

CHAPTER 337

AN ACT concerning urban revitalization and amending and supplementing P.L.2002, c.43.

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

1. Section 5 of P.L.2002, c.43 (C.52:27BBB-5) is amended to read as follows:

C.52:27BBB-5 Appointment of special arbitrator; criteria for dispute resolution.

5. Upon receipt of notification by the commissioner pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Chief Justice may designate a Superior Court judge who sits within the vicinage of the county in which the qualified municipality is situated or a retired judge who, during his or her tenure as a judge, served within the vicinage of the county in which the qualified municipality is situated as the special arbitrator as prescribed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) to serve during the rehabilitation term only. The designation shall expire at the commencement of the economic recovery term. The special arbitrator shall, on an expedited basis, oversee the resolution of any impasse brought before the special arbitrator by the chief operating officer pursuant to sections 9, 11, 13, 16, 22, and 27 of P.L.2002, c.43 (C.52:27BBB-9, C.52:27BBB-11, C.52:27BBB-13, C.52:27BBB-16, C.52:27BBB-22, and C.52:27BBB-27) or any other impasse resulting from any action or failure to act on the part of the mayor, the governing body or any other officer or appointee of the municipality. The special arbitrator may adopt those procedures necessary to govern the resolution of an impasse and shall use the following criteria in dispute resolution, as appropriate to the particular circumstances:

- a. The action or failure to act would be adverse to the rehabilitation or economic recovery of the municipality;
- b. The action in question or failure to act would represent an unsound decision in violation of the fiduciary responsibility of the municipal officials;
- c. The action or failure to act would be inconsistent with internal financial controls or would violate prudent standards or practices of municipal administration or would violate or compromise State laws, rules or regulations under which the municipality operates; and
- d. the action or inaction would delay the implementation of P.L.2002, c.43 (C.52:27BBB-1 et al.) or the achievement of the goal of fostering the redevelopment and rehabilitation of qualified municipalities and ensuring the effective delivery of municipal services and professionalization of municipal administration.

2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read as follows:

C.52:27BBB-6 Municipality deemed under rehabilitation and economic recovery; term.

6. a. Upon the appointment of a chief operating officer pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified municipality shall be under rehabilitation and economic recovery. This period shall begin with the assumption of job responsibilities by the chief operating officer pursuant to this section and terminate five years following the end of the term of the chief operating officer. The period corresponding with the term of the chief operating officer shall be referred to hereinafter as the rehabilitation term. The period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter shall be referred to hereinafter as the economic recovery term.

b. (1) During the economic recovery term, the mayor shall exercise those powers delegated to the mayor pursuant to the form of government, the charter and the administrative code of the municipality, and those powers delegated to the mayor under general law. In addition, during the economic recovery term, the mayor shall retain the

power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment. No action taken at any meeting of any independent board or authority shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been delivered to the mayor. If, in that 10-day period, the mayor returns the copy of the minutes with a veto of any action taken by the board or authority at the meeting, that action shall be null and void and of no force and effect. Following the completion of the 10-day period, those actions not vetoed shall be considered approved.

(2) During the first 18 months of the economic recovery term, the mayor shall have the power to veto or terminate any employment contract not subject to a collective bargaining agreement, whether or not subject to Title 11A, Civil Service, of the New Jersey Statutes. This shall not apply to employment contracts under extension pursuant to terms under the expired contract.

(3) The mayor shall cause to be issued a final report on the progress of the municipality toward achieving municipal rehabilitation and economic recovery, as set forth in section 8 of P.L.2002, c.43 (C.52:27BBB-8) at the end of the economic recovery term.

(4) The mayor shall authorize the municipal planning board, from time to time, to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto. The program may include current and future major projects being, or to be, undertaken with federal, State, county, or other public funds, or under federal, State, or county supervision. The first year of the program shall, upon adoption by the governing body, constitute the capital budget of the municipality as required by N.J.S.40A:4-43 et seq. The program shall classify projects in regard to the urgency and need for realization, and shall recommend a time sequence for their implementation. The program may also contain the estimated cost of each project and indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds, or the need for additional sources of funds, for the implementation and operation of each project. The program shall, as far as possible, be based on existing information in the possession of the departments and agencies of the municipality and shall take into account public facility needs indicated by the prospective development shown in the master plan of the municipality or as permitted by other municipal land use controls.

(5) While the municipality is under rehabilitation and economic recovery, the mayor shall retain the power to make those appointments to municipal authorities, boards or commissions, as the case may be, which is otherwise allocated to the mayor pursuant to law.

The mayor may retain staff for the purpose of advising the mayor and aiding in the performance of constituent services during the rehabilitation term.

