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SYNOPSIS
Revises statutes concerning permissible length of time between certain public questions in certain municipalities.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning initiative and referendum in certain municipalities and amending various parts of the statutory law.

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

1. R.S.40:74-18 is amended to read as follows:

40:74-18. If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the municipality. An ordinance proposed by petition, or which shall be adopted by a vote of the people, shall not be repealed or amended within 3 years of the date of adoption by the voters, except by a vote of the people; except that an ordinance proposed by petition following the approval by the voters of the municipality of a proposition to increase or decrease either the term of office of the members of the governing body or the number of members of the governing body, or regarding the division of the municipality into a number of wards, no proposal to repeal or amend that proposition shall be submitted to the voters of the municipality more than once in any 10-year period until after the fifth calendar year next following that approval. (cf: P.L.2009, c.339, s.1)

2. R.S.40:76-26 is amended to read as follows:

40:76-26. If a majority of the votes cast at the special election are against the proposition submitted, no other petition for the submission, to the voters of such municipality, of the same proposition, as provided for in this chapter shall be filed with the clerk within two years thereafter, except that an ordinance proposed by petition following the approval by the voters of the municipality of a proposition to increase or decrease either the term of office of the members of the governing body or the number of members of the governing body, or regarding the division of the municipality into a number of wards, no proposal to repeal or amend that proposition shall be submitted to the voters of the municipality more than once in any 10-year period until after the fifth calendar year next following that approval, after which date, upon the presentation of another petition or request as provided for herein, the same procedure shall be had, and the same proposition shall be again submitted to a vote in the manner herein prescribed and with the same force and effect. (cf: P.L.2009, c.339, s.2)


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.
amended to read as follows:

**1.** If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the municipality and be published as in the case of other ordinances. No such ordinance shall be amended or repealed within 3 years immediately following the date of its adoption by the voters, except by a vote of the people. The council may, within 3 years immediately following the date of adoption of the ordinance, submit a proposition for the repeal or amendment of that ordinance to the voters at any succeeding general election or regular municipal election. If the proposition submitted shall receive a majority of the votes cast at that election, the ordinance shall be repealed or amended accordingly. If the provisions of two or more measures approved or adopted at the same election conflict then the measure receiving the greatest affirmative vote shall control.

**b.** Notwithstanding the provisions of this section, an ordinance proposed by petition following the approval by the voters of the municipality of a proposition to increase or decrease the term of office of the members of the governing body or the number of members of the governing body, or the division of the municipality into a number of wards, no proposal to repeal or amend that proposition shall not be submitted to the voters of the municipality more than once in any 10-year period until after the fifth calendar year next following that approval. (cf: P.L.2009, c.339, s.4)

4. Section 1 of P.L.1988, c.7 (C.40A:62-2) is amended to read as follows:

**1.** The mayor shall be elected by the voters of the municipality at large and shall be known as the councilman-at-large. The mayor shall serve for a term of four years.

**b.** (Deleted by amendment, P.L.2005, c.93).

**c.** The council shall consist of eight members, two elected from each of four wards. The members of council shall serve for a term of four years.

**d.** Notwithstanding the provisions of subsection c. of this section, any town, whose council immediately prior to the effective date of P.L.1988, c.7 had a council whose method of election, composition or tenure of its membership differed in any way from the provisions set out in subsection c. of this section, shall continue to be governed by those provisions which determined the council's method of election, composition or tenure of its membership, as the case may be, until such time it wishes to adopt the provisions as set out in subsection c. of this section. Any adoption shall be by referendum of voters, after the town council shall have passed an ordinance not less than 60 days preceding any general election calling for the referendum to be placed upon the ballot. The
referendum shall not be submitted to the voters more than once in any [10-year] three-year period. Notwithstanding the provisions of this subsection, following the approval by the voters of the municipality of a proposition to increase or decrease the term of office of the members of the governing body or the number of members of the governing body, or the division of the municipality into a number of wards, no proposal to repeal or amend that proposition shall be submitted to the voters of the municipality until after the fifth calendar year next following that approval.

e. The annual election for town officers shall be held at the same time and places as the general election. No person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote.

