

SENATE, No. 2233

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED AUGUST 23, 2010

Sponsored by:

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Provides for early termination of appointed municipal court positions under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning municipal courts and amending N.J.S.2B:12-4,
2 P.L.1997, c.256 and P.L.1999, c.349.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2B:12-4 is amended to read as follows:

8 2B:12-4. Judge of municipal court; term of office; appointment.

9 a. Each judge of a municipal court shall serve for a term of three
10 years from the date of appointment and until a successor is
11 appointed and qualified. Such three year term may terminated
12 before it expires if a municipality enters into a shared services
13 agreement and municipal court functions are consolidated in
14 accordance with N.J.S.2B:12-1. Any appointment to fill a vacancy
15 not caused by the expiration of term shall be made for the unexpired
16 term only. However, if a county or municipality requires by
17 ordinance that the judge of the municipal court devote full time to
18 judicial duties or limit the practice of law to non-litigated matters,
19 the first appointment after the establishment of that requirement
20 shall be for a full term of three years.

21 b. In municipalities governed by a mayor-council form of
22 government, the municipal court judge shall be appointed by the
23 mayor with the advice and consent of the council. Each judge of a
24 joint municipal court shall be nominated and appointed by the
25 Governor with the advice and consent of the Senate. In all other
26 municipalities, the municipal judge shall be appointed by the
27 governing body of the municipality.

28 c. In a county that has established a central municipal court, the
29 judge of the central municipal court shall be nominated and
30 appointed by the Governor with the advice and consent of the
31 Senate. In those counties having a county executive, the county
32 executive may submit the names of judicial candidates for judge of
33 the central municipal court to the Governor. In all other counties,
34 the governing body may submit the names of judicial candidates for
35 judge of the central municipal court to the Governor.

36 (cf: P.L.1996, c.95, s.3)

37

38 2. Section 4 of P.L.1997, c.256 (C.2B:24-4) is amended to read
39 as follows:

40 4. a. A municipal public defender shall be an attorney-at-law of
41 this State in good standing, and shall serve for a term of one year
42 from the date of his appointment, and may continue to serve in
43 office pending re-appointment or appointment of a successor. An
44 appointment of a municipal public defender may be terminated
45 before such term of appointment expires if a municipality enters

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 into a shared services agreement and municipal court functions are
2 consolidated in accordance with N.J.S.2B:12-1. A municipal public
3 defender may be appointed to that position in one or more
4 municipal courts. The provisions of this act shall apply to each
5 such position held. A municipal public defender need not reside in
6 the municipality where he acts as a municipal public defender.

7 b. A municipal public defender of a joint municipal court shall
8 be appointed upon the concurrence of the governing bodies of each
9 of the municipalities in accordance with applicable laws, ordinances
10 or resolutions.

11 c. In accordance with applicable laws, ordinances and
12 resolutions, a municipality may appoint additional municipal public
13 defenders as necessary to administer justice in a timely and
14 effective manner in its municipal court. Additional appointments
15 shall be subject to the provisions of this act, including appointments
16 in a joint municipal court.

17 d. Appointments to fill vacancies in the position of municipal
18 public defender shall be made in accordance with the provisions of
19 this act as soon as practicable.

20 e. In addition to any other means provided by law for the
21 removal from office of a public official, a municipal public
22 defender may be removed by the governing body of a municipality
23 for good cause shown and after a public hearing, and upon due
24 notice and an opportunity to be heard. Failure to reappoint a
25 municipal public defender for a second or subsequent term does not
26 constitute a "removal from office" within the meaning of this
27 subsection.

28 f. The municipal public defenders may represent private clients
29 in any municipality, including the municipality where they act as a
30 municipal public defender, subject to the Rules of Court Governing
31 the Conduct of Lawyers, Judges and Court Personnel.

32 (cf: P.L.1997, c.256, s.4)

33
34 3. Section 4 of P.L.1999, c.349 (C.2B:25-4) is amended to read
35 as follows:

36 4. a. Each municipal court in this State shall have at least one
37 municipal prosecutor appointed by the governing body of the
38 municipality, municipalities or county in accordance with
39 applicable laws, ordinances and resolutions.

