

[First Reprint]
ASSEMBLY, No. 1223

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen AUGUSTINE and ARNONE

1 AN ACT concerning the removal of a municipal business administrator
2 and amending P.L.1950, c.210.

3

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

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7 1. Section 3-13 of P.L.1950, c.210 (C.40:69A-43) is amended to
8 read as follows:

9 3-13. (a) The municipality shall have a department of
10 administration and such other departments, not less than two and not
11 exceeding nine in number, as council may establish by ordinance. All
12 of the administrative functions, powers and duties of the municipality,
13 other than those vested in the offices of the municipal clerk and the
14 municipal tax assessor, shall be allocated and assigned among and
15 within such departments.

16 The offices of the municipal clerk and the municipal tax assessor
17 shall be subject to such general administrative procedures and
18 requirements as are departments of the municipal government,
19 including, but not limited to, the preparation and submission of an
20 annual budget and of such periodic budget reports as are generally
21 required of departments, and such accounting controls, central
22 purchasing practices, personnel procedures and regulations, and
23 central data processing services as are generally required of
24 departments.

25 (b) Each department shall be headed by a director, who shall be
26 appointed by the mayor with the advice and consent of the council.
27 Each department head shall serve during the term of office of the
28 mayor appointing him, and until the appointment and qualification of
29 his successor. The mayor shall, with the advice and consent of the
30 council, appoint the municipal assessor and all other municipal officers
31 not assigned within municipal departments, subject to the terms of any

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALG committee amendments adopted December 5, 1996.

1 general law providing for these offices, unless a different appointment
2 procedure is clearly required by this plan of government or by general
3 law.

4 (c) The mayor may in his discretion remove any department head
5 and, subject to any general provisions of law concerning term of office
6 or tenure, any other municipal executive officer who is not a
7 subordinate departmental officer or employee, after notice and an
8 opportunity to be heard. Prior to removal the mayor shall first file
9 written notice of his intention with the council, and such removal shall
10 become effective on the 20th day after the filing of such notice unless
11 the council shall prior thereto have adopted a resolution by a
12 two-thirds vote of the whole number of the council, disapproving the
13 removal.

14 In the event of the removal or failure of reappointment of a business
15 administrator, that administrator ¹[shall] may, at the discretion of the
16 council, ¹ be entitled to a three-months' written notice of the removal
17 or non-reappointment, or if the mayor determines that the removal
18 shall be immediate, then the administrator ¹[shall] may, at the
19 discretion of the council, ¹ be paid any unpaid balance of his salary plus
20 his salary for a minimum of the next three calendar months following
21 the effective date of the mayor's action unless the removal is for good
22 cause. For the purposes of this subsection, "good cause" shall mean
23 conviction of a crime or offense involving moral turpitude, the
24 violation of the provisions of section 17-14, 17-15, 17-16, 17-17, or
25 17-18 of P.L.1950, c.210 (C.40:69A-163 through 40:69A-167), or the
26 violation of any code of ethics in effect within the municipality.

27 (d) Department heads shall appoint subordinate officers and
28 employees within their respective departments and may, with approval
29 of the mayor, remove such officers and employees, subject to the
30 provisions of Title 11A of the New Jersey Statutes, where that Title
31 is effective in the municipality, or other general law.

32 (e) Notwithstanding the foregoing provisions of this section, in any
33 city of the first class, there shall be, and in any municipality having a
34 population of 15,000 or more, there may be, a board of alcoholic
35 beverage control which shall exercise the powers conferred upon
36 municipal boards of alcoholic beverage control under Title 33 of the
37 Revised Statutes. Such boards shall be comprised of three members,
38 no more than two of whom shall be of the same political party, who
39 shall be appointed by the mayor, with the advice and consent of the
40 council, each to serve for a term of three years, provided that of those
41 first appointed, one shall be appointed to serve for a term of one year,
42 one for two years, and one for three years. Any vacancy in such office
43 shall be filled in the same manner as the original appointment, for the
44 balance of the unexpired term. Except in cities of the first class the
45 members of such board shall serve without compensation but may be
46 reimbursed for necessary expenses incurred in the performance of their

1 duties; in cities of the first class, the members of such board shall
2 receive such compensation as shall be established by ordinance of the
3 municipality. They shall be removable by the mayor for cause. Any
4 person appointed hereunder shall not be subject to the provisions of
5 Title 11A of the New Jersey Statutes, and no such person shall be a
6 member of the city council.

7 Nothing in this subsection shall be construed to limit the general
8 power of the municipal council under this act to establish, alter and
9 abolish offices, boards and commissions in any municipality other than
10 a city of the first class.

11 (f) Whenever in any municipality with a population greater than
12 100,000, according to the latest federal decennial census, the
13 governing body is authorized by any provision of general law to
14 appoint the members of any board, authority or commission, such
15 power of appointment shall be deemed to vest in the mayor with the
16 advice and consent of the council. In all other municipalities,
17 whenever the governing body is authorized by any provision of general
18 law to appoint the members of any board, authority or commission,
19 such power of appointment shall be deemed to vest in the mayor with
20 the advice and consent of the council, unless the specific terms of that
21 general law clearly require a different appointment procedure or
22 appointment by resolution, in which case the appointment shall be by
23 the council.

24 (cf: P.L.1989, c.258, s.1)

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26 2. This act shall take effect immediately.

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31 Requires three months' notice prior to removal of business
32 administrator without good cause.