(cf: P.L.2009, c.339, s.5)

5. Section 1 of P.L.1991, c.227 (C.40A:62-2.1) is amended to read as follows:

1. a. The legal voters of any town in which the mayor and council members are elected for two-year terms of office, may by petition and referendum, require that the mayor and council members shall be elected for four-year terms of office.

b. Upon the submission to the town clerk of a petition, signed by at least fifteen per centum (15%) of the legal voters of the municipality who cast their votes in the municipality at the last election in which members of the General Assembly were elected, the proposition shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any [10-year] three-year period; except that following the approval by the voters of the municipality of a proposition to increase or decrease the term of office of the members of the governing body or the number of members of the governing body, or the division of the municipality into a number of wards, no proposal to repeal or amend that proposition shall be submitted to the voters of the municipality until after the fifth calendar year next following that approval.

c. The notice, advertisement and conduct of the referendum shall be in the same manner as for offices voted at the general election.

d. The proposition shall be submitted to the voters at the election in substantially the following form: "Shall the term of the mayor and council members in ...............(name of town)............. be increased to four years?"

e. A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the general election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to adopt it.

(cf: P.L.2009, c.339, s.6)
6. R.S. 40:81-1 is amended to read as follows:

40:81-1. The municipal council shall consist of three, five,
seven or nine members as authorized on the effective date of this
1981 amendatory act.

After the effective date of this 1981 amendatory act, the legal
voters of any municipality may, by petition and referendum,
increase or decrease the number of the municipal council to three,
five, seven or nine members. Upon the submission of a petition
signed by a number of the legal voters of the municipality equal in
number to at least 15% of the total votes cast in the municipality at
the last election at which members of the General Assembly were
elected, the proposition to increase or decrease the membership of
the municipal council shall be submitted to the voters at the next
general election. The proposition shall not be submitted more than
once in any [10-year] three-year period; except that following the
approval by the voters of the municipality of a proposition to
increase or decrease the term of office of the members of the
governing body or the number of members of the governing body,
or the division of the municipality into a number of wards, no
proposal to repeal or amend that proposition shall be submitted to
the voters of the municipality until after the fifth calendar year next
following that approval.

The signatures, verification, authentication, inspection,
certification, amendment and submission of the petition shall be the
same as for petitions to recall councilmen and shall be filed and
certified to by the municipal clerk at least 60 days before the
general election at which the proposition shall be submitted to a
vote.

The question of the increase in the number of commissioners
shall be submitted to the voters at the election in substantially the
following form:

"Shall the membership of the municipal council of (name
of municipality) be (insert "increased" or "decreased"
as appropriate) from to members?" (insert current
number) (insert proposed number)

A canvass and return of the vote upon the proposition shall be
made by the election officers in the same manner as for officers
voted for at the election, and a majority of all the votes cast upon
the proposition in favor of the proposition shall be sufficient to
make the change.

When the legal voters shall have voted to increase or decrease
the membership of the municipal council as provided in this section,
the increase or decrease shall take effect for the next regular
municipal election of councilmen.

(cf: P.L.2009, c.339, s.7)

7. Section 4 of P.L.1981, c.427 (C.40:81-5.1) is amended to
read as follows:
4. Where the members of the municipal council in any municipality adopting the municipal manager form of government have 4-year terms of office pursuant to R.S.40:81-5, the legal voters of the municipality, by petition and referendum, may provide that the terms of office of the members of the municipal council shall expire in staggered years as provided in this section.

a. An election upon the proposition to elect members of the municipal council to terms of office which expire in staggered years shall be ordered by the municipal council upon the submission of a petition signed by a number of the legal voters of the municipality equal to not less than 15% of the total votes cast in the municipality at the last preceding election at which members of the General Assembly were elected. The proposition shall be submitted at the next general election. The proposition shall not be submitted more than once in any 3-year period;

b. The signatures, verification, authentication, inspection, certification, amendment and submission of the petition shall be the same as for petitions to recall councilmen and shall be filed and certified to by the municipal clerk at least 60 days before the general election at which the proposition shall be submitted to a vote;

c. The question of the election of members of the municipal council to staggered terms of office shall be submitted to the voters at such election in substantially the following form:

"Shall the terms of office of members of the municipal council of [name of municipality] expire in staggered years?"

