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[Second Reprint]

ASSEMBLY, No. 351

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

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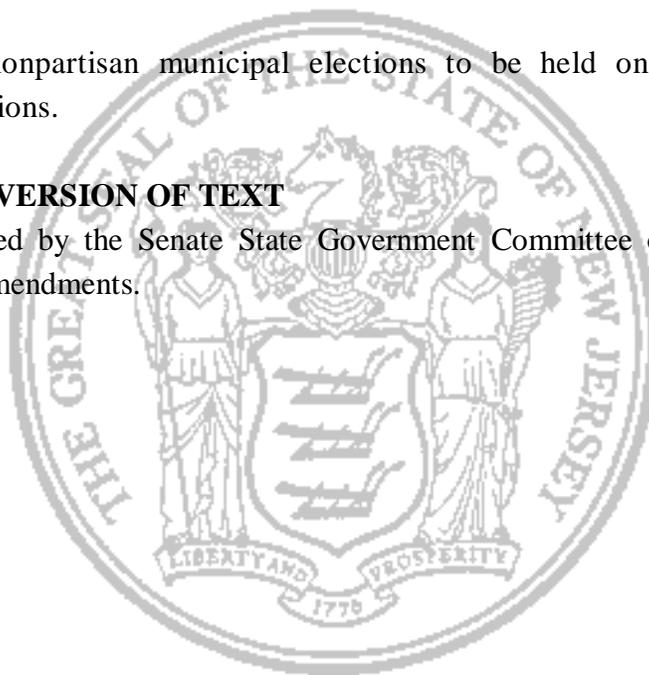
**Assemblymen Conners, Conaway, Cohen, Assemblywoman Wagner,
Assemblymen Cryan, Senators Buono, Sarlo, Baroni and Scutari**

SYNOPSIS

Permits nonpartisan municipal elections to be held on same day as general elections.

CURRENT VERSION OF TEXT

As reported by the Senate State Government Committee on February 2, 2009, with amendments.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning nonpartisan municipal elections, amending
2 various parts of the statutory law, and supplementing P.L.1981,
3 c.379 (C.40:45-5 et seq.) ²and Title 19 of the Revised Statutes².

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ²[1. (New section) Any municipality governed by the provisions
9 of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379
10 (C.40:45-5 et seq.) ¹with a population between 17,500 and 26,000
11 in a county of the second class or a population of 10,000 or fewer in
12 any county, according to the latest federal decennial census for New
13 Jersey,¹ may, by ordinance, choose to hold regular municipal
14 elections on the Tuesday after the first Monday in November. ¹The
15 term of a person in office on the date of the adoption of such an
16 ordinance shall be extended until the beginning of the term of the
17 person elected to that office on the appropriate Tuesday after the
18 first Monday in November.¹]²

19
20 ²[2. Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to
21 read as follows:

22 2. This act shall govern all municipalities having adopted a plan
23 or form of government, or a charter, which provides for the election
24 of municipal officers at regular municipal elections held on the
25 second Tuesday in May, or the Tuesday after the first Monday in
26 November, as chosen by the municipality, including municipalities
27 holding regular municipal elections under the "Optional Municipal
28 Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), under the
29 "commission form of government law" (R.S.40:70-1 et seq.), under
30 the "municipal manager form of government law" N.J.S.40A:63-8,
31 under the "village form of government" (R.S.40:157-16 et seq.), or
32 under any plan or form of government, or charter, hereafter
33 authorized which provides for the holding of regular municipal
34 elections at that time. This act shall govern these municipalities
35 only with respect to the time, manner and method of election of
36 municipal officers. The officers to be elected, and their number, the
37 length of their terms of office, and their powers and responsibilities
38 shall be determined by the laws authorizing the plan or form of
39 government, or charter, which the municipalities have adopted.
40 (cf: P.L.1995, c.97. s.1)]²

41
42 ²[3. Section 3 of P.L.1981, c.379 (C.40:45-7) is amended to
43 read as follows:

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:

¹Assembly ASG committee amendments adopted May 22, 2008.

²Senate SSG committee amendments adopted February 2, 2009.

1 3. Except as may otherwise be provided by law for initial
2 elections conducted in a municipality following its adoption of a
3 plan or form of government, or a charter or an amendment thereto,
4 regular municipal elections shall be held in each municipality
5 governed by this act on the second Tuesday in May or the Tuesday
6 after the first Monday in November, as chosen by the municipality,
7 in the years in which municipal officers are to be elected. The
8 municipal election shall be held at the same place or places and
9 conducted in the same manner, so far as possible, as the general
10 election. The election officers shall be those provided for
11 conducting the general election.

12 (cf: P.L.1981, c.379, s.3)]²

13

14 ²[4. Section 11 of P.L.1981, c.379 (C.40:45-15) is amended to
15 read as follows:

16 11. **[The]** In the case of a regular municipal election occurring
17 on the second Tuesday in May, the municipal clerk shall cause the
18 ballots to be printed and authenticated by **[his]** the clerk's
19 signature. Upon the ballots shall be printed the title of each office
20 to be filled. Under each of the titles of office shall be printed the
21 names of the candidates for each office with a square to the left of
22 each name. Below the names of the candidates for each office the
23 words "vote for (insert number of positions to be filled at the
24 election)." The ballot shall be printed upon plain, substantial white
25 paper, and shall be substantially in the following form:

26 "Municipal election of (insert name of municipality), county of
27 (insert name of county), held (insert the date of the election). To
28 vote for any person make a cross (x) or plus (+) or a check (X)
29 mark in the square preceding the name. Vote for only as many
30 persons as there are officers to be elected. If you wrongly mark the
31 ballot, tear or deface it and return it to election officer and obtain a
32 new ballot."

33 Blank spaces equal to the number of offices to be filled shall be
34 left below the printed names of the candidates for each office to be
35 voted, wherein the voter may write the name or names of any
36 person or persons for whom he or she may wish to vote.