(6) The Director of the Division of Local Government Services in the Department of Community Affairs shall annually conduct a compliance audit of the activities of a qualified municipality during the economic recovery term to ensure compliance with P.L.2002, c.43 (C.52:27BBB-1 et al.) and other relevant State laws and shall report the findings to the Local Finance Board and the mayor.

(7) The financial incentives set forth in sections 54 through 56 of P.L.2002, c.43 (C.52:27BBB-53 through 55) shall remain in effect until the municipality is no longer eligible for financial assistance pursuant to the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.).

c. Upon the assumption of job responsibilities by the chief operating officer, the financial review board created pursuant to section 5 of P.L.1999, c.156 (C.52:27D-118.30a)

to oversee the finances of the municipality shall cease to function and the municipality shall cease to be under supervision pursuant to Article 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

All outstanding debts or obligations incurred by a qualified municipality or the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4) and secured by a right of first refusal on municipally-owned property as of 10 days following a determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency with jurisdiction in a qualified municipality, other than those debts or obligations represented by bonds or other negotiable instruments, are forgiven.

Notwithstanding the termination of the financial review board and supervision, all memorandums of understanding entered into by the municipality as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the municipality to implement any government, administrative, operational efficiency or oversight measures necessary for the fiscal recovery of the municipality as recommended by the director and approved by the Local Finance Board shall continue to have full force and effect.

During the rehabilitation term, the chief operating officer shall be responsible for entering into any memorandum of understanding on behalf of the qualified municipality that is required as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.), or any other law; provided, however, that those memoranda of understanding shall be consistent with the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176 (C.52:27BBB-2.2 et al.), and the powers of the chief operating officer granted pursuant thereto. Any such memoranda of understanding shall be executed between the chief operating officer and the Director of the Division of Local Government Services in the Department of Community Affairs. Whenever the powers and duties of the chief operating officer have devolved upon the director pursuant to subsection b. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), the memorandum of understanding shall be executed between the director, on behalf of the qualified municipality, and the State Treasurer, on behalf of the State.

3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read as follows:

C.52:27BBB-7 Appointment of chief operating officer; term.

7. a. Upon receiving notification by the Commissioner of Community Affairs pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief operating officer in consultation with the mayor and the governing body. The chief operating officer shall serve at the pleasure of the Governor. The chief operating officer shall be qualified by training and experience for the position and shall have at least 10 years of experience in the management or supervision of government activities, three years of which may be substituted by an advanced degree in business, law, or public administration.

b. Pending the appointment of a chief operating officer or, in the event of the death, resignation, removal or inability of the chief operating officer to discharge the duties of that office, the functions, powers and duties of the chief operating officer shall devolve upon the director, for the time being, until a chief operating officer is appointed or is able to discharge the duties of that office. In the event that the chief operating officer does not serve out the chief operating officer's term of office for any reason, a successor shall be chosen by the Governor.

c. (1) The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the initial chief operating officer first appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or 10 years thereafter, except as provided under paragraph (2) of this subsection, if the fourth-year report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8) recommends an extension of that term, provided that the extension is approved by the Commissioner of Community Affairs. The chief operating officer may be hired as a State employee in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes or may be hired under contract, as provided hereunder. Notwithstanding any other provision of law, no person so appointed shall acquire tenure.

If the chief operating officer is hired under contract, the person hired shall meet the qualifications set forth herein, and it shall be clear from the contract that the position is full-time and that the job site shall be at the principal offices of the municipality. If, for any reason, a person engaged under contract is unable to fulfill the job responsibilities of chief operating officer, the selection process shall be recommenced in accordance with the provisions of this section.

If the chief operating officer is hired under contract, the contract shall be available for public inspection in the office of the municipal clerk.

(2) An extended term of the office of chief operating officer shall terminate early upon the recommendation of the Commissioner of Community Affairs to end the rehabilitation term for a qualified municipality and to commence the economic recovery term.

d. Subject to the approval of the State Treasurer, the salary, benefits and costs of the chief operating officer shall be fixed by the board and adjusted from time to time as the board deems appropriate. The salary level and benefits shall be comparable to that of the director of any public authority or agency with jurisdiction in the qualified municipality. The salary, benefits, and costs of the chief operating officer shall be an expense of the State and paid through the Department of the Treasury.

4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to read as follows:

C.52:27BBB-8 Submission of report by chief operating officer.

