

CHAPTER 418

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

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

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

C.40:69A-43 Municipal departments, number.

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

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

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor. The mayor shall, with the advice and consent of the council, appoint the municipal assessor and all other municipal officers not assigned within municipal departments, subject to the terms of any general law providing for these offices, unless a different appointment procedure is clearly required by this plan of government or by general law.

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

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

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

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

compensation but may be reimbursed for necessary expenses incurred in the performance of their duties; in cities of the first class, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11A of the New Jersey Statutes, and no such person shall be a member of the city council.

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

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

2. This act shall take effect immediately.

Approved January 19, 1998.