37 The municipal clerk shall deliver ballots to the election officials
38 at each polling place equal in number to 110% of the number of
39 registered voters in each election district, except that where voting
40 machines are used ballots shall be furnished as otherwise provided
41 by law.

42 In the case of a regular municipal election occurring on the
43 Tuesday after the first Monday in November, ballots shall be
44 furnished as otherwise provided by law.

45 (cf: P.L.1981, c.379, s.11)]²

46

47 ²[5. Section 150 of P.L.1950, c.210 (C.40:69A-150) is amended

1 to read as follows:

2 150. Regular municipal elections shall be held in each
3 municipality on the second Tuesday in May, or on the Tuesday
4 after the first Monday in November, in the years in which municipal
5 officers are to be elected, where the election of such officers is
6 **[not provided to be at the general election. Regular municipal**
7 **elections shall] to** be conducted pursuant to the "Uniform
8 Nonpartisan Elections Law,"
9 P.L.1981, c.379 (C.40:45-5 et seq.).
10 (cf: P.L.1981, c.379, s.30)]²

11
12 ²[6. R.S.40:70-2 is amended to read as follows:

13 40:70-2. As used in chapters 70 to 76 of this Title (R.S.40:70-1
14 et seq.):

15 "General election" means the annual election held on the first
16 Tuesday after the first Monday in November.

17 "Regular municipal election" means the election held pursuant
18 to R.S.40:75-2 on the second Tuesday in May or on the first
19 Tuesday after the first Monday in November in any year in which
20 such an election is required.

21 "Electors" mean such citizens of the municipality as were
22 registered as voters at the last general election or regular municipal
23 election, whichever occurred last in the municipality.

24 "Voters" mean such citizens of the municipality as were
25 registered as voters at the last general election or regular municipal
26 election, whichever occurred last in the municipality, and also those
27 citizens who may register in time to vote at the special election.

28 "Municipal clerk" means the officer acting under the provisions
29 hereof as the clerk of the municipality.

30 "Agent" or "agents" mean a person or persons designated in a
31 petition to file the petition and to act on behalf of the petitioners.

32 "Municipality" means any city, town, township, borough, village
33 or other municipality which has heretofore adopted the provisions
34 of the act entitled "An act relating to, regulating and providing for
35 the government of cities, towns, townships, boroughs, villages and
36 municipalities governed by boards of commissioners or
37 improvement commissioners in this State" (title as amended),
38 approved April 25, 1911, or which shall hereafter adopt the
39 provisions of said chapters 70 to 76 of this Title.

40 "Majority of ballots cast" means more than one-half of the total
41 number of valid ballots cast at such election.

42 (cf: P.L.1982, c.145, s.7)]²

43
44 ²[7. R.S.40:75-2 is amended to read as follows:

45 40:75-2. a. On the second Tuesday in May in every fourth year
46 thereafter, except as provided in subsection b. of this section, there
47 shall be elected at a regular municipal election held pursuant to the

1 "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5
2 et seq.), the number of persons as hereinbefore provided as
3 commissioners to serve for the term of 4 years and until their
4 successors shall have been elected and duly qualified. The term of
5 office of all succeeding commissioners shall commence at twelve
6 o'clock noon on the third Tuesday of May next ensuing their
7 election.

8 b. On the Tuesday after the first Monday in November, in each
9 municipality that has passed an ordinance pursuant to section 1 of
10 P.L. , c. (C.) (now pending before the Legislature as this
11 bill), there shall be elected at a regular municipal election held
12 pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981,
13 c.379 (C.40:45-5 et seq.), the number of persons as hereinbefore
14 provided as commissioners to serve for the term of 4 years and until
15 their successors shall have been elected and duly qualified. The
16 term of office of all succeeding commissioners shall commence at
17 twelve o'clock noon on the Tuesday after the second Monday in
18 November next ensuing their election.

19 (cf: P.L.1983, c.183, s.2)]²

20
21 ²[8. This act shall take effect immediately.]²

22
23 ²1. (New section) a. Any municipality governed by the
24 provisions of the "Uniform Nonpartisan Elections Law," P.L.1981,
25 c.379 (C.40:45-5 et seq.) may, by ordinance, choose to hold regular
26 municipal elections on the day of the general election, the Tuesday
27 after the first Monday in November.

28 b. Once a municipality has chosen to change the day of the
29 regular municipal election to the day of the general election in
30 November, it shall not be permitted to change the day of the
31 election back to the second Tuesday in May until: (1) at least 10
32 years have passed since the adoption of the ordinance changing the
33 date of the municipal election to the day of the general election; and
34 (2) a new ordinance providing for regular municipal elections to
35 occur on the second Tuesday in May is adopted by the
36 municipality's governing body.

37 c. The term of any person in office on the date of the adoption
38 of such an ordinance shall be extended until the beginning of the
39 term of the person elected to that office on the day of the general
40 election in November.²

41
42 ²2. (New section) Whenever a municipality has passed an
43 ordinance pursuant to subsection a. of section 1 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill), the clerk
45 of the county in which the municipality is located shall arrange the
46 ballot for each subsequent general election to:

1 a. include those candidates for election to public office in the
2 municipality that has adopted a form of government that provides
3 for the holding of a regular municipal election on the second
4 Tuesday in May but will be holding that election at the general
5 election in November;

6 b. ensure that there is a clear separation between each
7 candidate described in subsection a. of this section, each candidate
8 for another public office who has been nominated for that office by
9 a political party in the immediately preceding primary election and
10 each candidate nominated directly by petition, so that there is no
11 discernable alignment between candidates otherwise elected at a
12 regular municipal election, candidates nominated by a political
13 party for any other public office and candidates nominated directly
14 by petition; and

15 c. follow such provisions of the "Uniform Nonpartisan
16 Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.) as the clerk
17 may deem feasible.²

18
19 ^{23.} Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to read
20 as follows:

