalled officer ineligible for a year.

Only one recall after a year.

INITIATIVE.

Voters may submit ordinance.

Request for submission.

Conditions.

Pass ordinance;

or submit to people.

16. Any proposed ordinance may be submitted to the board of commissioners by petition signed by electors of the city equal in number to the percentage herein-after required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petitions under the last section.

If the petition accompanying the proposed ordinance be signed by electors equal in number to fifteen per centum of the votes cast at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people if not passed by the board of commissioners, such board of commissioners shall either—

(a) Pass said ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition, or.

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the board of commissioners shall call a special election, unless a general municipal election is

fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of the city.

But if the petition is signed by not less than ten nor more than fifteen per centum of the electors, as above defined, then the board of commissioners shall, within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballots used when voting upon said ordinance shall contain these words: "For the ordinance" (stating the nature of the proposed ordinance) and "Against the ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The board of commissioners may submit a proposition for the repeal of any such ordinance or for amendment thereto, to be voted upon at any succeeding general city election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in at least one of the newspapers published in said city; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

Board to pass or submit ordinance.

Ballots.

Result.

As to repeal of such ordinances.

Several ordinances may be voted upon.

Proposition for repeal of ordinances.

Publication of proposed ordinances.

REFERENDUM.

Ordinances
in effect ten
days after
passage.

Protest
against
ordinance
to suspend
its opera-
tion.

Recon-
sideration.

Submission
to voters.

Petition,
considera-
tion, etc.

Board may
submit
ordinances
to electors.

Other
questions
may be
submitted.

17. No ordinance passed by the board of commissioners, except when otherwise required by the general laws of the State or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency and is passed by a two-thirds vote of the board of commissioners, shall go into effect before ten days from the time of its final passage; and if during said ten days a petition signed by electors of the city equal in number to at least fifteen per centum of the entire vote cast at the last preceding general municipal election, protesting against the passage of such ordinance, be presented to the board of commissioners, the same shall thereupon be suspended from going into operation, and it shall be the duty of the board of commissioners to reconsider such ordinance; and if the same is not entirely repealed, the board of commissioners shall submit the ordinance, as is provided by sub-section b of section sixteen of this act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section sixteen, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided. Any ordinance or measure that the board of commissioners or the qualified electors of the city shall have authority to enact, the board of commissioners may of its own motion submit to the electors for adoption or rejection at a general or special municipal election, in the same manner and with the same force and effect as is provided in this act for ordinances or measures submitted on petition. At any special election called under the provisions of this act, there shall be no bar to the submission of other questions to a vote of the electors in addition to the ordinances or measures herein provided for, if said other questions

are such as may legally be submitted to such election. If the provisions of two or more measures approved or adopted at the same election conflict, then the measure receiving the highest affirmative vote shall control.

ADOPTION REQUIREMENTS.

18. This act shall take effect immediately, but its provisions shall remain inoperative in any city of this State until assented to by a majority of the legal voters thereof voting at an election to be held in such city, which election shall be called by the city clerk upon the request or petition in writing of twenty per centum of the legal voters voting at the last general election. Upon such petition or request in writing being filed with the city clerk, the said city clerk shall forthwith call an election to be held on the third Tuesday following the date of the filing of such petition with him, and shall cause public notice of the time and place of holding the same to be given by advertisement signed by himself and set up in at least twenty different places in such cities and published in at least one newspaper printed and published in such city, and if no newspaper is printed or published in such city, then in a newspaper circulated therein, for at least six days previous to the time of such election; and said city clerk shall provide ballots for each voter at such election, to be printed upon plain, substantial white paper, which shall contain these words:

"For the adoption or the rejection by the city of (here name of city) of the provisions of an act of one thousand nine hundred and eleven, entitled 'An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State.'" Upon said ballots shall appear the phrase "For the adoption," and the phrase "Against the adoption," with a square at the left of each phrase, and below shall appear the words "Vote for or against"; "Place a cross in one square."

Such election shall be held at the usual places of holding the annual election in such city. The polls shall remain open during the usual hours, and every

Refer-
endum.

Petition of
voters.

Notice of
special
election.

Ballots.

Wording.

Election,
how con-
ducted.

such election shall be conducted by the same election officers for the time being in the manner prescribed by law regulating elections, and such officers shall report to the city clerk of such city a true and correct statement in writing under their hands of the results of such election, and it shall be the duty of the city clerk to certify and report the same to the city council, or other legislative body, of such city or municipality, at its first meeting thereafter, and the same shall be entered at large in the minutes of said body. Whereupon, if it is found that the majority of the votes cast are in favor of the adoption of this act, this act shall in all respects become and be operative in such city, and binding upon the inhabitants thereof and upon all persons and property to be affected thereby; *provided, however,* that the votes cast in favor of the adoption of this act is equal to at least thirty per centum of the votes cast for members of the General Assembly at the last general election immediately preceding the submission of this act as aforesaid; and, immediately after the election and organization of the board of commissioners provided herein, it shall abrogate, repeal and annul all acts or parts of acts then existing, whether general or special, in anywise affecting the government of such cities which are contrary to or inconsistent with the provisions of this act; *provided, however,* that this act shall not abrogate, repeal or annul an act entitled "An act concerning district courts (Revision of 1898), approved June fourteenth, one thousand nine hundred and eight," or any supplement thereof or amendment thereto.

Majority
vote
binding.

