

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:69A-63

(Mayors--certain
cities--clarify
appointing
authority)

LAWS OF: 1989

CHAPTER: 258

Bill No: S402

Sponsor(s): Lynch

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: December 11, 1989

Senate: June 2, 1988

Date of Approval: January 4, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator LYNCH

1 AN ACT concerning the appointing powers of mayors in certain
2 municipalities and amending and supplementing¹ P.L. 1950,
3 c. 210.

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

7 1. Section 3-13 of P.L. 1950, c. 210 (C. 40:69A-43) is
8 amended to read as follows:

9 3-13. (a) The municipality shall have a department of
10 administration and such other departments, not less than two
11 and not exceeding nine in number, as council may establish by
12 ordinance. All of the administrative functions, powers and
13 duties of the municipality, other than those vested in the offices
14 of the municipal clerk and the municipal tax assessor, shall be
15 allocated and assigned among and within such departments.

16 The offices of the municipal clerk and the municipal tax
17 assessor shall be subject to such general administrative
18 procedures and requirements as are departments of the
19 municipal government, including, but not limited to, the
20 preparation and submission of an annual budget and of such
21 periodic budget reports as are generally required of
22 departments, and such accounting controls, central purchasing
23 practices, personnel procedures and regulations, and central
24 data processing services as are generally required of
25 departments.

26 (b) Each department shall be headed by a director, who shall
27 be appointed by the mayor with the advice and consent of the
28 council. Each department head shall serve during the term of
29 office of the mayor appointing him, and until the appointment
30 and qualification of his successor. The mayor shall, with the
31 advice and consent of the council, appoint the municipal
32 assessor and all other municipal officers not assigned within
33 municipal departments, subject to the terms of any general law

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SCM committee amendments adopted February 18, 1988.

1 providing for these offices, unless a different appointment
2 procedure is clearly required by this plan of government or by
3 general law.

4 (c) The mayor may in his discretion remove any department
5 head and, subject to any general provisions of law concerning
6 term of office or tenure, any other municipal executive officer
7 who is not a subordinate departmental officer or employee,
8 after notice and an opportunity to be heard. Prior to removal
9 the mayor shall first file written notice of his intention with the
10 council, and such removal shall become effective on the
11 twentieth day after the filing of such notice unless the council
12 shall prior thereto have adopted a resolution by a two-thirds
13 vote of the whole number of the council, disapproving the
14 removal.

15 (d) Department heads shall appoint subordinate officers and
16 employees within their respective departments and may, with
17 approval of the mayor, remove such officers and employees,
18 subject to the provisions of Title 11A of the New Jersey
19 Statutes, where that Title is effective in the municipality, or
20 other general law.

21 (e) Notwithstanding the foregoing provisions of this section, in
22 any city of the first class, there shall be, and in any municipality
23 having a population of 15,000 or more, there may be, a board of
24 alcoholic beverage control which shall exercise the powers
25 conferred upon municipal boards of alcoholic beverage control
26 under Title 33 of the Revised Statutes. Such boards shall be
27 comprised of three members, no more than two of whom shall be
28 of the same political party, who shall be appointed by the
29 mayor, with the advice and consent of the council, each to serve
30 for a term of three years, provided that of those first appointed,
31 one shall be appointed to serve for a term of one year, one for
32 two years, and one for three years. Any vacancy in such office
33 shall be filled in the same manner as the original appointment,
34 for the balance of the unexpired term. Except in cities of the
35 first class the members of such board shall serve without
36 compensation but may be reimbursed for necessary expenses
37 incurred in the performance of their duties; in cities of the first
38 class, the members of such board shall receive such
39 compensation as shall be established by ordinance of the
40 municipality. They shall be removable by the mayor for cause.

1 Any person appointed hereunder shall not be subject to the
 2 provisions of Title 11A of the New Jersey Statutes, and no such
 3 person shall be a member of the city council.

