SYNOPSIS

Authorizes creation of local civilian review boards to review police operations and conduct; appropriates $600,000.

CURRENT VERSION OF TEXT

As introduced.
A4656 MCKNIGHT, WIMBERLY

AN ACT authorizing the creation of local civilian review boards to review police operations and conduct, supplementing Title 40A of the New Jersey Statutes, amending N.J.S.40A:14-118 and P.L.1996, c.115, and making an appropriation.

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

1. (New section) a. A municipality may, by ordinance, establish a municipal civilian review board.
   b. A municipal civilian review board shall consist of at least seven members appointed by the mayor or other chief executive officer of the municipality with the consent of the governing body of the municipality. The members shall be residents of the municipality with training or experience in community relations, civil rights, law enforcement, sociology, or other relevant fields. The members shall serve for terms of six years, except for the initial appointees, of whom, two shall serve initial terms of two years, two shall serve initial terms of four years, and the remaining members shall serve initial terms of six years. Members of a municipal civilian review board shall serve until their successors are appointed and qualified. A member may be reappointed to a municipal civilian review board.
   c. The presence of four members of a municipal civilian review board shall constitute a quorum, except that the number of members required to form a quorum shall increase by one for each additional member of a municipal civilian review board over seven. The mayor or other chief executive officer of the municipality shall appoint a chairperson and a vice-chairperson from among the members of the municipal civilian review board. The chairperson and vice-chairperson shall serve for terms of two years and may be reappointed. The vice-chairperson shall assume the duties of the chairperson when the chairperson is absent or otherwise incapable of performing the duties of chairperson or, in the case of removal or a permanent incapacity, until the appointment of a successor chairperson by the mayor or other chief executive officer of the municipality.
   d. Vacancies in the membership of a municipal civilian review board shall be filled for the unexpired terms in the same manner as the original appointments. In the event that any member of a municipal civilian review board is rendered incapable of performing the duties of a member, the mayor or other chief executive officer of the municipality shall appoint a qualified person to serve in that member's stead during the period of incapacity. Any member may be removed by a municipal civilian review board for cause.

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.
e. Members of a municipal civilian review board shall serve without compensation, but shall be entitled to reimbursement for actual expenses of serving, to the extent that funds are made available for that purpose.

f. The governing body of a municipality shall, to the extent that funds are made available by the municipality, the State, or other entity, provide such office facilities and assign such professional and clerical staff as are necessary for the municipal civilian review board to properly perform its duties and to keep and maintain appropriate records.

g. Each member of a municipal civilian review board shall, within six months of appointment, complete the training course established or approved pursuant to section 4 of P.L., c. (pending before the Legislature as this bill).

A municipal civilian review board shall not review or investigate the conduct of any law enforcement officers, or recommend the imposition of discipline of such officers, pursuant to paragraphs (3) and (4) of subsection a. of section 3 of P.L., c. (pending before the Legislature as this bill), without a quorum of municipal civilian review board members who have competed the training required by this subsection.

2. (New section) a. A county may, by resolution, establish a county civilian review board that shall have jurisdiction in any participating municipality. A municipality may, by ordinance, elect to be a participating municipality subject to the civilian review board established by the county within which it is located. Upon adoption of such ordinance, the clerk of the municipality shall submit copies of the ordinance to the county civilian review board.

b. A county civilian review board shall consist of at least seven members appointed by the board of county commissioners or, if the county is organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the county supervisor, or the county manager, as applicable, with the consent of the board of county commissioners. The members shall be residents of the county with training or experience in community relations, civil rights, law enforcement, sociology, or other relevant fields. The members shall serve for terms of six years, except for the initial appointees, of whom, two shall serve initial terms of two years, two shall serve initial terms of four years, and the remaining members shall serve initial terms of six years. Members of a county civilian review board shall serve until their successors are appointed and qualified. A member may be reappointed to a county civilian review board.

c. The presence of four members of a county civilian review board shall constitute a quorum, except that the number of members required to form a quorum shall increase by one for each additional member of a county civilian review board over seven. The board of
county commissioners or, if the county is organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the county supervisor, or the county manager, as applicable, shall appoint a chairperson and a vice-chairperson from among the members of the county civilian review board. The chairperson and vice-chairperson shall serve for terms of two years and may be reappointed. The vice-chairperson shall assume the duties of the chairperson when the chairperson is absent or otherwise incapable of performing the duties of chairperson or, in the case of removal or a permanent incapacity, until the appointment of a successor chairperson by the board of county commissioners or, if the county is organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the county supervisor, or the county manager, as applicable.

