

CHAPTER 196

AN ACT concerning nonpartisan municipal elections, amending various parts of the statutory law, and supplementing P.L.1981, c.379 (C.40:45-5 et seq.) and Title 19 of the Revised Statutes.

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

C.40:45-7.1 Municipal elections, certain, change of date permitted.

1. a. Any municipality governed by the provisions of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.) may, by ordinance, choose to hold regular municipal elections on the day of the general election, the Tuesday after the first Monday in November.

b. Once a municipality has chosen to change the day of the regular municipal election to the day of the general election in November, it shall not be permitted to change the day of the election back to the second Tuesday in May until: (1) at least 10 years have passed since the adoption of the ordinance changing the date of the municipal election to the day of the general election; and (2) a new ordinance providing for regular municipal elections to occur on the second Tuesday in May is adopted by the municipality's governing body.

c. The term of any person in office on the date of the adoption of such an ordinance shall be extended until the beginning of the term of the person elected to that office on the day of the general election in November.

C.40:45-7.2 Arranging ballots for general election.

2. Whenever a municipality has passed an ordinance pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the clerk of the county in which the municipality is located shall arrange the ballot for each subsequent general election to:

a. include those candidates for election to public office in the municipality that has adopted a form of government that provides for the holding of a regular municipal election on the second Tuesday in May but will be holding that election at the general election in November;

b. ensure that there is a clear separation between each candidate described in subsection a. of this section, each candidate for another public office who has been nominated for that office by a political party in the immediately preceding primary election and each candidate nominated directly by petition, so that there is no discernable alignment between candidates otherwise elected at a regular municipal election, candidates nominated by a political party for any other public office and candidates nominated directly by petition; and

c. follow such provisions of the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.) as the clerk may deem feasible.

3. Section 2 of P.L.1981, c.379 (C.40:45-6) is amended to read as follows:

C.40:45-6 Application of act.

2. This act shall govern all municipalities having adopted a plan or form of government, or a charter, which provides for the election of municipal officers at regular municipal elections held on the second Tuesday in May, or having chosen to hold such elections on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), including municipalities holding regular municipal elections under the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), under the "commission form of government law" (R.S.40:70-1 et seq.), under the "municipal manager

form of government law" N.J.S.40A:63-8, under the "village form of government" (R.S.40:157-16 et seq.), or under any plan or form of government, or charter, hereafter authorized which provides for the holding of regular municipal elections at that time. This act shall govern these municipalities only with respect to the time, manner and method of election of municipal officers. The officers to be elected, and their number, the length of their terms of office, and their powers and responsibilities shall be determined by the laws authorizing the plan or form of government, or charter, which the municipalities have adopted.

4. Section 3 of P.L.1981, c.379 (C.40:45-7) is amended to read as follows:

C.40:45-7 Regular municipal elections; date; place; conduct; change; election officers.

3. Except as may otherwise be provided by law for initial elections conducted in a municipality following its adoption of a plan or form of government, or a charter or an amendment thereto, regular municipal elections shall be held in each municipality governed by this act on the second Tuesday in May, or the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), in the years in which municipal officers are to be elected. The municipal election shall be held at the same place or places and conducted in the same manner, so far as possible, as the general election. The election officers shall be those provided for conducting the general election.

Notwithstanding the provisions of this section, the Secretary of State may change in any year the date provided for a regular municipal election if the date coincides with a period of religious observance that limits significantly the usual activities of the followers of a particular religion or that would result in significant religious consequences for such followers. The secretary shall inform the municipal clerks, county clerks and boards of election of the adjustment no later than the first working day in January of the year in which the adjustments are to occur.

As used in this section "a period of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on an individual's ability to vote.

5. Section 4 of P.L.1981, c.379 (C.40:45-8) is amended to read as follows:

C.40:45-8 Petitions of nomination.

4. On or before the 57th day prior to a regular municipal election, the names of candidates for all elective offices shall be filed with the municipal clerk, in the following manner and form and subject to the following conditions:

a. The petition of nomination shall consist of individual certificates, equal in number to at least 1%, but in no event less than 25, of the registered voters of the municipality or the ward, as the case may be, and shall read substantially as follows:

"I, the undersigned, a registered voter of the municipality of, residing at certify that I do hereby join in a petition of the nomination of whose residence is at for the office of mayor (or councilman-at-large, or ward councilman of the ward, or commissioner, or village trustee, as the case may be) to be voted for at the election to be held in the municipality on the, 20....., and I further certify that I know this candidate to be a registered voter, for the period required by law, of the municipality (and the ward, in the case

of ward councilman) and a person of good moral character, and qualified, in my judgment, to perform the duties of the office, and I further certify that I have not signed more petitions or certificates of nomination than there are places to be filled for the above office.