21 2. This act shall govern all municipalities having adopted a
22 plan or form of government, or a charter, which provides for the
23 election of municipal officers at regular municipal elections held on
24 the second Tuesday in May, or having chosen to hold such elections
25 on the day of the general election in November pursuant to
26 subsection a. of section 1 of P.L. , c. (C.) (pending before
27 the Legislature as this bill), including municipalities holding regular
28 municipal elections under the "Optional Municipal Charter Law,"
29 P.L.1950, c.210 (C.40:69A-1 et seq.), under the "commission form
30 of government law" (R.S.40:70-1 et seq.), under the "municipal
31 manager form of government law" N.J.S.40A:63-8, under the
32 "village form of government" (R.S.40:157-16 et seq.), or under any
33 plan or form of government, or charter, hereafter authorized which
34 provides for the holding of regular municipal elections at that time.
35 This act shall govern these municipalities only with respect to the
36 time, manner and method of election of municipal officers. The
37 officers to be elected, and their number, the length of their terms of
38 office, and their powers and responsibilities shall be determined by
39 the laws authorizing the plan or form of government, or charter,
40 which the municipalities have adopted.²

41 (cf: P.L.1995, c.97, s.1)

42
43 ^{24.} Section 3 of P.L.1981, c.379 (C.40:45-7) is amended to read
44 as follows:

45 3. Except as may otherwise be provided by law for initial
46 elections conducted in a municipality following its adoption of a
47 plan or form of government, or a charter or an amendment thereto,

1 regular municipal elections shall be held in each municipality
 2 governed by this act on the second Tuesday in May, or the day of
 3 the general election in November if chosen by the municipality
 4 pursuant to subsection a. of section 1 of P.L. , c. (C.)(pending
 5 before the Legislature as this bill), in the years in which municipal
 6 officers are to be elected. The municipal election shall be held at
 7 the same place or places and conducted in the same manner, so far
 8 as possible, as the general election. The election officers shall be
 9 those provided for conducting the general election.

10 Notwithstanding the provisions of this section, the Secretary of
 11 State may change in any year the date provided for a regular
 12 municipal election if the date coincides with a period of religious
 13 observance that limits significantly the usual activities of the
 14 followers of a particular religion or that would result in significant
 15 religious consequences for such followers. The secretary shall
 16 inform the municipal clerks, county clerks and boards of election of
 17 the adjustment no later than the first working day in January of the
 18 year in which the adjustments are to occur.

19 As used in this section "a period of religious observance" means
 20 any day or portion thereof on which a religious observance imposes
 21 a substantial burden on an individual's ability to vote.

22 (cf: P.L.2008, c.129, s.3)²

23

24 ^{25.} Section 4 of P.L.1981, c.379 (C.40:45-8) is amended to read
 25 as follows:

26 4. On or before the **【54th】** 57th day prior to a regular
 27 municipal election, the names of candidates for all elective offices
 28 shall be filed with the municipal clerk, in the following manner and
 29 form and subject to the following conditions:

30 a. The petition of nomination shall consist of individual
 31 certificates, equal in number to at least 1%, but in no event less than
 32 25, of the registered voters of the municipality or the ward, as the
 33 case may be, and shall read substantially as follows:

34 "I, the undersigned, a registered voter of the municipality of
 35, residing at certify that I do
 36 hereby join in a petition of the nomination of
 37 whose residence is at for the office
 38 of mayor (or councilman-at-large, or ward councilman of the
 39 ward, or commissioner, or village trustee, as the case may
 40 be) to be voted for at the election to be held in the municipality on
 41 the, **【19.....】** 20....., and I further certify that I know this
 42 candidate to be a registered voter, for the period required by law, of
 43 the municipality (and the ward, in the case of ward councilman) and
 44 a person of good moral character, and qualified, in my judgment, to
 45 perform the duties of the office, and I further certify that I have not
 46 signed more petitions or certificates of nomination than there are
 47 places to be filled for the above office.

1 Signed

2 Any such petition of nomination which is provided to candidates
3 by the municipal clerk shall contain the following notice: "Notice:
4 All candidates are required by law to comply with the provisions of
5 the ["] 'New Jersey Campaign Contributions and Expenditures
6 Reporting Act.["]' For further information, please call (insert
7 phone number of the Election Law Enforcement Commission)."

8 b. Each petition signature shall be on a separate sheet of paper
9 and shall bear the name and address of the petitioner. The
10 candidate for office and his campaign manager shall make an oath
11 before an officer competent to administer oaths that the statements
12 made therein are true, and that each signature to the papers
13 appended thereto is the genuine signature of the person whose name
14 it purports to be, to their best knowledge and belief. The oath,
15 signed by the candidate, shall constitute his acceptance of
16 nomination and shall be annexed to the petition, together with the
17 oath of his campaign manager, at the time the petition is submitted.

18 c. The municipal clerk shall immediately provide the Election
19 Law Enforcement Commission with official certification of the
20 filing or withdrawal of a petition of nomination.²
21 (cf: P.L.1985, c.92, s.34)

22
23 ²6. Section 11 of P.L.1981, c.379 (C.40:45-15) is amended to
24 read as follows:

25 11. ["The"] In the case of a regular municipal election occurring
26 on the second Tuesday in May, the municipal clerk shall cause the
27 ballots to be printed and authenticated by ["his"] the clerk's
28 signature. Upon the ballots shall be printed the title of each office
29 to be filled. Under each of the titles of office shall be printed the
30 names of the candidates for each office with a square to the left of
31 each name. Below the names of the candidates for each office the
32 words "vote for (insert number of positions to be filled at the
33 election)." The ballot shall be printed upon plain, substantial white
34 paper, and shall be substantially in the following form:

35 "Municipal election of (insert name of municipality), county of
36 (insert name of county), held (insert the date of the election). To
37 vote for any person make a cross (x) or plus (+) or a check (X)
38 mark in the square preceding the name. Vote for only as many
39 persons as there are officers to be elected. If you wrongly mark the
40 ballot, tear or deface it and return it to election officer and obtain a
41 new ballot."