d. A canvass and return of the vote upon the proposition shall be made by the election officers in the same manner as for officers voted for at the election, and a majority of all the votes cast upon the proposition in favor of the proposition shall be sufficient to make the change;

e. When the legal voters shall have voted to have the terms of office of members of the municipal council expire in staggered years, there shall be elected at the next regular municipal election of councilmen the following:

(1) If the municipal council consists of three members, two of the members shall be elected for 4 years, and one for 2 years, the respective terms of each to be designated on the ballot;

(2) If the municipal council consists of five members, two of the members shall be elected for 4 years, and three for 2 years, the respective terms of each to be designated on the ballot;

(3) If the municipal council consists of seven members, three of the members shall be elected for 4 years, and four for 2 years, the respective terms of each to be designated on the ballot;

(4) If the municipal council consists of nine members, four of the members shall be elected for 4 years, and five for 2 years, the respective terms of each to be designated on the ballot.
Each council member elected thereafter shall serve for a 4-year term of office.

Notwithstanding the provisions of this section, an ordinance proposed by petition following the approval by the voters of the municipality of a proposition to increase or decrease the term of office of the members of the governing body or the number of members of the governing body, or the division of the municipality into a number of wards, no proposal to repeal or amend that proposition shall be submitted to the voters of the municipality more than once in any 10-year period until after the fifth calendar year next following that approval.

(cf: P.L.2009, c.339, s.8)

8. Section 1-21 of P.L.1950, c.210 (C.40:69A-21) is amended to read as follows:

1-21. No petition for submission of the question of adopting an optional plan of government pursuant to section 1-18 et seq. of this act P.L.1950, c.210 (C.40:69A-18 et seq.) may be filed while proceedings are pending pursuant to another such petition, or under an ordinance passed or petition filed pursuant to section 1-1 of this act P.L.1950, c.210 (C.40:69A-1), or while proceedings are pending pursuant to any other statute for the adoption of any other charter or form of government available to the municipality, nor within four years or until after the fourth calendar year after an election shall have been held pursuant to any such petition filed pursuant to section 1-18 et seq. of this act P.L.1950, c.210 (C.40:69A-18 et seq.) at which election the voters of the municipality do not approve the adoption of an optional form of government pursuant to P.L.1950, c.210 (C.40:69A-1 et seq.). Following such an election at which the voters of the municipality do not approve the adoption of an optional plan of government pursuant to P.L.1950, c.210 (C.40:69A-1 et seq.), no petition to adopt an optional plan of government pursuant to P.L.1950, c.210 (C.40:69A-18 et seq.) shall be submitted to the voters of the municipality until after the fifth calendar year next following that approval.

(cf: P.L.1953, c.254, s.11)

9. Section 1-23 of P.L.1950, c.210 (C.40:69A-23) is amended to read as follows:

1-23. The voters of any municipality which has adopted an optional form of government pursuant to this act P.L.1950, c.210 (C.40:69A-1 et seq.) may not vote on the question of adopting another form of government until 10 years thereafter after the fifth calendar year next following that approval. The voters of any municipality which has held an election but has not adopted an optional form of government pursuant to this act P.L.1950, c.210 (C.40:69A-23) is amended to read as follows:

1-23. The voters of any municipality which has adopted an optional form of government pursuant to this act P.L.1950, c.210 (C.40:69A-1 et seq.) may not vote on the question of adopting another form of government until 10 years thereafter after the fifth calendar year next following that approval.
may not vote on the question of adopting another form of government until [10 years thereafter] the third calendar year next following that election.

(cf: P.L.2009, c.339, s.3)

10. Section 7 of P.L.1981, c.465 (C.40:69A-25.1) is amended to read as follows:

7. a. Any municipality governed by a plan of government adopted pursuant to P.L.1950, c.210 (C.40:69A-1 et seq.) may, by referendum, amend its charter to include any alternative permitted under that plan of government. The question of adopting an alternative may be initiated by the voters pursuant to, and subject to the pertinent provisions of, sections 17-35 through 17-47 (C.40:69A-184 through 40:69A-196); or may be submitted to the voters by ordinance adopted by the governing body, in which case the question and ordinance shall be subject to the pertinent provisions of sections 17-42 through 17-47 (C.40:69A-191 through 40:69A-196), except that no petition of the voters shall be necessary in order to submit the question.

b. At any election at which the question of adopting an alternative is to be submitted to the voters pursuant to this section, the question shall be submitted in substantially the following form:

"Shall the charter of (insert name of municipality) governed by (insert plan of government) be amended, as permitted under that plan, to provide for (insert appropriate language from below for the alternative to be voted upon)?"

