

40A:9-165

LEGISLATIVE HISTORY CHECKLIST

NJSA 40A:9-165 (Salary referenda)

Laws of 1976 Chapter 96

Bill No. S1574

Sponsor(s) Feldman

Date Introduced June 28, 1976

Committee: Assembly -

Senate -

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Reports Yes No

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CHAPTER 96 LAWS OF N. J. 1976
APPROVED 9-21-76

SENATE, No. 1574

STATE OF NEW JERSEY

INTRODUCED JUNE 28, 1976

By Senator FELDMAN

(Without Reference)

AN ACT concerning the procedure to fix and determine the salaries of certain municipal officers and employees and amending certain sections of Title 40A of the New Jersey Statutes and Title 40 of the Revised Statutes.

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

1 1. N. J. S. 40A:9-165 is amended to read as follows:

2 40A:9-165. The governing body of a municipality, by ordinance,
3 shall fix and determine the salaries, wages or compensation to be
4 paid to the officers and employees of the municipality, including
5 the members of the governing body and the mayor or other chief
6 executive, who by law are entitled to salaries, wages, or compen-
7 sation. Such salaries, wages or compensation from time to time,
8 by ordinance, may be increased, decreased or altered but no such
9 ordinance shall reduce the salary of any appointed or elected tax
10 assessor or tax collector during the term for which he shall have
11 been appointed or elected and, except with respect to an ordinance
12 or a portion thereof fixing salaries, wages or compensation of
13 elective officials *or any managerial executive or confidential em-*
14 *ployee as defined in section 3 of the New Jersey Employer-*
15 *Employee Relations Act. P. L. 1941, c. 100 (C. 34:13A-3) as*
16 *amended*, the ordinance shall take effect as provided therein. In
17 municipalities wherein the provisions of Title 11 (Civil Service)
18 of the Revised Statutes are in operation, this section shall be
19 subject thereto.

20 Where any such ordinance shall provide for increases in salaries,
21 wages or compensation of elective officials *or any managerial*
22 *executive or confidential employee*, the ordinance or that portion
23 thereof which provides an increase for *such* elective *or appointive*

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

24 officials, shall become operative in 20 days after the publication
 25 thereof, after final passage, unless within said 20 days, a petition,
 26 signed by voters of such municipality, equal in number to at least
 27 5% of the registered voters of the municipality, protesting against
 28 the passage of such ordinance, be presented to the governing body,
 29 in which case such ordinance shall remain inoperative unless and
 30 until a proposition for the ratification thereof shall be adopted at
 31 an election by a majority of the voters voting on said proposition.
 32 *The question shall be submitted at the next general election, occur-*
 33 *ring not less than 40 days from the date of the certification of the*
 34 *petition.* The submission of the question to the voters shall be
 35 governed by the provisions of Title 19 (Elections) of the Revised
 36 Statutes, as in the case of public questions to be voted upon in a
 37 single municipality.

1 2. N. J. S. 40A:9-167 is amended to read as follows:

2 40A:9-167. When the governing body of any municipality shall be
 3 required by petition to submit to the voters proposed increases in
 4 salaries, wages or compensation or if the governing body shall deem
 5 it advisable to have a referendum in respect to the salaries of its
 6 members~~], officers or employees],~~ *or any other elective official, or*
 7 *any managerial executive or confidential employee,* the governing
 8 body shall adopt an ordinance definitely fixing such salaries and the
 9 operative date. Where any such ordinance provides for salary
 10 increases, they may be made to take effect on a specified date or
 11 apportioned to be effective on different specified dates during a
 12 period not to exceed 3 years. Any such ordinance may be adopted
 13 notwithstanding a prior referendum in respect to salaries, wages
 14 or compensation.

15 The clerk of the municipality shall forthwith forward a certified
 16 copy of the ordinance to the officer whose duty it is to prepare the
 17 ballots for the election, notifying such officer that there is to be a
 18 vote on the question.

19 Such officer, in the manner and form provided by law, shall place
 20 the question upon the ballot, to be used at the election in such
 21 municipality, in substantially the following form: "Shall the sal-
 22 aries of the (members of
 23 the governing body, ~~the officers or employees]~~ *other elective*
 24 *officials, managerial executives, confidential employees, as desig-*
 25 *nated) of (name of municipality) be fixed*
 26 *as follows, (amount or amounts) per annum?"*

27 If it is proposed to reduce or increase salaries, the following
 28 form shall be used: "Shall the salaries of the

29 (members of the governing body, [the officers or
 30 employees] *other elective officials, managerial executives, confi-*
 31 *dential employees, as designated*) of
 32 (name of municipality) be reduced (or increased) as follows:
 33 (members of the governing body, [the
 34 officers or employees] *other elective officials, managerial execu-*
 35 *tives, confidential employees, as designated*) \$. from
 36 \$. (amount of present salary) to \$.
 37 (amount of proposed or adopted salary) per annum?"

38 If a majority of the legal voters of the municipality voting upon
 39 such question at the election shall vote "Yes," the salaries so
 40 adopted shall be payable to the members of the governing body[,
 41 the officers or employees] *or other elective officials or managerial*
 42 *executives or confidential employees; as the case may be, on and*
 43 after the date specified in the ordinance and until again changed
 44 in the manner provided by law. The referendum vote shall be
 45 binding during the period of 2 years following such vote.

