

40:69A-98

LEGISLATIVE HISTORY CHECKLIST

NJSA 40:69A-98 (Board of School estimate in a council - manager government)

LAWS 1981 CHAPTER 68

Bill No. A3021

Sponsor(s) Fortunato

Date Introduced Jan. 22, 1981

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage Yes No Substituted for S3130 (not attached since identical to A3021)

Date of Passage: Assembly Feb. 23, 1981

Senate Feb. 26, 1981

Date of approval March 18, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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SEP 1981

ASSEMBLY, No. 3021

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1981

By Assemblyman FORTUNATO

Referred to Committee on Municipal Government

AN ACT to amend the "Optional Municipal Charter Law," approved June 8, 1950 (P. L. 1950, c. 210).

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

1 1. Section 9-18 of P. L. 1950, c. 210 (C. 40:69A-98) is amended
2 to read as follows:

3 9-18. Any provision of general law conferring the appointing
4 power or other power upon the mayor or other executive head of
5 the municipality shall be construed as meaning the municipal man-
6 ager in a municipality governed under this article, and the appoint-
7 ments or the power exercised by the municipal manager in accord-
8 ance with such provision shall be classified and given the same
9 force and effect as if executed by the official named therein, except
10 that members of the board of education and of the trustees of the
11 public library, whenever required to be appointed by any such
12 provision by any board or official of the municipality, shall be
13 appointed under this article by the mayor, *and except that the*
14 *mayor shall serve as the fifth member of the board of school esti-*
15 *mate pursuant to N. J. S. 18A:22-1.*

1 2. This act shall take effect immediately.

STATEMENT

This bill is designed to correct an anomaly in the law relating to boards of school estimate as it applies to municipalities having (1) a "Type I" school board, with appointed members, and (2) a "Council-Manager Plan" of municipal government under the "Optional Municipal Charter Law" (P. L. 1950, c. 210).

There is at present only one such municipality, the Town of Montclair, which inaugurated its council-manager government on July 1 last. This bill is based on Montclair's experience, and embodies the recommendation of that municipality's Mayor, Council and Town Manager.

In the Type I school district, budgets formulated by the board of education are not submitted to the voters, but are subject to review and adjustment by a board of school estimate consisting of two school board members, two members of the municipal governing body, and the "mayor or other chief executive officer of the municipality." Where—as in all other municipalities similarly situated—the "chief executive" is the mayor, this arrangement assures that the estimate board will have a majority of members who are elected officials, thus assuring a preponderant voice to the direct representatives of the people.

In the case that has arisen in Montclair, however, it appears that when section 9-18 of the "Optional Municipal Charter Law" (set forth, with proposed amendment, in section 1 of this bill) is read together with that section of the school law (N. J. S. 18A:22-1) that requires the odd number of the estimate board to be the municipal "chief executive", it is legally required that the position go to the town manager, who is an appointed professional administrator, rather than to the mayor; and Montclair has been so advised by competent legal counsel.

It is the view of Montclair officials, and the premise of this bill, that the ex-officio role of fifth member on the estimate board should be secured for the mayor of the municipality; and the amendment incorporated in this bill would do so.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MARCH 19, 1981

PATRICK SWEENEY

A-3021

Governor Brendan Byrne has signed A-3201, sponsored by Assemblyman Buddy Fortunato (D-Essex), which provides that the mayor shall serve ex-officio as a member of the Board of School Estimate in a Council-Manager form of government. The bill alters the Board's composition, so most of the members are elected, rather than appointed. Montclair is the only municipality in the state to be affected by this bill.

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