40 b. (1) A municipal prosecutor shall be an attorney-at-law of this
41 State in good standing, and shall serve for a term of one year from
42 the date of his or her appointment, except as determined by the
43 governing body of a county or a city of the first class with a
44 population greater than 270,000, according to the latest federal
45 decennial census, or the governing body of a city of the second
46 class with a population of greater than 30,000 but less than 43,000,
47 according to the latest decennial census, which city of the second
48 class is located in a county of the first class with a population less

1 than 600,000 according to the latest federal decennial census, and
2 may continue to serve in office pending re-appointment or
3 appointment of a successor. A municipal prosecutor may be
4 appointed to that position in one or more municipal courts. The
5 provisions of this act shall apply to each such position held.

6 (2) An appointment of a municipal prosecutor may be
7 terminated before such term of appointment expires if a
8 municipality enters into a shared services agreement and municipal
9 court functions are consolidated in accordance with N.J.S.2B:12-1.

10 c. (1) A municipal prosecutor of a joint municipal court shall be
11 appointed upon the concurrence of the governing bodies of each of
12 the municipalities in accordance with applicable laws, ordinances or
13 resolutions.

14 (2) A municipal prosecutor of a central municipal court shall be
15 appointed by the governing body of the county.

16 d. Municipal prosecutors shall be compensated either on an
17 hourly, per diem, annual or other basis as the county, municipality
18 or municipalities provide. In the case of a joint municipal court,
19 municipalities shall, by similar ordinances, enter into an agreement
20 fixing the compensation of the municipal prosecutor and providing
21 for its payment. In the case of a central municipal court, the county
22 shall fix the compensation of the municipal prosecutor and provide
23 for its payment.

24 The compensation of municipal prosecutors shall be in lieu of
25 any and all other fees; provided, however that when a municipal
26 prosecutor is assigned to prosecute a de novo appeal in the Superior
27 Court, the prosecutor shall be entitled to additional compensation
28 unless the municipality expressly provides otherwise at the time the
29 compensation is fixed.

30 e. In accordance with applicable laws, ordinances and
31 resolutions, a municipality may appoint additional municipal
32 prosecutors as necessary to administer justice in a timely and
33 effective manner in its municipal court. Such appointments shall be
34 subject to this act. This subsection also applies to joint municipal
35 courts and central municipal courts.

36 f. Any municipal court having two or more municipal
37 prosecutors shall have a "chief municipal prosecutor" who shall be
38 appointed by the governing body of the county or the municipality.
39 The chief municipal prosecutor of a joint municipal court shall be
40 appointed upon the concurrence of the governing bodies of each
41 municipality. The chief municipal prosecutor shall have authority
42 over other prosecutors serving that court with respect to the
43 performance of their duties.

44 g. (1) Nothing in this act shall affect the appointment of
45 municipal attorneys in accordance with N.J.S.40A:9-139; provided,
46 however, that a person appointed to the positions of both municipal
47 prosecutor and municipal attorney shall be subject to all of the

1 provisions of this act while serving in the capacity of municipal
2 prosecutor.

3 (2) In addition to any other duties proscribed by the provisions
4 of this act, a person serving as both a municipal prosecutor and a
5 municipal attorney may prosecute county or municipal ordinance
6 violations.

7 (cf: P.L.1999, c.349, s.4)

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9 4. This act shall take effect immediately.

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STATEMENT

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14 This bill provides for the early termination of appointed
15 municipal court positions when two or more municipalities enter
16 into shared services agreements and consolidate municipal court
17 functions pursuant to N.J.S.2B:12-1.

18 Under current law, municipal judges are appointed to a
19 statutorily mandated three year term pursuant to N.J.S.2B:12-4.
20 Municipal public defenders and prosecutors are appointed for one
21 year terms under P.L.1997, c.256 (C.2B:24-4) and P.L.1999, c.349
22 (C.2B:25-4), respectively. This bill amends each of these
23 provisions to provide municipalities with the express authority to
24 terminate such appointments as necessary in order to facilitate the
25 sharing of services and, ultimately, the lowering of municipal costs.