42 Blank spaces equal to the number of offices to be filled shall be
43 left below the printed names of the candidates for each office to be
44 voted, wherein the voter may write the name or names of any
45 person or persons for whom he may wish to vote.

46 The municipal clerk shall deliver ballots to the election officials
47 at each polling place equal in number to 110% of the number of

1 registered voters in each election district, except that where voting
2 machines are used ballots shall be furnished as otherwise provided
3 by law.

4 In the case of a regular municipal election occurring on the day
5 of the general election in November pursuant to subsection a.
6 section 1 of P.L. , c. (C.)(pending before the Legislature as
7 this bill), ballots shall be printed and delivered as otherwise
8 provided by law.²

9 (cf: P.L.1981, c.379, s.11)

10

11 ^{27.} Section 13 of P.L.1981, c.379 (C.40:45-17) is amended read
12 as follows:

13 13. At the regular municipal election in any municipality which
14 has adopted this act, the candidates receiving the greatest number
15 of votes cast shall be elected to the respective offices. Except as
16 otherwise provided by law, the term of office of any officer elected
17 pursuant to this act shall begin on July 1 next following election. If
18 a regular municipal election is held on the day of the general
19 election in November pursuant to subsection a. of section 1 of
20 P.L. , c. (C.)(pending before the Legislature as this bill), the
21 term of office of any officer elected shall begin on January 1 next
22 following election.²

23 (cf: P.L.1983, c.183, s.3)

24

25 ^{28.} Section 15 of P.L.1981, c.379 (C.40:45-19) is amended to
26 read as follows:

27 15. In any regular municipal election held under section 14 of
28 P.L.1981, c.379 (C.40:45-18), if a sufficient number of candidates
29 do not receive a majority of the votes cast to elect the required
30 number of councilmen-at-large (or commissioners, or village
31 trustees) or no candidate for mayor or no candidate for ward
32 councilman receives a majority of the votes cast for his respective
33 office, a run-off election in the municipality or ward, as the case
34 may be, shall be held on the fourth Tuesday next following that
35 municipal election; unless in any year that Tuesday shall be the date
36 upon which a primary election shall be held, in which case the run-
37 off election shall be held on the fifth Tuesday next following the
38 municipal election. Alternatively, the run-off election shall be held
39 at a special election on the subsequent Tuesday next after the first
40 Monday in December in the case of a regular municipal election
41 occurring on the day of the general election in November pursuant
42 to subsection a. of section 1 of P.L. , c. (C.)(pending before
43 the Legislature as this bill).

44 At the run-off election, the candidates for councilman-at-large
45 (or commissioner, or village trustee) shall be those candidates not
46 elected at the regular municipal election who received the greatest
47 number of votes at that election, but the candidates shall be equal in

1 number to twice the number of councilmen-at-large (or
2 commissioners, or village trustees) remaining to be elected. The
3 candidates for mayor or ward councilmen at the run-off election
4 shall be the two candidates for the office who received the greatest
5 number of votes at the regular municipal election. Military service
6 ballots shall be printed and distributed for the run-off election in the
7 same manner, so far as possible, as for other municipal elections.

8 The candidate or candidates who receive the greatest number of
9 votes at the run-off election shall be elected to the office or offices
10 to be filled. If two or more candidates shall be equal and greatest in
11 votes for any of the purposes of this section, they shall draw lots to
12 determine which one shall enter the run-off election, or be elected,
13 as the case may be.

14 If any candidate to be voted for at the run-off election dies seven
15 or more days prior to the run-off election, the candidate for the
16 office not theretofore included in the run-off election, but next
17 highest in number of votes for that purpose shall be substituted at
18 the run-off election in the place of the deceased candidate and his
19 name shall be substituted on the ballots for that of the deceased
20 candidate.²

21 (cf: P.L.1995, c.97, s.3)

22

23 ²9. Section 17-1 of P.L.1950, c.210 (C.40:69A-150) is amended
24 to read as follows:

25 17-1. Regular municipal elections shall be held in each
26 municipality on the second Tuesday in May, or on the day of the
27 general election in November if chosen by the municipality
28 pursuant to subsection a. of section 1 of P.L. , c. (C.)
29 (pending before the Legislature as this bill), in the years in which
30 municipal officers are to be elected, where the election of such
31 officers is not provided to be at the general election. Regular
32 municipal elections shall be conducted pursuant to the "Uniform
33 Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.).²

34 (cf: P.L.1981, c.379, s.30)

35

36 ²10. R.S.40:70-2 is amended to read as follows:

37 40:70-2. As used in chapters 70 to 76 of this Title (R.S.40:70-1
38 et seq.):

39 "General election" means the annual election held on the first
40 Tuesday after the first Monday in November.

41 "Regular municipal election" means the election held pursuant
42 to R.S.40:75-2 on the second Tuesday in May, or on the day of the
43 general election in November if chosen by the municipality
44 pursuant to subsection a. of section 1 of P.L. , c. (C.)
45 (pending before the Legislature as this bill), in any year in which
46 such an election is required.

1 "Electors" mean such citizens of the municipality as were
2 registered as voters at the last general election or regular municipal
3 election, whichever occurred last in the municipality.

4 "Voters" mean such citizens of the municipality as were
5 registered as voters at the last general election or regular municipal
6 election, whichever occurred last in the municipality, and also those
7 citizens who may register in time to vote at the special election.

8 "Municipal clerk" means the officer acting under the provisions
9 hereof as the clerk of the municipality.

10 "Agent" or "agents" mean a person or persons designated in a
11 petition to file the petition and to act on behalf of the petitioners.

12 "Municipality" means any city, town, township, borough, village
13 or other municipality which has heretofore adopted the provisions
14 of the act entitled "An act relating to, regulating and providing for
15 the government of cities, towns, townships, boroughs, villages and
16 municipalities governed by boards of commissioners or
17 improvement commissioners in this State" (title as amended),
18 approved April 25, 1911, or which shall hereafter adopt the
19 provisions of said chapters 70 to 76 of this Title.