d. Vacancies in the membership of a county civilian review board shall be filled for the unexpired terms in the same manner as the original appointments. In the event that any member of a county civilian review board is rendered incapable of performing the duties of a member, the board of county commissioners or, if the county is organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the county supervisor, or the county manager, as applicable, shall appoint a qualified person to serve in that member's stead during the period of incapacity. Any member may be removed by a county civilian review board for cause.

e. Members of a county civilian review board shall serve without compensation, but shall be entitled to reimbursement for actual expenses of serving, to the extent that funds are made available for that purpose.

f. The board of county commissioners shall, to the extent that funds are made available by the municipality, the county, the State, or other entity, provide such office facilities and assign such professional and clerical staff as are necessary for the county civilian review board to properly perform its duties and to keep and maintain appropriate records.

g. Each member of a county civilian review board shall, within six months of appointment, complete the training course established or approved pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill). A county civilian review board shall not review or investigate the conduct of any law enforcement officers, or recommend the imposition of discipline of such officers, pursuant to paragraphs (3) and (4) of subsection a. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), without a quorum of county civilian review board members who have competed the training required by this subsection.
3. (New section) a. It shall be the duty of a civilian review board established pursuant to section 1 or section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill) to:

(1) conduct an investigation of the operation of the police force of the municipality, or other law enforcement officers that serve in the capacity of a municipal police force for the municipality, as applicable;
(2) recommend the establishment of policies by the appropriate authority;
(3) review and investigate the conduct of any law enforcement officer; and
(4) recommend the imposition of discipline of such officer consistent with any tenure or civil service laws and contractual agreements.

b. A civilian review board may only initiate an action pursuant to subsection a. of this section in response to a civilian complaint of excessive or unnecessary force, abuse of authority, discourtesy, or offensive language.

c. A civilian review board shall have the power to subpoena witnesses and documentary evidence, which subpoenas shall be enforceable in the Superior Court. The governing body of the municipality or the board of chosen freeholders of the county, as applicable, may delegate to a civilian review board such other powers of inquiry authorized by law as deemed necessary for the conduct of any hearing or investigation. The powers granted and authorized by this subsection shall not be exercised if limited pursuant to subsection d. of this section.

d. A civilian review board investigation may run concurrent to an internal affairs investigation of related conduct by law enforcement, provided that the civilian review board investigation shall cease upon the initiation of a criminal prosecution concerning the related conduct, and provided further that a law enforcement agency may refrain from sharing evidence, or may direct a civilian review board to cease an investigation, if the law enforcement agency determines that evidence sharing, or the investigation itself, would be significantly detrimental to its disciplinary process due to the existence of a related criminal investigation.

e. An ordinance or resolution establishing a civilian review board may set forth guidelines for the operation of the civilian review board consistent with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill). The guidelines may adopt any relevant guidelines issued by the Attorney General.

f. A civilian review board shall report any findings and recommendations concerning police operations or conduct to the mayor or other chief executive officer of the municipality, the governing body of the municipality, the chief of police or other chief law enforcement officer of the municipality, the county
prosecutor, and, in the case of a municipality in which the State
Police serves in the capacity of a municipal police force for the
municipality, the Superintendent of State Police and the Attorney
General.

g. Notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) to the contrary, all records made, maintained, or kept on
file by a civilian review board pursuant to P.L. , c. (C. )
(pending before the Legislature as this bill) shall be confidential
and unavailable to the public while an investigation is pending, and
all personal identifying information contained in all records made,
maintained, or kept on file by a civilian review board pursuant to
P.L. , c. (C. ) (pending before the Legislature as this bill),
including in any reports issued pursuant to subsection f. of this
section, shall be confidential and unavailable to the public.

4. (New section) a. The Attorney General shall, within 45
days of the effective date of P.L. , c. (C. ) (pending before
the Legislature as this bill), develop a training course for members
of civilian review boards established pursuant to section 1 or
section 2 of P.L. , c. (C. ) (pending before the Legislature
as this bill). The training course shall first be offered as soon as
practicable after its development and thereafter offered on a
biannual basis. The training course shall be provided at no cost to
members of a civilian review board or the applicable municipality
or county. The training course shall be designed to help civilian
review board members fairly and effectively carry out their duties
under section 3 of P.L. , c. (C. ) (pending before the
Legislature as this bill).

b. The Attorney General shall authorize that one or more
civilian review board training courses, offered by the National
Association for Civilian Oversight of Law Enforcement or similar
entities, may serve as a training alternative to the course established
pursuant to subsection a. of this section. If a civilian review board
member takes an alternative training course, the Attorney General
may pay for a portion of the member’s course-related costs. The
Attorney General shall adopt standards for when such payments
shall be made.