8. a. At the end of four years following the commencement of duties by the chief operating officer, the chief operating officer or his or her successor shall submit a report to the Governor, each member of the State Economic Recovery Board, each member of the Senate and General Assembly, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, the mayor, and each member of the governing body of the qualified municipality. The report shall evaluate progress made in rehabilitating the qualified municipality and the status of economic recovery efforts. The report shall include an enumeration of any problems or hurdles encountered in rehabilitation and economic recovery and, where applicable, recommendations for any amendments to State law which would promote and encourage rehabilitation and economic recovery. If the chief operating officer anticipates that the rehabilitation term will be insufficient to achieve rehabilitation goals, the chief operating officer shall include in the report a detailed analysis of the causes for the municipality's inability to reestablish local control and an assessment of the amount of time necessary for the continuation of the period of the rehabilitation term.

In addition to the foregoing, the report shall include detailed information as to how those funds appropriated pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how

those expenditures are serving to promote the economic revitalization of the qualified municipality.

b. Within 30 days of receipt of the report by members of the Legislature, a hearing shall be held by the Senate Community and Urban Affairs Committee and the Assembly Housing and Local Government Committee, or their successors, to provide an opportunity for public comment and discussion.

5. Section 19 of P.L.2002, c.43 (C.52:27BBB-19) is amended to read as follows:

C.52:27BBB-19 Incentive for retirement for certain employees.

19. Notwithstanding the provisions of any other law, rule or regulation to the contrary, an employee of a qualified municipality who is a member of the Public Employees' Retirement System and is otherwise eligible for retirement may, upon the recommendation of the chief operating officer during the rehabilitation term or the mayor during the economic recovery term, with the approval of the director, receive an incentive payment for the termination of the employee's employment with the municipality.

As used in this section, "incentive payment" shall mean a lump sum payment of 20 percent of the employee's annual base salary, exclusive of overtime.

An employee shall only be eligible for an incentive payment pursuant to this section if that person applies for this termination benefit within 60 days of the appointment of the chief operating officer during the rehabilitation term, or within the first 60 days of the economic recovery term. Payment shall be made not sooner than upon the receipt of the first pension check by the municipal employee.

This election to retire on the part of the municipal employee shall be communicated by the member to the retirement system pursuant to Title 43 of the Revised Statutes; however, once the employee has elected to retire, that decision shall be final.

6. Section 23 of P.L.2002, c.43 (C.52:27BBB-23) is amended to read as follows:

C.52:27BBB-23 Approval, veto of ordinance, resolution.

23. a. (1) (a) During the rehabilitation term, within three business days following each meeting of the governing body, a copy of each ordinance and resolution which has been adopted by the governing body shall be forwarded to the chief operating officer or mayor, as the case may be, who shall have 10 days from the receipt thereof to veto the ordinance or resolution, as the case may be. Any veto action by the chief operating officer or mayor shall be submitted to the governing body within 10 days of the veto. Within five business days thereafter, the governing body may override the veto by a two-thirds vote of the fully authorized membership thereof.

(b) If, in the opinion of the chief operating officer, the action is contrary to the rehabilitation or economic recovery goals which justified the rehabilitation declaration, the chief operating officer can submit the action to the special arbitrator, who shall allow the action only upon a finding that the action is consistent with the rehabilitation and economic recovery of the qualified municipality. The decision of the special arbitrator shall not be subject to appeal.

(2) During the economic recovery term, in addition to the normal procedures for adopting resolutions and ordinances set forth in the form of government of the qualified municipality, within three business days following each meeting of the governing body, a copy of each ordinance and resolution which has been adopted by the governing body shall be forwarded

to the Commissioner of Community Affairs, who shall have 10 days from the receipt thereof to veto the ordinance or resolution, as the case may be. Any veto action by the commissioner shall be submitted to the governing body within 10 days of the veto. Within five business days thereafter, the governing body may override the veto by a two-thirds vote of the fully authorized membership thereof. The action by the commissioner regarding an ordinance pursuant to this paragraph shall supersede any action by the mayor on that same ordinance.

b. The chief operating officer shall have full access to all municipal records and to municipal information from all officials and employees of the municipality. If the chief operating officer believes that an official or employee of the municipality is not answering the questions of the chief operating officer accurately or completely or is not furnishing information requested by the chief operating officer, the chief operating officer may notify the official or employee in writing to furnish answers to questions or to furnish documents or records, or both. If the official or employee refuses, the chief operating officer may seek a subpoena in the Superior Court, in a summary manner, to compel testimony and furnish records and documents.

7. Section 27 of P.L.2002, c.43 (C.52:27BBB-27) is amended to read as follows:

C.52:27BBB-27 Increase in municipal portion of general tax rate limited.