20 "Majority of ballots cast" means more than one-half of the total
21 number of valid ballots cast at such election.²

22 (cf: P.L.1982, c.145, s.7)

23
24 ²11. R.S.40:75-2 is amended to read as follows:

25 40:75-2. On the second Tuesday in May in every fourth year
26 thereafter there shall be elected at a regular municipal election held
27 pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981,
28 c.379 (C.40:45-5 et seq.), the number of persons as hereinbefore
29 provided as commissioners to serve for the term of 4 years and until
30 their successors shall have been elected and duly qualified. The
31 term of office of all succeeding commissioners shall commence at
32 twelve o'clock noon on the third Tuesday of May next ensuing their
33 election.

34 If the election is held on the day of the general election in
35 November pursuant to subsection a. of section 1 of P.L. _____,
36 c. (C. _____) (pending before the Legislature as this bill), the term of
37 office of commissioners elected shall commence at twelve o'clock
38 noon on January 1 next following their election.²

39 (cf: P.L.1983, c.183, s.2)

40
41 ²12. R.S.40:81-5 is amended to read as follows:

42 40:81-5. Except as otherwise provided by referendum of the
43 voters, on the second Tuesday of May of the fourth year following
44 such first election and on the second Tuesday of May of every
45 fourth year thereafter, there shall be elected the number of electors
46 hereinbefore prescribed of like qualifications to serve as members
47 of the municipal council for the term of 4 years and until their

1 successors shall have been elected and duly qualified or unless their
2 places become vacant. The term of office of councilmen
3 subsequently elected shall commence on July 1 next ensuing their
4 election at 12 o'clock noon. Elections shall be conducted pursuant
5 to the "Uniform Nonpartisan Elections Law," P.L.1981, c. 379 (C.
6 40:45-5 et al.).

7 If the election is held on the day of the general election in
8 November pursuant to subsection a. of section 1 of P.L. _____,
9 c. (C. _____) (pending before the Legislature as this bill), the term of
10 office of councilmen elected shall commence at 12 o'clock noon on
11 January 1 next following their election.²
12 (cf: P.L.1981, c.427, s.3)

13
14 ²13. R.S.40:84-2 is amended to read as follows:

15 40:84-2. The first municipal election for councilmen shall be
16 held on the fourth Tuesday after the adoption of this subtitle and
17 thereafter an election shall be held on the second Tuesday in May
18 or on the day of the general election in November if chosen by the
19 municipality pursuant to subsection a. of section 1 of P.L. _____,
20 c. (C. _____) (pending before the Legislature as this bill) in the fourth
21 succeeding year and in each fourth year thereafter. Elections shall
22 be conducted pursuant to the "Uniform Nonpartisan Elections
23 Law," P.L.1981, c.381 (C. 40:45-5 et seq.).²
24 (cf: P.L.1981, c.379, s.25)

25
26 ²14. R.S.40:84-11 is amended to read as follows:

27 40:84-11. In cases provided for in this article the municipal
28 election to be held in accordance with the "Uniform Nonpartisan
29 Elections Law," P.L. 1981, c.379 (C. 40:45-5 et seq.) shall be held
30 on the second Tuesday in May or on the day of the general election
31 in November if chosen by the municipality pursuant to subsection a.
32 of section 1 of P.L. _____, c. (C. _____)(pending before the Legislature
33 as this bill) in each year, and the number of persons to be elected at
34 municipal elections shall be equal to the number of vacancies which
35 are then to be filled, and the terms of office of the persons so
36 elected shall be 3 years and until their successors are elected and
37 qualified.²
38 (cf: P.L.1981, c.379, s.26)

39
40 ²15. This act shall take effect on January 1 next following the
41 date of enactment.²

ASSEMBLY, No. 351

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman PETER J. BARNES, III

District 18 (Middlesex)

Co-Sponsored by:

**Assemblymen Connors, Conaway, Cohen, Assemblywoman Wagner and
Assemblyman Coutinho**

SYNOPSIS

Permits nonpartisan municipal elections to be held on same day as general election.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/6/2008)

1 AN ACT concerning nonpartisan municipal elections, amending
2 various parts of the statutory law, and supplementing P.L.1981,
3 c.379 (C.40:45-5 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) Any municipality governed by the provisions
9 of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379
10 (C.40:45-5 et seq.) may, by ordinance, choose to hold regular
11 municipal elections on the Tuesday after the first Monday in
12 November.
13

14 2. Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to read
15 as follows:

16 2. This act shall govern all municipalities having adopted a
17 plan or form of government, or a charter, which provides for the
18 election of municipal officers at regular municipal elections held on
19 the second Tuesday in May, or the Tuesday after the first Monday
20 in November, as chosen by the municipality, including
21 municipalities holding regular municipal elections under the
22 "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et
23 seq.), under the "commission form of government law" (R.S.40:70-
24 1 et seq.), under the "municipal manager form of government law"
25 N.J.S.40A:63-8, under the "village form of government"
26 (R.S.40:157-16 et seq.), or under any plan or form of government,
27 or charter, hereafter authorized which provides for the holding of
28 regular municipal elections at that time. This act shall govern these
29 municipalities only with respect to the time, manner and method of
30 election of municipal officers. The officers to be elected, and their
31 number, the length of their terms of office, and their powers and
32 responsibilities shall be determined by the laws authorizing the plan
33 or form of government, or charter, which the municipalities have
34 adopted.

35 (cf: P.L.1995, c.97. s.1)
36

37 3. Section 3 of P.L.1981, c.379 (C.40:45-7) is amended to read
38 as follows:

39 3. Except as may otherwise be provided by law for initial
40 elections conducted in a municipality following its adoption of a
41 plan or form of government, or a charter or an amendment thereto,
42 regular municipal elections shall be held in each municipality
43 governed by this act on the second Tuesday in May or the Tuesday
44 after the first Monday in November, as chosen by the municipality,

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.