5. N.J.S.40A:14-118 is amended to read as follows:

40A:14-118. The governing body of any municipality, by
ordinance, may create and establish, as an executive and
enforcement function of municipal government, a police force,
whether as a department or as a division, bureau or other agency
thereof, and provide for the maintenance, regulation and control
thereof. Any such ordinance shall, in a manner consistent with the
form of government adopted by the municipality and with general
law, provide for a line of authority relating to the police function
and for the adoption and promulgation by the appropriate authority
of rules and regulations for the government of the force and for the
discipline of its members. The ordinance may provide for the
appointment of a chief of police and such members, officers and
personnel as shall be deemed necessary, the determination of their
terms of office, the fixing of their compensation and the
prescription of their powers, functions and duties, all as the
governing body shall deem necessary for the effective government
of the force. Any such ordinance, or rules and regulations, shall
provide that the chief of police, if such position is established, shall
be the head of the police force and that he shall be directly
responsible to the appropriate authority for the efficiency and
routine day to day operations thereof, and that he shall, pursuant to
policies established by the appropriate authority:
  a. Administer and enforce rules and regulations and special
emergency directives for the disposition and discipline of the force
and its officers and personnel;
  b. Have, exercise, and discharge the functions, powers and
duties of the force;
  c. Prescribe the duties and assignments of all subordinates and
other personnel;
  d. Delegate such of his authority as he may deem necessary for
the efficient operation of the force to be exercised under his
direction and supervision; and
  e. Report at least monthly to the appropriate authority in such
form as shall be prescribed by such authority on the operation of the
force during the preceding month, and make such other reports as
may be requested by such authority.

As used in this section, “appropriate authority” means the mayor,
manager, or such other appropriate executive or administrative
officer, such as a full-time director of public safety, or the
governing body or any designated committee or member thereof, or
any municipal board or commission, including any civilian review
board, established by ordinance for such purposes, as shall be
provided by ordinance in a manner consistent with the degree of
separation of executive and administrative powers from the
legislative powers provided for in the charter or form of
government either adopted by the municipality or under which the
governing body operates.

Except as provided herein, the municipal governing body and
individual members thereof shall act in all matters relating to the
police function in the municipality as a body, or through the
appropriate authority if other than the governing body.

Nothing herein contained shall prevent the appointment by the
governing body of committees or commissions, including any
civilian review board, to conduct investigations of the operation of
the police force, and the delegation to such committees or
commissions of such powers of inquiry as the governing body
deems necessary or to conduct such hearing or investigation
authorized by law, and nothing herein shall infringe on or limit the
power or duty of such committee, commission, or civilian review
board. Nothing herein contained shall prevent the appropriate
authority, or any executive or administrative officer charged with
the general administrative responsibilities within the municipality,
from examining at any time the operations of the police force or the
performance of any officer or member thereof. In addition, nothing
herein contained shall infringe on or limit the power or duty of the
appropriate authority to act to provide for the health, safety or
welfare of the municipality in an emergency situation through
special emergency directives.
(cf: P.L.1981, c.266, s.1)

6. Section 10 of P.L.1996, c.115 (C.40A:14-181) is amended to
read as follows:
10. Every law enforcement agency, including a police
department of an institution of higher education established
pursuant to P.L.1970, c.211 (C.18A:6-4.2 et seq.), shall adopt and
implement guidelines which shall be consistent with the guidelines
governing the "Internal Affairs Policy and Procedures" of the Police
Management Manual promulgated by the Police Bureau of the
Division of Criminal Justice in the Department of Law and Public
Safety, and shall be consistent with any tenure or civil service
laws, and shall not supersede any existing contractual agreements.
The “Internal Affairs Policy and Procedures” shall require the
disclosure of reports, complaints, and other investigative materials,
including video, sound, or other recording, to the appropriate
authority, as defined in N.J.S.40A:14-118. as well as any civilian
review board established pursuant to P.L. , c. (C. ) (pending
before the Legislature as this bill).
(cf: P.L.2015, c.52, s.1)

7. There is appropriated $600,000 from the General Fund to the
Attorney General, which shall be used to fund the civilian review
board training course established, and any reimbursements for
alternative training courses approved, pursuant to section 4 of
P.L. , c. (C. ) (pending before the Legislature as this bill).