Signed

Any such petition of nomination which is provided to candidates by the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

b. Each petition signature shall be on a separate sheet of paper and shall bear the name and address of the petitioner. The candidate for office and his campaign manager shall make an oath before an officer competent to administer oaths that the statements made therein are true, and that each signature to the papers appended thereto is the genuine signature of the person whose name it purports to be, to their best knowledge and belief. The oath, signed by the candidate, shall constitute his acceptance of nomination and shall be annexed to the petition, together with the oath of his campaign manager, at the time the petition is submitted.

c. The municipal clerk shall immediately provide the Election Law Enforcement Commission with official certification of the filing or withdrawal of a petition of nomination.

6. Section 11 of P.L.1981, c.379 (C.40:45-15) is amended to read as follows:

C.40:45-15 Ballots; printing and authentication; contents; delivery.

11. In the case of a regular municipal election occurring on the second Tuesday in May, the municipal clerk shall cause the ballots to be printed and authenticated by the clerk's signature. Upon the ballots shall be printed the title of each office to be filled. Under each of the titles of office shall be printed the names of the candidates for each office with a square to the left of each name. Below the names of the candidates for each office the words "vote for (insert number of positions to be filled at the election)." The ballot shall be printed upon plain, substantial white paper, and shall be substantially in the following form:

"Municipal election of (insert name of municipality), county of (insert name of county), held (insert the date of the election). To vote for any person make a cross (x) or plus (+) or a check (X) mark in the square preceding the name. Vote for only as many persons as there are officers to be elected. If you wrongly mark the ballot, tear or deface it and return it to election officer and obtain a new ballot."

Blank spaces equal to the number of offices to be filled shall be left below the printed names of the candidates for each office to be voted, wherein the voter may write the name or names of any person or persons for whom he may wish to vote.

The municipal clerk shall deliver ballots to the election officials at each polling place equal in number to 110% of the number of registered voters in each election district, except that where voting machines are used ballots shall be furnished as otherwise provided by law.

In the case of a regular municipal election occurring on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), ballots shall be printed and delivered as otherwise provided by law.

7. Section 13 of P.L.1981, c.379 (C.40:45-17) is amended to read as follows:

C.40:45-17 Number of votes for election; commencement of term of office.

13. At the regular municipal election in any municipality which has adopted this act, the candidates receiving the greatest number of votes cast shall be elected to the respective offices. Except as otherwise provided by law, the term of office of any officer elected pursuant to this act shall begin on July 1 next following election. If a regular municipal election is held on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the term of office of any officer elected shall begin on January 1 next following election.

8. Section 15 of P.L.1981, c.379 (C.40:45-19) is amended to read as follows:

C.40:45-19 Run-off elections; votes necessary for election.

15. In any regular municipal election held under section 14 of P.L.1981, c.379 (C.40:45-18), if a sufficient number of candidates do not receive a majority of the votes cast to elect the required number of councilmen-at-large (or commissioners, or village trustees) or no candidate for mayor or no candidate for ward councilman receives a majority of the votes cast for his respective office, a run-off election in the municipality or ward, as the case may be, shall be held on the fourth Tuesday next following that municipal election; unless in any year that Tuesday shall be the date upon which a primary election shall be held, in which case the run-off election shall be held on the fifth Tuesday next following the municipal election. Alternatively, the run-off election shall be held at a special election on the subsequent Tuesday next after the first Monday in December in the case of a regular municipal election occurring on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1).

At the run-off election, the candidates for councilman-at-large (or commissioner, or village trustee) shall be those candidates not elected at the regular municipal election who received the greatest number of votes at that election, but the candidates shall be equal in number to twice the number of councilmen-at-large (or commissioners, or village trustees) remaining to be elected. The candidates for mayor or ward councilmen at the run-off election shall be the two candidates for the office who received the greatest number of votes at the regular municipal election. Military service ballots shall be printed and distributed for the run-off election in the same manner, so far as possible, as for other municipal elections.

The candidate or candidates who receive the greatest number of votes at the run-off election shall be elected to the office or offices to be filled. If two or more candidates shall be equal and greatest in votes for any of the purposes of this section, they shall draw lots to determine which one shall enter the run-off election, or be elected, as the case may be.