4 Nothing in this subsection shall be construed to limit the
 5 general power of the municipal council under this act to
 6 establish, alter and abolish offices, boards and commissions in
 7 any municipality other than a city of the first class.

8 (f) Whenever in any ¹[city] municipality¹ with a population
 9 greater than 100,000, according to the latest federal decennial
 10 census, the governing body is authorized by any provision of
 11 general law to appoint the members of any board, authority or
 12 commission, such power of appointment shall be deemed to vest
 13 in the mayor with the advice and consent of the council. In all
 14 other municipalities, whenever the governing body is authorized
 15 by any provision of general law to appoint the members of any
 16 board, authority or commission, such power of appointment shall
 17 be deemed to vest in the mayor with the advice and consent of
 18 the council, unless the specific terms of that general law clearly
 19 require a different appointment procedure or appointment by
 20 resolution, in which case the appointment shall be by the council.
 21 (cf: P.L. 1985, c. 374, s. 6)

22 ¹2. (New section) The term of any appointment made
 23 subsequent to November 26, 1985 by the governing body of any
 24 city of the first class shall expire 30 days after the effective
 25 date of this act if the provisions of subsection (f) of section 3-13
 26 of P.L. 1950, c. 210 (C. 40:69A-43) would otherwise have
 27 granted the power of appointment to the mayor with the advice
 28 and consent of the council prior to the effective date of P.L.
 29 1985, c. 374.¹

30 ¹[2.] ¹3.¹ This act shall take effect immediately ¹[and shall be
 31 retroactive to November 26, 1985]¹.

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MUNICIPALITIES

34

Municipal Officers and Employees

36

37 Clarifies the appointing authority of mayors in cities with a
 population in excess of 100,000.

1 Any person appointed hereunder shall not be subject to the
provision of Title 11 of the Revised Statutes, Civil Service, and
3 no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the
5 general power of the municipal council under this act to
establish, alter and abolish offices, boards and commissions in
7 any municipality other than a city of the first class.

(f) Whenever in any city [of the first class] with a population
9 greater than 100,000, according to the latest federal decennial
general law to appoint the members of any board, authority or
11 commission, such power of appointment shall be deemed to vest
13 in the mayor with the advice and consent of the council. In all
other municipalities, whenever the governing body is authorized
15 by any provision of general law to appoint the members of any
board, authority or commission, such power of appointment shall
17 be deemed to vest in the mayor with the advice and consent of
the council, unless the specific terms of that general law clearly
19 require a different appointment procedure[,] or appointment by
resolution, in which case the appointment shall be by the council.

21 2. This act shall take effect immediately and shall be
retroactive to November 26, 1985.

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STATEMENT

27 This bill restores the language concerning the appointive
power of mayors of cities of the first class to what it was prior
29 to the amendment enacted by P.L. 1985, c. 374, and gives that
same appointive power to mayors of cities with a population of
31 over 100,000. That amendment broadened the language
conferring certain appointment powers on mayors of cities of
33 the first class so as to include the mayors of all municipalities
operating under the Faulkner act. It also qualified the
35 appointive power by adding the following language: "unless the
specific terms of that general law clearly require a different
37 appointment procedure, or appointment by resolution in which
case the appointment shall be by the council." The sponsors feel
39 that this language places a restriction on the appointive powers

1 of the mayor in a city of the first class which was not intended
by the original act. This bill clarifies that it was not the intent
3 of the Legislature in enacting the P.L. 1985, c. 374 amendment
to change the powers of appointment possessed by the mayor of
5 a city of the first class prior to the enactment of the
amendment.

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MUNICIPALITIES

Municipal Officers and Employees

11

Clarifies the appointing authority of mayors in cities with a
13 population in excess of 100,000.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 402

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Senate County and Municipal Government Committee reports favorably and with committee amendments Senate Bill No. 402.

Senate Bill No. 402, as amended by the Committee, clarifies the authority of mayors in cities with populations of over 100,000 with regard to the appointment of the members of certain boards, authorities and commissions.