8. This act shall take effect immediately.

STATEMENT

This bill would authorize municipalities and counties to establish
civilian review boards to review police operations and conduct.
These boards would serve to foster transparency, fairness, and
equality in policing practices and policies, which in turn will help
promote positive relations between police and the local communities they serve.

A municipal civilian review board would consist of at least seven members who are appointed by the mayor or other chief executive officer of the municipality with the consent of the governing body of the municipality. A county civilian review board would consist of at least seven members appointed by the board of county commissioners or, if the county is organized pursuant to the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the county supervisor, or the county manager, as applicable, with the consent of the board of county commissioners. A county civilian review board would operate in municipalities that opt to participate with such board.

The members of a civilian review board would be residents of the municipality or county, as applicable, who are qualified persons with training or experience in community relations, civil rights, law enforcement, juvenile justice, sociology, or other relevant fields. They would serve for terms of six years, with certain shorter terms for some of the initial board members to allow for staggered terms.

Members of a civilian review board would be required to take a training course developed and provided by the Attorney General, or an alternative course approved by the Attorney General, within six months of appointment. The Attorney General would be required to develop its training course within 45 days of the bill’s effective date and offer the first course as soon as practicable thereafter. A civilian review board could not investigate the conduct of any law enforcement officers, or recommend the imposition of discipline of such officers or members, without a quorum of members who have competed this training.

A civilian review board would be permitted to utilize resources of the municipality or county to the extent that funds for the utilization of such resources are made available by the municipality, county, State, or other entity.

The bill provides that it would be the duty of a civilian review board to:

1. conduct an investigation of the operation of the police force of the municipality, or other law enforcement officers that serve in the capacity of a municipal police force for the municipality, as applicable;
2. recommend the establishment of policies by the appropriate authority;
3. review and investigate the conduct of any law enforcement officer; and
4. recommend the imposition of discipline of such officer consistent with any tenure or civil service laws and contractual agreements.
A civilian review board could only initiate one of these actions in response to a civilian complaint of excessive or unnecessary force, abuse of authority, discourtesy, or offensive language. A civilian review board would have the power to subpoena witnesses and documentary evidence. The board would also have any additional powers of inquiry delegated to the board by the municipality or county as deemed necessary for the conduct of any hearing or investigation.

A civilian review board investigation may run concurrent to an internal affairs investigation of related conduct by law enforcement, but the civilian review board investigation would have to cease upon the initiation of a criminal prosecution concerning the related conduct. Further, a law enforcement agency may refrain from sharing evidence, or may direct a civilian review board to cease an investigation, if the law enforcement agency determines that evidence sharing, or the investigation itself, would be significantly detrimental to its disciplinary process due to the existence of a related criminal investigation.

The bill permits an ordinance or resolution establishing a civilian review board to set forth guidelines for the operation of the board consistent with the provisions of the bill. The guidelines may adopt any relevant guidelines issued by the Attorney General.

A civilian review board would report its findings and recommendations concerning police operations and conduct to the mayor or other chief executive officer of the municipality, the governing body of the municipality, the chief of police or other chief law enforcement officer of the municipality, the county prosecutor, and, in the case of a municipality in which the State Police serves in the capacity of a municipal police force for the municipality, the Superintendent of State Police and the Attorney General.

Under the bill, all records made, maintained, or kept on file by a civilian review board would be confidential and unavailable to the public while an investigation is pending, and all personal identifying information contained in all records made, maintained, or kept on file by a civilian review board would be confidential and unavailable to the public at all times.

The bill also provides that the "Internal Affairs Policy and Procedures" of the Police Management Manual promulgated by the Police Bureau of the Division of Criminal Justice in the Department of Law and Public Safety be revised to require the disclosure of reports, complaints, and other investigative materials, including video, sound, or other recording, to the appropriate authority, as defined in N.J.S.40A:14-118, as well as any civilian review board.

Lastly, the bill would appropriate $600,000 from the General Fund to the Attorney General to fund the civilian review board training course, or any reimbursements for the alternative training course, required by the bill.