

CHAPTER 339

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:

Ordinances; adoption, submission to voters.

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 An ordinance proposed by petition, or which shall be adopted by a vote of the people, shall not be repealed or amended within 3 years of the date of adoption by the voters, except by a vote of the people; except that an ordinance proposed by petition to increase or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, shall not be submitted to the voters of the municipality more than once in any 10-year period.

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

Proposition not adopted, resubmission to voters.

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 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, shall not be submitted to the voters of the municipality more than once in any 10-year period, 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.

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

C.40:69A-23 Optional form of government; adoption, no vote for 10 years thereafter to change.

1-23. The voters of any municipality which has adopted an optional form of government pursuant to this act may not vote on the question of adopting another form of government until 10 years thereafter.

4. Section 17-47 of P.L.1950, c.210 (C.40:69A-196) is amended to read as follows:

C.40:69A-196 Repeal, amendment of ordinances.

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 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, shall not be submitted to the voters of the municipality more than once in any 10-year period.

5. Section 1 of N.J.S.40A:62-2 is amended to read as follows:

C.40A:62-2 Elected officers, terms.

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 period.

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.

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

C.40A:62-2.1 Voters may increase terms of certain mayors, council members.

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 period.

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.

7. R.S.40:81-1 is amended to read as follows:

Members; number; increase or decrease by initiative and referendum.

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 period.

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 members?" (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.

8. Section 4 of P.L.1981, c.427 (C.40:81-5.1) is amended to read as follows:

C.40:81-5.1 Staggered terms for municipal council members under municipal manager form of government.

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 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, shall not be submitted to the voters of the municipality more than once in any 10-year period.

9. This act shall take effect immediately and shall be retroactive to public questions on the November 3, 2009 ballot.

Approved January 18, 2010.