Proviso.
Favoring
vote of
thirty per
cent.
necessary.

Effect of
adoption.

Proviso.

If vote
adverse,
when fur-
ther action
may be
taken.

If a majority of the votes cast are not in favor of the adoption of this act, then the provisions of this act shall remain inoperative and no further proceedings shall be taken until after the beginning of the last year of the term of the mayor, or equivalent officer, elected at the election following the rejection of this act, after which date, upon the presentation of another petition or request, as provided for herein, the same procedure shall be had and the question of the adoption or rejection of the provisions of this act again submitted in the

manner herein set forth, and with the same force and effect.

REVERSION TO THE CHARTER.

19. Any city which shall have operated for more than six years under the provisions of this act may abandon such organization hereunder and may resume its charter by proceeding as follows:

After six
years city
may resume
charter.

Upon the petition of not less than twenty-five per centum of the electors of such city, a special election shall be called at which the following proposition shall be submitted: "Shall the city of (name of city) abandon its organization under the provisions of an act of one thousand nine hundred and eleven, entitled 'An act relating to, regulating and providing for the government of cities within this State,' and resume or adopt a charter under another act?"

By petition.

Question to
be sub-
mitted.

If a majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding regular municipal election shall be those prescribed by the charter, and upon the qualification of such officers such city shall become a city under the charter, but such change shall not in any manner or degree affect the property, right or liability of any nature of such city, but shall merely extend to such change in its form of government.

Return to
charter if
majority so
decide.

Effect of
change.

The sufficiency of such petition shall be determined, the election ordered and conducted and the results declared generally as provided by Article IV of this act in so far as the provisions thereof are applicable.

Procedure
by Article
IV.

20. If any proviso, clause or section of this act shall be attacked in any court and shall be declared invalid or unconstitutional, the rest of this act shall stand, and the proviso, clause or section declared invalid or unconstitutional shall be excised from this act.

As to con-
stitution-
ality of
sections.

Approved April 25, 1911.

12 bers of the board of commissioners shall constitute a quorum and the affirmative
13 vote of a majority of all the members shall be necessary to adopt any motion, reso-
14 lution or ordinance, or pass any measure unless otherwise provided for in this act.
15 Every resolution or ordinance shall be reduced to writing and read before the
16 vote is taken thereon, and the vote upon every motion, resolution or ordinance shall
17 be taken by yeas and nays and entered in the minutes [.] ; and the minutes of each
18 meeting so recorded shall be signed by a majority of all the commissioners and
19 the city clerk. At the first meeting after their election, the said commissioners shall
20 choose one of their number to preside at all meetings of the board of commissioners
21 and he shall be designated "Mayor". The mayor shall have no power to veto any
22 measure, but every [resolution or] ordinance passed by the board of commissioners
23 shall be recorded and signed in the book in which it is recorded by a majority of all
24 the commissioners before it shall be in force.

25 After its final adoption, each ordinance shall be published once, in a newspaper
26 published and circulating in the city, if such there be, or, if there be no such news-
27 paper, then in a newspaper published in the county and circulating in the city, and
28 no publication of any ordinance or resolution, either before or after its final adop-
29 tion, shall be necessary to make the same effective, except as provided in this act.
30 When any ordinance or resolution is required to be published by any of the provi-
31 sions of this act, such publication shall include the names of the commissioners who
32 signed such ordinance or resolution.

STATEMENT.

This bill changes the present law only as to the duplicate recording of motions and resolutions in a resolution book of the proceedings of the board of commissioners in commission government cities.

How a commissioner votes upon a motion or resolution is shown with just as much certainty.

This bill does not change the law regarding ordinances.

Every motion, resolution, and ordinance, according to the present commission government law, must be recorded and signed separately, in the record book, by a majority of the commissioners. This is a duplication of records, which is not only a waste of the commissioners' time in signing the same motion or resolution twice in different record books, but it entails the extra expense of stationery, and of recording twice, and the unnecessary waste of vault filing space.

This amendment removes no safeguard in the present law, but simplifies the present complicated recording system.

8 completion of the count of such ballots, upon proper blanks to be furnished
9 by the said clerk. In counties of the first class one of said returns shall be
10 made available immediately to the superintendent of elections. The super-
11 intendent may arrange to accept such statement of returns in each munici-
12 pality within the county at the office of the clerk of such municipality or
13 some other convenient place. Any municipal clerk who shall refuse to permit
14 such superintendent or his deputies or assistants access to his office for the
15 purpose of collecting such statement of returns or any municipal clerk or
16 other person who shall interfere or obstruct the superintendent, his deputies
17 or assistants in the collection of such statement of returns, or any member
18 of a district board who shall willfully fail or refuse to deliver such state-
19 ment to the superintendent, his deputies or assistants as the case may be,
20 shall be guilty of a misdemeanor. On the day following the municipal elec-
21 tion, the city clerk shall canvass said returns so received from all the elec-
22 tion districts, and immediately make and file in his office the result thereof.
23 Said canvass by the city clerk shall be publicly made.

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to amend the sections of the Commission Form of Government Law, which relates to the qualifications of the members of the commission and to the qualifications of signers of recall petitions, so as to make it conform with the provisions of Article II, paragraph 1, and Article IV, section III, of the new Constitution.

This bill was drafted by the Law Revision and Bill Drafting Commission under the direction of the Senate and General Assembly Committees on Law Revision.