27. a. During the rehabilitation term, the chief operating officer shall not increase the municipal portion of the general tax rate over the rate established for the year during which the rehabilitation took effect. During the economic recovery term, the governing body of the qualified municipality may only increase the municipal tax levy by three percent per year, notwithstanding the spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) and the limitations on increases to the tax levy pursuant to sections 9 through 13 of P.L.2007, c.62 (C.40A:4-45.44 through C.40A:4-45.47 and C.40A:4-45.3e), except upon application by the mayor of the qualified municipality to the Local Finance Board for authorization.

b. The chief operating officer shall, in consultation with the mayor, annually prepare a budget pursuant to the provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq. This budget shall conform in all respects with the requirements of the "Local Budget Law," N.J.S.40A:4-1 et seq. and shall be subject to the limitations on spending by municipalities set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.). The Local Finance Board may grant exceptions to the spending limitations set forth in P.L.1976, c.68 (C.40A:4-45.1 et seq.) upon application by the chief operating officer, if the Local Finance Board finds such exceptions to be necessary for the rehabilitation of the municipality.

c. Upon the preparation of the budget during the rehabilitation term, the chief operating officer, in consultation with the mayor, shall fix: a date, place and time for the holding of a public hearing upon the budget; the amounts of money necessary to be appropriated for the use of the municipality for the ensuing year; and the various items and purposes for which the same are to be appropriated. The hearing shall be held in accordance with the provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq.; however, the hearing shall be held at least 28 days after the date on which the budget is advertised. Notice of hearing, contents of the notice and the format and purpose of the hearing shall be as provided in that law. As part of the budget request, the chief operating officer may include provision for anticipation of rehabilitation aid if other revenues are insufficient to meet the revenues needed to offset total appropriations.

d. Following the hearing or hearings on the budget pursuant to subsection c. of this section, the governing body shall vote upon the proposed budget. Failure to adopt the budget

shall be communicated to the chief operating officer along with the reasons for each line item that is rejected. If the chief operating officer does not approve those alternatives proposed by the governing body, any disputed line item shall be considered an impasse and subject to the dispute resolution process set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

e. If the budget proposed by the chief operating officer includes a provision for rehabilitation aid, the chief operating officer shall apply to the director for approval of the amount and shall supply the director with documentation justifying the need. The director shall then recommend an amount to the State Treasurer. The treasurer, after consideration of the recommendation, shall determine the amount of the rehabilitation aid to be requested.

f. During the period that the municipality is under rehabilitation and economic recovery, the commissioner shall ensure that those appropriations in the municipal budget necessary for the improvement of internal audit mechanisms and controls are present on an annual basis.

8. Section 36 of P.L.2002, c.43 (C.52:27BBB-36) is amended to read as follows:

C.52:27BBB-36 State Economic Recovery Board created for qualified municipality.

36. a. In order to facilitate the rehabilitation and economic recovery of each qualified municipality, there is created a subsidiary corporation of the New Jersey Economic Development Authority, which shall be known as the State Economic Recovery Board for (insert name of qualified municipality). The board shall operate for the period during which the municipality is under rehabilitation and economic recovery, or until its funds have been disbursed, whichever occurs first. Any outstanding debts or obligations which remain at the termination of board operation shall be assumed by the authority and any accounts payable to the board shall be due and payable to the authority.

b. The board shall consist of 15 voting members, as follows: the mayor of the qualified municipality; a representative of the municipal governing body selected by the governing body; the chief operating officer; the State Treasurer; the Commissioner of Community Affairs; the chairperson of the authority; a representative of the regional impact council selected by the council; the director of the board of chosen freeholders of the county in which the qualified municipality is situated, as provided hereunder, all of whom shall serve ex officio and may select a designee to serve in their stead; one public member chosen by the Governor, based on the recommendation of the Senate President and one public member chosen by the Governor, based on the recommendation of the Assembly Speaker; and five public members to be appointed by the Governor, to include one representative of organized labor and one representing the business community. Of the public members appointed by the Governor, at least three shall be municipal residents. The board shall include two nonvoting ex officio legislative members to be chosen by the Governor, one of whom shall be selected based on the recommendation of the Senate President and the other upon the recommendation of the Speaker of the General Assembly. These members shall be advisory members, appointed solely for the purpose of developing and facilitating legislation to assist the board in fulfilling its statutory mission, and may not exercise any of the executive powers delegated to the board. In addition, the Senior Community Builder in the State office of the federal Department of Housing and Urban Development shall serve as an ex officio, non-voting member of the board.

A majority of the entire authorized voting membership of the board shall constitute a quorum at any meeting thereof.

c. Each public member shall serve for a term of five years. Vacancies in the public membership of the board shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Each ex officio member shall serve for the period during which the municipality is under rehabilitation and economic recovery and for a period of two years thereafter.