1 in the years in which municipal officers are to be elected. The
2 municipal election shall be held at the same place or places and
3 conducted in the same manner, so far as possible, as the general
4 election. The election officers shall be those provided for
5 conducting the general election.

6 (cf: P.L.1981, c.379, s.3)

7

8 4. Section 11 of P.L.1981, c.379 (C.40:45-15) is amended to
9 read as follows:

10 11. 【The】 In the case of a regular municipal election occurring
11 on the second Tuesday in May, the municipal clerk shall cause the
12 ballots to be printed and authenticated by 【his】 the clerk's
13 signature. Upon the ballots shall be printed the title of each office
14 to be filled. Under each of the titles of office shall be printed the
15 names of the candidates for each office with a square to the left of
16 each name. Below the names of the candidates for each office the
17 words "vote for (insert number of positions to be filled at the
18 election)." The ballot shall be printed upon plain, substantial white
19 paper, and shall be substantially in the following form:

20 "Municipal election of (insert name of municipality), county of
21 (insert name of county), held (insert the date of the election). To
22 vote for any person make a cross (x) or plus (+) or a check (X)
23 mark in the square preceding the name. Vote for only as many
24 persons as there are officers to be elected. If you wrongly mark the
25 ballot, tear or deface it and return it to election officer and obtain a
26 new ballot."

27 Blank spaces equal to the number of offices to be filled shall be
28 left below the printed names of the candidates for each office to be
29 voted, wherein the voter may write the name or names of any
30 person or persons for whom he or she may wish to vote.

31 The municipal clerk shall deliver ballots to the election officials
32 at each polling place equal in number to 110% of the number of
33 registered voters in each election district, except that where voting
34 machines are used ballots shall be furnished as otherwise provided
35 by law.

36 In the case of a regular municipal election occurring on the
37 Tuesday after the first Monday in November, ballots shall be
38 furnished as otherwise provided by law.

39 (cf: P.L.1981, c.379, s.11)

40

41 5. Section 150 of P.L.1950, c.210 (C.40:69A-150) is amended to
42 read as follows:

43 150. Regular municipal elections shall be held in each
44 municipality on the second Tuesday in May, or on the Tuesday
45 after the first Monday in November, in the years in which municipal
46 officers are to be elected, where the election of such officers is
47 【not provided to be at the general election. Regular municipal

1 elections shall] to be conducted pursuant to the "Uniform
2 Nonpartisan Elections Law,"
3 P.L.1981, c.379 (C.40:45-5 et seq.).
4 (cf: P.L.1981, c.379, s.30)

5

6 6. R.S.40:70-2 is amended to read as follows:

7 40:70-2. As used in chapters 70 to 76 of this Title (R.S.40:70-1
8 et seq.):

9 "General election" means the annual election held on the first
10 Tuesday after the first Monday in November.

11 "Regular municipal election" means the election held pursuant
12 to R.S.40:75-2 on the second Tuesday in May or on the first
13 Tuesday after the first Monday in November in any year in which
14 such an election is required.

15 "Electors" mean such citizens of the municipality as were
16 registered as voters at the last general election or regular municipal
17 election, whichever occurred last in the municipality.

18 "Voters" mean such citizens of the municipality as were
19 registered as voters at the last general election or regular municipal
20 election, whichever occurred last in the municipality, and also those
21 citizens who may register in time to vote at the special election.

22 "Municipal clerk" means the officer acting under the provisions
23 hereof as the clerk of the municipality.

24 "Agent" or "agents" mean a person or persons designated in a
25 petition to file the petition and to act on behalf of the petitioners.

26 "Municipality" means any city, town, township, borough, village
27 or other municipality which has heretofore adopted the provisions
28 of the act entitled "An act relating to, regulating and providing for
29 the government of cities, towns, townships, boroughs, villages and
30 municipalities governed by boards of commissioners or
31 improvement commissioners in this State" (title as amended),
32 approved April 25, 1911, or which shall hereafter adopt the
33 provisions of said chapters 70 to 76 of this Title.

34 "Majority of ballots cast" means more than one-half of the total
35 number of valid ballots cast at such election.

36 (cf: P.L.1982, c.145, s.7)

37

38 7. R.S.40:75-2 is amended to read as follows:

39 40:75-2. a. On the second Tuesday in May in every fourth year
40 thereafter, except as provided in subsection b. of this section, there
41 shall be elected at a regular municipal election held pursuant to the
42 "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5
43 et seq.), the number of persons as hereinbefore provided as
44 commissioners to serve for the term of 4 years and until their
45 successors shall have been elected and duly qualified. The term of
46 office of all succeeding commissioners shall commence at twelve
47 o'clock noon on the third Tuesday of May next ensuing their
48 election.

1 b. On the Tuesday after the first Monday in November, in each
2 municipality that has passed an ordinance pursuant to section 1 of
3 P.L. _____, c. _____ (C. _____) (now pending before the Legislature as this
4 bill), there shall be elected at a regular municipal election held
5 pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981,
6 c.379 (C.40:45-5 et seq.), the number of persons as hereinbefore
7 provided as commissioners to serve for the term of 4 years and until
8 their successors shall have been elected and duly qualified. The
9 term of office of all succeeding commissioners shall commence at
10 twelve o'clock noon on the Tuesday after the second Monday in
11 November next ensuing their election.
12 (cf: P.L.1983, c.183, s.2)

13

14 8. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 Currently, regular municipal elections, which are nonpartisan,
20 are held on the second Tuesday in May. This bill would allow any
21 municipality that holds regular municipal elections to choose, by
22 ordinance, to hold regular municipal elections on the Tuesday after
23 the first Monday in November.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 351

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 2008

The Assembly State Government Committee reports favorably and with committee amendments Assembly Bill No. 351.