If any candidate to be voted for at the run-off election dies seven or more days prior to the run-off election, the candidate for the office not theretofore included in the run-off election, but next highest in number of votes for that purpose shall be substituted at the run-off election in the place of the deceased candidate and his name shall be substituted on the ballots for that of the deceased candidate.

9. Section 17-1 of P.L.1950, c.210 (C.40:69A-150) is amended to read as follows:

C.40:69A-150 Municipal elections; time.

17-1. Regular municipal elections shall be held in each municipality on the second Tuesday in May, or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), in the years in which municipal officers are to be elected, where the election of such officers is not

provided to be at the general election. Regular municipal elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.).

10. R.S.40:70-2 is amended to read as follows:

Definition of terms.

40:70-2. As used in chapters 70 to 76 of this Title (R.S.40:70-1 et seq.):

"General election" means the annual election held on the first Tuesday after the first Monday in November.

"Regular municipal election" means the election held pursuant to R.S.40:75-2 on the second Tuesday in May, or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), in any year in which such an election is required.

"Electors" mean such citizens of the municipality as were registered as voters at the last general election or regular municipal election, whichever occurred last in the municipality.

"Voters" mean such citizens of the municipality as were registered as voters at the last general election or regular municipal election, whichever occurred last in the municipality, and also those citizens who may register in time to vote at the special election.

"Municipal clerk" means the officer acting under the provisions hereof as the clerk of the municipality.

"Agent" or "agents" mean a person or persons designated in a petition to file the petition and to act on behalf of the petitioners.

"Municipality" means any city, town, township, borough, village or other municipality which has heretofore adopted the provisions of the act entitled "An act relating to, regulating and providing for the government of cities, towns, townships, boroughs, villages and municipalities governed by boards of commissioners or improvement commissioners in this State" (title as amended), approved April 25, 1911, or which shall hereafter adopt the provisions of said chapters 70 to 76 of this Title.

"Majority of ballots cast" means more than one-half of the total number of valid ballots cast at such election.

11. R.S.40:75-2 is amended to read as follows:

Subsequent commissioner; election and terms.

40:75-2. On the second Tuesday in May in every fourth year thereafter there shall be elected at a regular municipal election held pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et seq.), the number of persons as hereinbefore provided as commissioners to serve for the term of 4 years and until their successors shall have been elected and duly qualified. The term of office of all succeeding commissioners shall commence at twelve o'clock noon on the third Tuesday of May next ensuing their election.

If the election is held on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the term of office of commissioners elected shall commence at twelve o'clock noon on January 1 next following their election.

12. R.S.40:81-5 is amended to read as follows:

Time of annual election; terms.

40:81-5. Except as otherwise provided by referendum of the voters, on the second Tuesday of May of the fourth year following such first election and on the second Tuesday of May of every fourth year thereafter, there shall be elected the number of electors hereinbefore prescribed of like qualifications to serve as members of the municipal council for the term of 4 years and until their successors shall have been elected and duly qualified or unless their places become vacant. The term of office of councilmen subsequently elected shall commence on July 1 next ensuing their election at 12 o'clock noon. Elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.379 (C.40:45-5 et al.).

If the election is held on the day of the general election in November pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1), the term of office of councilmen elected shall commence at 12 o'clock noon on January 1 next following their election.²

13. R.S.40:84-2 is amended to read as follows:

First election; when held.

40:84-2. The first municipal election for councilmen shall be held on the fourth Tuesday after the adoption of this subtitle and thereafter an election shall be held on the second Tuesday in May or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1) in the fourth succeeding year and in each fourth year thereafter. Elections shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P.L.1981, c.381 (C. 40:45-5 et seq.).

14. R.S.40:84-11 is amended to read as follows:

Elections; when held; term of office.

40:84-11. In cases provided for in this article the municipal election to be held in accordance with the "Uniform Nonpartisan Elections Law," P.L. 1981, c.379 (C. 40:45-5 et seq.) shall be held on the second Tuesday in May or on the day of the general election in November if chosen by the municipality pursuant to subsection a. of section 1 of P.L.2009, c.196 (C.40:45-7.1) in each year, and the number of persons to be elected at municipal elections shall be equal to the number of vacancies which are then to be filled, and the terms of office of the persons so elected shall be 3 years and until their successors are elected and qualified.

15. This act shall take effect on January 1 next following the date of enactment.

Approved January 14, 2010.