GROUP A.

(1) "the holding of regular municipal elections in May;"
(2) "the holding of general elections in November;"

GROUP B.

(3) "the election of all council members at large;"
(4) "the division of the municipality into (insert number) wards with (insert number) council members to be elected at large and one from each ward;"

GROUP C.

(5) "the election of all council members for concurrent terms;"
(6) "the election of council members for staggered terms;"

GROUP D.

(7) "the election of the mayor by the members of the council from among their own number;"
(8) "the election of the mayor directly by the voters of the municipality;"

GROUP E.

(9) "a municipal council to consist of three members;"
(10) "a municipal council to consist of five members;"
(11) "a municipal council to consist of seven members;"
(12) "a municipal council to consist of nine members."
If more than one alternative is to be submitted to the voters at the
same time, each alternative shall be separately stated on the ballot
in the form of a question as set forth above. If the provisions of two
or more alternatives adopted at the same election conflict, then that
receiving the greatest affirmative vote shall control. Nothing
contained in this section shall authorize the submission to the voters
of the question of adopting any alternative not authorized by the
plan of government under which the municipality is governed. No
question shall be submitted to the voters pursuant to this section
[within 4 years] until after the fifth calendar year next following
the adoption by the municipality of a plan of government authorized
c.465, or [within 4 years] until after the fourth calendar year next
following the date on which the question of adopting it or any
alternative in the same group was last submitted to the voters
pursuant to this section, but was not approved by the voters.

c. In any municipality having adopted a charter providing for
the division of the municipality into wards, the question of
increasing or decreasing the number of council members to be
elected in the municipality shall be submitted to the voters in the
manner set forth in alternative (4) of Group B. of subsection b. of
this section. None of the alternatives set forth in Group E. of that
subsection shall be submitted to the voters in any municipality
divided into wards, unless at the same election alternative (3) of
Group B. of that subsection is also submitted, in which case both
alternatives shall be approved by the voters in order for either to
take effect.
(cf:  P.L.1981, c.465, s.7)

11. This act shall take effect immediately.

STATEMENT

This bill would revise statutes concerning permissible length of
time between public questions in municipalities operating under the
“Optional Municipal Charter Law,” and the commission, town, and
municipal manager forms of government. These forms of municipal
government permit initiative and referendum, or simply
referendum, in order to effect public policy (or a change in public
policy) on the local level, including the number of members of the
governing body, the terms of office of those governing body
members, and the method by which those governing body members
are elected (either at-large or by ward). P.L.2009, c.339 revised
prior law to set the time period in those municipalities for
consideration of referendum questions concerning the number,
terms of office, or the method of election of local governing body
members to once every 10 years. P.L.2009, c.339 also set a once-
per-10-year limit on the ability of the voters of any municipality
which has adopted an optional form of government under the
“Optional Municipal Charter Law” to vote on the question of
adopting another form of government.

This bill would revise the changes made to these laws by the
enactment of P.L.2009, c.339. The bill would provide that, with
respect to propositions to increase or decrease the term of office of
the members of the governing body or the number of members of
the governing body, or the division of the municipality into a
number of wards, if such a proposition is approved by the voters of
the municipality, no similar proposition shall be submitted to the
voters of the municipality until after the fifth calendar year next
following that approval.

The bill also revises three sections of the “Optional Municipal
N.J.S.A.40:69A-21 (concerning the adoption of an optional plan of
government under the “Optional Municipal Charter Law”),
N.J.S.A.40:69A-23 (concerning the adoption of another form of
government under the “Optional Municipal Charter Law”), and
N.J.S.A.40:69A-25.1 (concerning the adoption of alternatives to a
municipal charter under the “Optional Municipal Charter Law”) to
also provide that if a proposition under those statutes is approved by
the voters of a municipality, no similar proposition shall be
submitted to the voters of the municipality until after the fifth
calendar year next following that approval.

The sponsor believes that any such change to the government of
a municipality should have five years, which is a significant period
of time, to prove effective or ineffective prior to the contemplation
by the voters of the municipality of another change to the municipal
government.