1 3. N. J. S. 40A:9-168 is amended to read as follows:

2 40A:9-168. If there shall be submitted to the governing body
 3 of any municipality a petition signed by not less than 10% of the
 4 registered voters of the municipality, requesting the submission
 5 to the legal voters of the municipality the question of fixing the
 6 salaries, wages or compensation of the members of the governing
 7 body[, officers or employees] *or other elective officials, or any*
 8 *managerial executive or confidential employee* of said municipality
 9 in the amounts stated in the petition, the governing body shall
 10 cause the question to be submitted to the legal voters of the
 11 municipality at the next general election occurring more than 40
 12 days after the submission of the petition to the governing body.

13 The result of the vote shall be binding upon the municipality for
 14 the following 2 years.

15 Nothing contained in this section shall be deemed to preclude a
 16 referendum vote upon an ordinance increasing salaries, wages or
 17 compensation provided by law.

1 4. R. S. 40:74-5 is amended to read as follows:

2 40:74-5. If within 10 days after the final passage of an ordinance,
 3 except ordinances, *or any portion thereof, fixing the salaries, wages*
 4 *or compensation of the employees of the municipality, as defined*
 5 *in section 3 of the New Jersey Employer-Employee Relations Act,*
 6 *P. L. 1941, c. 100 (C. 34:13A-3), or ordinances* authorizing an
 7 improvement or the incurring of an indebtedness, other than for
 8 current expenses, where other requirements are made by law, a

9 petition signed by electors of the municipality equal in number
10 to at least 15% of the entire vote cast at the last preceding general
11 municipal election protesting against the passage of such ordinance,
12 be presented to the board, it shall thereupon be suspended from
13 going into operation and the board of commissioners shall re-
14 consider the ordinance. If the ordinance is not entirely repealed,
15 the board shall submit it, in the manner provided in paragraph
16 b. of section 40:74-14 and sections 40:74-15 to 40:74-18 of this
17 Title, to the vote of the electors of the municipality, either at the
18 general election or at a special municipal election to be called for
19 that purpose, and such ordinance shall not become operative unless
20 a majority of the qualified electors voting on the ordinance shall
21 vote in favor thereof.

1 5. R. S. 40:74-7 is amended to read as follows:

2 40:74-7. Any ordinance or measure, *except an ordinance, or*
3 *portion thereof, fixing the salaries, wages or compensation of the*
4 *employees of the municipality*, that the board of commissioners
5 or the qualified electors of the municipality shall have authority
6 to enact, the board may of its own motion submit to the electors
7 for adoption or rejection at a general or special municipal election,
8 in the same manner and with the same effect as is herein provided
9 for ordinances or measures submitted on petition. At any special
10 election called under the provisions of chapters 70 to 76 of this
11 Title (§ 40:70-1 et seq.), there shall be no bar to the submission
12 of other questions to a vote of the electors in addition to the
13 ordinances or measures provided for in this section and section
14 40:74-5 of this Title, if the other questions are such as may legally
15 be submitted at such election. If the provisions of two or more
16 measures approved or adopted at the same election conflict, then
17 the measure receiving the highest affirmative vote shall control.

1 6. R. S. 40:74-9 is amended to read as follows:

2 40:74-9. Any proposed ordinance, *except a proposed ordinance*
3 *fixing the salaries, wages or compensation of the employees of the*
4 *municipality*, may be submitted to the board of commissioners by
5 petition of the electors, in the manner hereinafter in this article
6 provided.

1 7. Section 2 of P. L. 1958, c. 18 (C. 40:87-60.1) is amended to
2 read as follows:

3 2. Any ordinance adopted pursuant to section 40:87-60 of the
4 Revised Statutes shall become operative in 10 days after the
5 publication thereof after its final passage, unless within said 10
6 days a petition, signed by the electors of such borough equal in

7 number to at least 10% of the entire vote in the last preceding
8 general election, protesting against the passage or such ordinance
9 be presented to the governing body, in which case such ordinance
10 shall remain inoperative unless and until a proposition for the
11 ratification thereof shall be adopted at the next general election
12 by a majority of the qualified voters voting on said proposition;
13 *provided, however, the provisions of this section shall not apply*
14 *to any ordinance, or portion thereof, fixing the salaries, wages or*
15 *compensation of the employees of the borough, as employees are*
16 *defined in section 3 of the New Jersey Employer-Employee Rela-*
17 *tions Act, P. L. 1941, c. 100 (C. 34:13A-3), as amended.*

1 8. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to extend the provisions of P. L. 1976, c. 215 to all of the municipalities of the State. In accordance therewith, this bill also limits the right of popular initiative on salary ordinances in certain municipalities. Finally, this bill narrows the definition of officers and employees so as to conform with the definition of employees in the New Jersey Employer-Employee Relations Act. The redefinition is consistent with the principal objective of P. L. 1976, c. 215, which was to amend the popular referendum and initiative laws so as to eliminate any inconsistencies between the provisions of those laws and the New Jersey Employer-Employee Relations Act.