The Governor shall designate the chairperson of the board.

d. The board shall be appointed as expeditiously as possible upon the determination by the commissioner that the municipality fulfills the definition of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) and shall convene not later than 30 days following that determination for its organizational meeting. Thereafter, the board shall meet regularly and on not less than a quarterly basis. At its first organizational meeting, the board shall appoint one of the public members to serve as its designee on the New Jersey Economic Development Authority pursuant to section 4 of P.L.1974, c.80 as amended by section 69 of P.L.2002, c.43 (C.34:1B-4).

e. The voting authority of the director of the county board of chosen freeholders shall not become effective until the filing with the Secretary of State of an agreement entered into by the chief operating officer, acting on behalf of the municipality, and the county, detailing the financial commitment of the county to the redevelopment of the infrastructure of the municipality which shall include improvements or other economic benefits totaling not less than \$20 million and a proposed construction schedule for the completion thereof.

9. Section 44 of P.L.2002, c.43 (C.52:27BBB-43) is amended to read as follows:

C.52:27BBB-43 Conveyance of right, title, interest in certain real property.

44. The governing body of each qualified municipality shall convey to the board, for the period of rehabilitation, its right, title and interest in any real property, acquired through the purchase of any tax sale certificate covering that real property whose rights of redemption have been foreclosed under the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), so long as the liens have previously been offered by the municipality at a public tax lien sale.

10. Section 62 of P.L.2002, c.43 (C.52:27BBB-60) is amended to read as follows:

C.52:27BBB-60 Arrangements with other public entities by qualified municipalities.

62. During the rehabilitation and economic recovery terms, the qualified municipality may enter into arrangements with other municipalities, counties, local public authorities, or the State, for the purpose of affording the municipality those benefits which may accrue pursuant to any laws providing for contracted provision of goods or services. Notwithstanding any other provision of law to the contrary all State agencies are authorized to enter into such agreements or arrangements with the qualified municipality during the rehabilitation and economic recovery terms as are necessary or useful in furthering the purposes of P.L.2002, c.43 (C.52:27BBB-1 et al.).

11. Section 63 of P.L.2002, c.43 (C.52:27BBB-61) is amended to read as follows:

C.52:27BBB-61 Contract to contain provision for termination.

63. a. All contracts and agreements entered into by the qualified municipality during the rehabilitation term pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) shall contain provisions stating that the director or chief operating officer may, upon 30 days' notice, terminate the contract or agreement for any reason without payment of penalty or damages. This subsection shall not apply to collective bargaining agreements.

b. All contracts and agreements entered into by the qualified municipality during the rehabilitation term pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) may be terminated by the mayor, upon 30 days' notice, for any reason, without payment of penalty or damages, during the economic recovery term. This subsection shall not apply to collective bargaining agreements.

C.52:27BBB-63.1 School districts affected by economic recovery term.

12. a. Notwithstanding the provisions of section 67 of P.L.2002, c.43 (C.52:27BBB-63) or any other section of law to the contrary, upon the commencement of the economic recovery term in a qualified municipality pursuant to the provisions of section 6 of P.L.2002, c.43 (C.52:27BBB-6), a school district which is contiguous with that qualified municipality shall become or remain, as applicable, a Type I school district and, except at otherwise provided pursuant to subsection b. of this section, shall be governed by the provisions of Title 18A of the New Jersey Statutes relating to Type I districts.

b. The terms of the appointed members of the board of education in office at the time of the commencement of the economic recovery term shall continue to, and cease upon, the appointment of members to the Type I school district board of education by the mayor or other chief executive officer of the qualified municipality. The terms of the newly-appointed members shall be staggered. Any elected members of the board of education in office at the time of the commencement of the economic recovery term shall continue in office until the expiration of their respective terms and the qualification of their respective successors following appointment to the Type I school district board of education by the mayor or other chief elected officer of the qualified municipality.

c. At the April school election in the fourth school year following the commencement of the economic recovery term in a qualified municipality, the board of education of the district shall place the question of the classification status of the district as a Type I or Type II district before the voters, which election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

If the voters of the district elect to become a Type II district, it shall be governed by the provisions of Title 18A of the New Jersey Statutes relating to Type II districts and the members of the board of education at the time of the election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

If the voters of the district elect to remain a Type I district, it shall be governed in accordance with the provisions of Title 18A of the New Jersey Statutes relating to Type I districts.

d. The provisions of section 68 of P.L.2002, c.43 (C.52:27BBB-64) shall not be applicable to a school district subject to this section.

13. This act shall take effect immediately.

Approved January 18, 2010.