Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

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 An ordinance proposed by petition, or which shall be adopted by a vote of the people, shall not be repealed or amended within 3 years of the date of adoption by the voters, except by a vote of the people; except that [an ordinance proposed by petition] following the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 [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.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] three calendar 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 [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.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.
3. Section 17-47 of P.L.1950, c.210 (C.40:69A-196) is amended to read as follows:

17-47. a. 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. a. 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 (insert current number) to (insert proposed number) members?"

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
expire in staggered years?” (name of municipality)
   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 ordinance may be passed and 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.) or amending a charter pursuant to sections 1-1 through 1-25 of P.L.1950, c.210 (C.40:69A-1 through 40:69A-25), or section 7 of P.L.1981, c.465 (C.40:69A-25.1) 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) , sections 1-1 through 1-25 of P.L.1950, c.210 (C.40:69A-1 through 40:69A-25), or section 7 of P.L.1981, c.465 (C.40:69A-25.1), 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 third 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 plan 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 approve the adoption of an optional plan of government pursuant to P.L.1950, c.210 (C.40:69A-1 et seq.), or section 7 of P.L.1981, c.465 (C.40:69A-25.1), no petition to adopt an optional plan of government pursuant to section 1-18 et seq. of 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:
10. Section 7 of P.L.1981, c.465 (C.40:69A-25.1) is amended to read as follows:
11. (cf: P.L.2009, c.339, s.3)
(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 elected at large;"
(10) "a municipal council to consist of five members elected at large;"
(11) "a municipal council to consist of seven members elected at large;"
(12) "a municipal council to consist of nine members elected at large."

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 by P.L.1950, c. 210 (C. 40:69A-1 et seq.) or [this act] P.L.1981, c.465, or within 4 years until after the third 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.

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. Section 1-17 of P.L.1950, c.210 (C.40:69A-17) is amended to read as follows:
1-17. No ordinance may be passed and no petition may be filed for the election of a charter commission pursuant to section 1-1 of [this act] P.L.1950, c.210 while proceedings are pending under any other petition or ordinance filed or passed under article 1 of [this
This bill revises 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.

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.


- 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 bill provides that under Group E, municipal council members shall be elected at large.