Under the provisions of section 3-13 of P.L. 1950, c. 210 (C. 40:69A-43), as amended by P.L. 1985, c. 374, any governing body's appointment of any member of a board, authority or commission is deemed to vest in the mayor, with the advice and consent of the council, unless the specific terms of general law clearly require a different appointment procedure. Prior to the 1985 amendment, this section provided that in cities of the first class, these appointments should be by the mayor, with the advice and consent of the council and did not include any provision to take account of a different appointment procedure in general law.

Senate Bill No. 402 Sca restores to cities with populations of over 100,000 the mayoral appointment power, without deference to alternative provisions of general law, which was accorded to cities of the first class prior to the enactment of P.L. 1985, c. 374.

The Committee amended the bill to clarify that any governing body appointments made after the effective date of P.L. 1985, c. 374 (i.e., November 26, 1985) would expire 30 days after the effective date of this act if they would otherwise have been mayoral appointments prior to November 26, 1985. This provision would only apply to cities of the first class.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 402

STATE OF NEW JERSEY

DATED: APRIL 27, 1989

The Assembly Municipal Government Committee favorably reports Senate Bill No. 402 [1R].

Senate Bill No. 402 [1R], clarifies the authority of mayors in cities with populations of over 100,000 with regard to the appointment of the members of certain boards, authorities and commissions.

Under the provisions of section 3-13 of P.L.1950, c.210 (C.40:69A-43), as amended by P.L.1985, c.374, any governing body's appointment of any member of a board, authority or commission is deemed to vest in the mayor, with the advice and consent of the council, unless the specific terms of general law clearly require a different appointment procedure. Prior to the 1985 amendment, this section provided that in cities of the first class, these appointments should be by the mayor, with the advice and consent of the council and did not include any provision to take account of a different appointment procedure in general law.

Senate Bill No. 402 [1R] restores to cities with populations of over 100,000 the mayoral appointment power, without deference to alternative provisions of general law, which was accorded to cities of the first class prior to the enactment of P.L.1985, c.374.

Further, Senate Bill No. 402 [1R] clarifies that any governing body appointments made after the effective date of P.L.1985, c.374 (i.e., November 26, 1985) would expire 30 days after the effective date of this act if they would otherwise have been mayoral appointments prior to November 26, 1985. This provision would only apply to cities of the first class.

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S-2387, sponsored by Senator Christopher Jackman, D-Hudson. The bill allows qualified corporations to act as fiscal agents and transfer agents.

S-1980, sponsored by Senator Raymond Lesniak, D-Union. The bill clarifies the law that permits nonprofit corporations to provide certain immunity from liability to trustees and officers.

S-402, sponsored by Senator John Lynch, D-Middlesex. The bill permits the mayors of Newark, Jersey City, Paterson and Elizabeth to appoint members of boards, authorities or commissions with the advise and consent of the governing body.

The bills are effective immediately unless otherwise noted.

The Governor also exercised his line-item veto on the following measures, which become law except for their vetoed portions:

S-2035/A-2678, sponsored by Senator Donald DiFrancesco, R-Union, and Assemblywoman Stephanie Bush, D-Essex. The bill provides that any employee in the state with newly born or adopted children or seriously ill family members shall be entitled to a family leave of 12 weeks in any 24-month period with job security and employment benefits guaranteed.

Citing concerns about the state's finances, the Governor vetoed a provision in the bill appropriating \$60,000 to the state Division on Civil Rights to effectuate the law.

S-2881, 2906, sponsored by Senators Walter Rand and Daniel Dalton, both D-Camden, Senator Lawrence Weiss, D-Middlesex, and C. Louis Bassano, R-Union. The bill establishes safety standards for retail gasoline stations and prohibits self-service pumping of gasoline.

Citing concerns about the state's finances, the Governor vetoed a provision appropriating \$95,0000 to the state Department of Labor to enforce the ban.

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