Currently, regular municipal elections, which are nonpartisan, are held on the second Tuesday in May. As amended, this bill would allow any municipality that holds regular municipal elections with a population between 17,500 and 26,000 in a county of the second class or a population of 10,000 or fewer in any county, according to the latest federal decennial census for New Jersey, to choose by ordinance to hold regular municipal elections on the Tuesday after the first Monday in November.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to narrow the description of municipalities that may hold regular municipal elections in November to those municipalities with a population between 17,500 and 26,000 in a county of the second class or a population of 10,000 or fewer in any county and to provide for the extension of the term of a current office holder until the beginning of the term of the person elected to that office in the appropriate November election, if a municipal election date is changed by ordinance.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 351

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 2, 2009

The Senate State Government Committee reports favorably and with committee amendments Assembly, No. 351 (1R).

Under current law, regular municipal elections, which are nonpartisan, are held on the second Tuesday in May. This bill, as amended, would allow any municipality that holds regular municipal elections to choose, by ordinance, to hold regular municipal elections on the day of the general election, held on the Tuesday after the first Monday in November.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that: 1) once a municipality has chosen to change the day of the regular municipal election to the day of the general election in November, it is not permitted to change the day of the election back to the second Tuesday in May until at least 10 years have passed since the adoption of the change; 2) a new ordinance providing for a regular municipal elections to again occur on the second Tuesday in May must be adopted by the municipality's governing body; and 3) if a runoff election is necessary because no candidate has received a majority of the votes cast in a regular municipal election held on the day of a general election in November, that election would occur on the subsequent first Tuesday after the first Monday in December and any official elected at that election would take office on January 1 next following the election.

Finally, the amendments provide that whenever a municipality has passed an ordinance to change the day of the regular municipal election, the clerk of the county in which the municipality is located must arrange the ballot for each subsequent general election to: 1) include those candidates for election to public office in the municipality that has adopted a form of government that provides for the holding of a regular municipal election on the second Tuesday in May but will be holding that election at the general election in November; 2) ensure that there is a clear separation between each nonpartisan municipal candidate, each candidate for another public office who has been nominated for that office by a political party in the immediately preceding primary election and each candidate

nominated directly by petition, so that there is no discernable alignment between candidates otherwise elected at a regular municipal election, candidates nominated by a political party for any other public office and candidates nominated directly by petition; and 3) follow such provisions of the current nonpartisan elections law as the county clerk may deem feasible.

As amended, this bill is identical to SCS for Senate, No. 1099 of 2008.

SENATE, No. 1099

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 14, 2008

Sponsored by:
Senator BARBARA BUONO
District 18 (Middlesex)

SYNOPSIS

Permits nonpartisan municipal elections to be held on same day as general election.

CURRENT VERSION OF TEXT

As introduced.



S1099 BUONO

2

1 AN ACT concerning nonpartisan municipal elections, amending
2 various parts of the statutory law, and supplementing P.L.1981,
3 c.379 (C.40:45-5 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) Any municipality governed by the provisions
9 of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379
10 (C.40:45-5 et seq.) may, by ordinance, choose to hold regular
11 municipal elections on the Tuesday after the first Monday in
12 November.
13

14 2. Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to read
15 as follows:

16 2. This act shall govern all municipalities having adopted a plan
17 or form of government, or a charter, which provides for the election
18 of municipal officers at regular municipal elections held on the
19 second Tuesday in May, or the Tuesday after the first Monday in
20 November, as chosen by the municipality, including municipalities
21 holding regular municipal elections under the "Optional Municipal
22 Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), under the
23 "commission form of government law" (R.S.40:70-1 et seq.), under
24 the "municipal manager form of government law" N.J.S.40A:63-8,
25 under the "village form of government" (R.S.40:157-16 et seq.), or
26 under any plan or form of government, or charter, hereafter
27 authorized which provides for the holding of regular municipal
28 elections at that time. This act shall govern these municipalities
29 only with respect to the time, manner and method of election of
30 municipal officers. The officers to be elected, and their number, the
31 length of their terms of office, and their powers and responsibilities
32 shall be determined by the laws authorizing the plan or form of
33 government, or charter, which the municipalities have adopted.
34 (cf: P.L.1995, c.97. s.1)
35

36 3. Section 3 of P.L.1981, c.379 (C.40:45-7) is amended to read
37 as follows:

38 3. Except as may otherwise be provided by law for initial
39 elections conducted in a municipality following its adoption of a
40 plan or form of government, or a charter or an amendment thereto,
41 regular municipal elections shall be held in each municipality
42 governed by this act on the second Tuesday in May or the Tuesday
43 after the first Monday in November, as chosen by the municipality,

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.

S1099 BUONO

3

1 in the years in which municipal officers are to be elected. The
2 municipal election shall be held at the same place or places and
3 conducted in the same manner, so far as possible, as the general
4 election. The election officers shall be those provided for
5 conducting the general election.

6 (cf: P.L.1981, c.379, s.3)

7

8 4. Section 11 of P.L.1981, c.379 (C.40:45-15) is amended to
9 read as follows:

10 11. 【The】 In the case of a regular municipal election occurring
11 on the second Tuesday in May, the municipal clerk shall cause the
12 ballots to be printed and authenticated by 【his】 the clerk's
13 signature. Upon the ballots shall be printed the title of each office
14 to be filled. Under each of the titles of office shall be printed the
15 names of the candidates for each office with a square to the left of
16 each name. Below the names of the candidates for each office the
17 words "vote for (insert number of positions to be filled at the
18 election)." The ballot shall be printed upon plain, substantial white
19 paper, and shall be substantially in the following form:

20 "Municipal election of (insert name of municipality), county of
21 (insert name of county), held (insert the date of the election). To
22 vote for any person make a cross (x) or plus (+) or a check (X)
23 mark in the square preceding the name. Vote for only as many
24 persons as there are officers to be elected. If you wrongly mark the
25 ballot, tear or deface it and return it to election officer and obtain a
26 new ballot."

27 Blank spaces equal to the number of offices to be filled shall be
28 left below the printed names of the candidates for each office to be
29 voted, wherein the voter may write the name or names of any
30 person or persons for whom he or she may wish to vote.

