

40:74-5

LEGISLATIVE HISTORY CHECKLIST

WJSA 40:74-5; 40:69A-185; 40:41A-105 (Optional County Charter Law & Walsh Act-- restrictions on ordinance referendum)

LAWS OF 1979

CHAPTER 278

Bill No. A3674

Sponsor(s) Gormley, Matthews

Date Introduced Jan. 3, 1980

Committee: Assembly -----

Senate -----

Amended during passage Yes No

Date of Passage: Assembly Jan. 3, 1980

Senate Jan. 3, 1980

Date of approval Jan. 3, 1980

Following statements are attached if available:

Sponsor statement Yes  No (Below)

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

Sponsor's statement:

This bill would amend the "Optional County Charter Law," the "Optional Municipal Charter Law," and the Walsh Act to provide that no petition for a referendum on a local ordinance shall be submitted or recognized, if that ordinance cannot become effective unless submitted to the voters. The purpose of the bill is to prevent the situation of two elections being required on the same ordinance before it can take effect. The bill is intended to apply to ordinances proposing a question to the voters.

and to ordinances adopted under a statutorily prescribed procedure where one of the elements of that procedure is that the question be submitted to the voters before its substance can take effect in the local unit.

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**C. 40A:9-7.2 Time off with compensation to county employees to attend legislative sessions.**

1. Any person employed by any county, municipality, or agency thereof who is a member of the Senate or General Assembly of the State of New Jersey shall be entitled to time off from his duties as such employee, without loss of pay, during the periods of his attendance at regular or special sessions of the Legislature and hearings or meetings of any legislative committee or commission.

2. N. J. S. 40A:9-160 is repealed.

3. This act shall take effect immediately.

Approved January 3, 1980.

CHAPTER 278

AN ACT concerning the submission of local ordinances to referendum, and amending R. S. 40:74-5, P. L. 1950, c. 210, and P. L. 1972, c. 154.

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

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

**Remonstrance against ordinance; petition; reconsideration; referendum; vote required for adoption.**

40:74-5. If within 10 days after the final passage of an ordinance, except ordinances, or any portion thereof, fixing the salaries, wages or compensation of the employees of the municipality, as defined in section 3 of the New Jersey Employer-Employee Relations Act P. L. 1941, c. 100 (C. 34:13A-3), or ordinances authorizing an improvement or the incurring of an indebtedness, other than for current expenses, where other requirements are made by law, or ordinances which by their terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof, a petition signed by electors of the municipality equal in number to at least 15% of the entire vote cast at the last preceding general municipal election protesting against the passage of such ordinance, be presented to the board, it shall thereupon be suspended from going into operation and the

board of commissioners shall reconsider the ordinance. If the ordinance is not entirely repealed, the board shall submit it, in the manner provided in paragraph b. of section 40:74-14 and sections 40:74-15 to 40:74-18 of this Title, to the vote of the electors of the municipality, either at the general election or at a special municipal election to be called for that purpose, and such ordinance shall not become operative unless a majority of the qualified electors voting on the ordinance shall vote in favor thereof.

2. Section 17-36 of P. L. 1950, c. 210 (C. 40:69A-185) is amended to read as follows:

**C. 40:69A-185 Voters' power of referendum; petition; filing.**

17-36. The voters shall also have the power of referendum which is the power to approve or reject at the polls any ordinance submitted by the council to the voters or any ordinance passed by the council, against which a referendum petition has been filed as herein provided. No ordinance passed by the municipal council, except when otherwise required by general law or permitted by the provisions of section 17-32 (b) of this act, shall take effect before 20 days from the time of its final passage and its approval by the mayor where such approval is required. If within 20 days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the municipal clerk and if the petition shall be signed in the case of municipalities of 70,000 or less inhabitants by twenty-five per centum (25%) of the registered voters of the municipality and in the case of municipalities of more than 70,000 inhabitants, by fifteen per centum (15%) of the registered voters of the municipality, or in the case of municipalities in counties of the first class having a population in excess of 800,000, by voters of the municipality, equal to, or in excess of, in numbers fifteen per centum (15%) of the valid votes cast in the municipality at the last preceding election for members of the General Assembly, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

The provisions of this section shall not apply to any ordinance which by its terms or by law cannot become effective in the municipality unless submitted to the voters, or which by its terms authorizes a referendum in the municipality concerning the subject matter thereof.

3. Section 105 of P. L. 1972, c. 154 (C. 40:41A-105) is amended to read as follows:

**C. 40:41A-105 Power of referendum; time for filing petition.**

105. Power of referendum; time for filing petition. The voters shall have the power of referendum and, pursuant thereto, may approve or reject at the polls any ordinance submitted by the board to the voters or any ordinance passed by the board, against which a referendum petition has been filed as herein provided. No ordinance passed by the county board, except when otherwise required by general law or permitted by the provisions of section 116 or any other section of this act, shall take effect earlier than 20 days from the time of its final passage and its approval by the county executive or supervisor or board chairman or president where such approval is required. If within 20 days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the county clerk and if the petition shall be signed by a percentage of the registered voters in numbers equal to 15% of the registered voters of the county as of 40 calendar days before the last most recent primary or general election, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

The provisions of this section shall not apply to any ordinance which by its terms or by law cannot become effective in the county unless submitted to the voters, or which by its terms authorizes a referendum in the county concerning the subject matter thereof.

4. This act shall take effect immediately, and shall be retroactive to, and apply to all ordinances adopted on or after, December 1, 1979.

Approved January 3, 1980.

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CHAPTER 279

AN ACT appropriating certain funds from the Institutional Construction Fund for the construction of an Institute of Forensic Science.

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

PRESS ADVISORY

JANUARY 3, 1980

Governor Brendan Byrne will sign another bill publicly today, Thursday, January 3, 1980 in the Governor's outer office at 4:45.

The bill is A-3674 sponsored by Assemblyman William A. Gormley (R-Atlantic), which clarifies the provisions concerning petitions for referendums on local ordinances.

The bill would restrict citizen-initiated referendums overturning actions taken by a local governing body when the ordinance in question proposes a question to the voters or must be submitted to the voters before its substance can take effect.

The bill immediately addresses a situation in Atlantic City, where a group of residents is seeking to stop the city commission's recommended charter change by holding a referendum on whether a charter change referendum should be held. The governing body of Atlantic City has petitioned the Legislature for a change in its charter (S.800 in the 1980-81 session); the new charter would have to be passed by Atlantic City voters.

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