31 The municipal clerk shall deliver ballots to the election officials
32 at each polling place equal in number to 110% of the number of
33 registered voters in each election district, except that where voting
34 machines are used ballots shall be furnished as otherwise provided
35 by law.

36 In the case of a regular municipal election occurring on the
37 Tuesday after the first Monday in November, ballots shall be
38 furnished as otherwise provided by law.

39 (cf: P.L.1981, c.379, s.11)

40

41 5. Section 150 of P.L.1950, c.210 (C.40:69A-150) is amended to
42 read as follows:

43 150. Regular municipal elections shall be held in each
44 municipality on the second Tuesday in May, or on the Tuesday after
45 the first Monday in November, in the years in which municipal
46 officers are to be elected, where the election of such officers is 【not
47 provided to be at the general election. Regular municipal elections
48 shall】 to be conducted pursuant to the "Uniform Nonpartisan

S1099 BUONO

1 Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.).
2 (cf: P.L.1981, c.379, s.30)

3

4 6. R.S.40:70-2 is amended to read as follows:

5 40:70-2. As used in chapters 70 to 76 of this Title (R.S.40:70-1
6 et seq.):

7 "General election" means the annual election held on the first
8 Tuesday after the first Monday in November.

9 "Regular municipal election" means the election held pursuant
10 to R.S.40:75-2 on the second Tuesday in May or on the first
11 Tuesday after the first Monday in November in any year in which
12 such an election is required.

13 "Electors" mean such citizens of the municipality as were
14 registered as voters at the last general election or regular municipal
15 election, whichever occurred last in the municipality.

16 "Voters" mean such citizens of the municipality as were
17 registered as voters at the last general election or regular municipal
18 election, whichever occurred last in the municipality, and also those
19 citizens who may register in time to vote at the special election.

20 "Municipal clerk" means the officer acting under the provisions
21 hereof as the clerk of the municipality.

22 "Agent" or "agents" mean a person or persons designated in a
23 petition to file the petition and to act on behalf of the petitioners.

24 "Municipality" means any city, town, township, borough, village
25 or other municipality which has heretofore adopted the provisions
26 of the act entitled "An act relating to, regulating and providing for
27 the government of cities, towns, townships, boroughs, villages and
28 municipalities governed by boards of commissioners or
29 improvement commissioners in this State" (title as amended),
30 approved April 25, 1911, or which shall hereafter adopt the
31 provisions of said chapters 70 to 76 of this Title.

32 "Majority of ballots cast" means more than one-half of the total
33 number of valid ballots cast at such election.

34 (cf: P.L.1982, c.145, s.7)

35

36 7. R.S.40:75-2 is amended to read as follows:

37 40:75-2. a. On the second Tuesday in May in every fourth year
38 thereafter, except as provided in subsection b. of this section, there
39 shall be elected at a regular municipal election held pursuant to the
40 "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5
41 et seq.), the number of persons as hereinbefore provided as
42 commissioners to serve for the term of 4 years and until their
43 successors shall have been elected and duly qualified. The term of
44 office of all succeeding commissioners shall commence at twelve
45 o'clock noon on the third Tuesday of May next ensuing their
46 election.

47 b. On the Tuesday after the first Monday in November, in each
48 municipality that has passed an ordinance pursuant to section 1 of

S1099 BUONO

5

1 P.L. , c. (C.) (now pending before the Legislature as this
2 bill), there shall be elected at a regular municipal election held
3 pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981,
4 c.379 (C.40:45-5 et seq.), the number of persons as hereinbefore
5 provided as commissioners to serve for the term of 4 years and until
6 their successors shall have been elected and duly qualified. The
7 term of office of all succeeding commissioners shall commence at
8 twelve o'clock noon on the Tuesday after the second Monday in
9 November next ensuing their election.
10 (cf: P.L.1983, c.183, s.2)

11

12 8. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 Currently, regular municipal elections, which are nonpartisan,
18 are held on the second Tuesday in May. This bill would allow any
19 municipality that holds regular municipal elections to choose, by
20 ordinance, to hold regular municipal elections on the Tuesday after
21 the first Monday in November.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1099**

STATE OF NEW JERSEY

DATED: FEBRUARY 2, 2009

The Senate State Government committee reports favorably Senate Committee Substitute for Senate, No. 1099.

Under current law, regular municipal elections, which are nonpartisan, are held on the second Tuesday in May. This committee substitute would allow any municipality that holds regular municipal elections to choose, by ordinance, to hold regular municipal elections on the day of the general election, held on the Tuesday after the first Monday in November. The term of any person in office on the date of the adoption of such an ordinance would be extended until the beginning of the term of the person elected to that office on the day of the general election in November.

The substitute also provides that: 1) once a municipality has chosen to change the day of the regular municipal election to the day of the general election in November, it is not permitted to change the day of the election back to the second Tuesday in May until at least 10 years have passed since the adoption of the change; 2) a new ordinance providing for a regular municipal elections to again occur on the second Tuesday in May must be adopted by the municipality's governing body; and 3) if a runoff election is necessary because no candidate has received a majority of the votes cast in a regular municipal election held on the day of a general election in November, that election would occur on the subsequent first Tuesday after the first Monday in December and any official elected at that election would take office on January 1 next following the election.

Finally, the substitute provides that whenever a municipality has passed an ordinance to change the day of the regular municipal election, the clerk of the county in which the municipality is located must arrange the ballot for each subsequent general election to: 1) include those candidates for election to public office in the municipality that has adopted a form of government that provides for the holding of a regular municipal election on the second Tuesday in May but will be holding that election at the general election in November; 2) ensure that there is a clear separation between each nonpartisan municipal candidate, each candidate for another public office who has been nominated for that office by a political party in

the immediately preceding primary election and each candidate nominated directly by petition, so that there is no discernable alignment between candidates otherwise elected at a regular municipal election, candidates nominated by a political party for any other public office and candidates nominated directly by petition; and 3) follow such provisions of the current nonpartisan elections law as the county clerk may deem feasible.

This substitute is identical to Assembly, No. 351 (2R) of 2008.