

OPTIONAL MUNICIPAL CHARTERS

For more information on using WESTLAW to supplement your research, see the WESTLAW Electronic Research Guide, which follows the Preface.

ARTICLE 1. PROCEDURE FOR ADOPTION OF OPTIONAL CHARTER PLANS

A. CHARTER COMMISSION

40:69A-1. Election on question whether charter commission shall be elected

(a) Whenever authorized by ordinance of the governing body or upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question: "Shall a charter commission be elected to study the charter of and to consider a new charter or improvements in the present charter and to make recommendations thereon?" The petition calling for such election shall be in the form required by subsection (b) hereof and shall be signed by the following per centum of registered voters of the municipality:

25% in municipalities of 7,000 or less inhabitants;

20% in municipalities of more than 7,000 and less than 70,000 inhabitants;

10% in municipalities of 70,000 or more inhabitants.

In either event, the municipal clerk shall provide for the submission of the question and for the election of a charter commission at the next general or regular municipal election, occurring not less than 75 days after the passage of the ordinance or the filing of the petition with the clerk. At the election the question above stated shall be submitted as other public questions are submitted to the voters of a single municipality.

(b) A petition under this section shall conform to the requirements of form for petitions under sections 17-37 through 17-39 hereof¹ (except that there shall be no reference therein to any ordinance) and shall be subject to examination, certification and amendment as therein provided.

L.1950, c. 210, p. 460, § 1-1. Amended by L.1953, c. 254, p. 1741, § 1; L.1954, c. 69, p. 423, § 1, eff. June 24, 1954.

¹ Sections 40:69A-186 to 40:69A-188.

plement your research, which follows the Preface.

Historical and Statutory Notes

Title of Act:

An Act concerning municipalities, providing a plan of optional charters and

for the manner of adoption and effect thereof. L.1950, c. 210, p. 460.

Library References

American Digest System

Initiative and referendum and submission to popular vote; matters subject

to referendum; see Municipal Corporations ¶108.6.

Comments

Faulkner Act direct petition, see N.J.P. vol. 35, Pane, App. M. 1.

Procedure for changing form of municipal government, see N.J.P. vol. 34, Pane, § 117.

Encyclopedias

Ordinances under initiative and referendum laws; matters submitted, see C.J.S. Municipal Corporations § 454.

WESTLAW Research

Municipal corporations cases: 268k[add key number].

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1. Constitutionality

This Act titled "An Act concerning municipalities, providing a plan of optional charters and for the manner of adoption and effect thereof," is not violative of Const.1947, Art. 4, § 7, par: 4, providing that every law shall embrace but one object which shall be expressed in its title, although certain features of statute

were not disclosed by title. Bucino v. Malone, 12 N.J. 330, 96 A.2d 669 (1953).

2. Construction

Faulkner Act [§ 40:69A-1 et seq.] should be liberally construed to effect its salutary purpose of arousing public interest and placing in hands of voters direct means of controlling proposed or enacted municipal legislation and of accomplishing enactment of legislation which has neither been proposed nor adopted. Maese v. Snowden, 148 N.J.Super. 7, 371 A.2d 802 (A.D.1977).

Word "whenever," within Optional County Charter Law providing that "whenever such resolution or petition shall be filed with him, the county clerk shall provide for submission of the question at the next general election," and words "in either event," within Optional Municipal Charter Law providing that "In either event, the municipal clerk shall provide for the submission of the

Note 2

question * * * at the next general or regular municipal election," have similar meanings; if any legislative distinction was intended, it is simply that the filing of either a resolution or a petition bars a possibility of any other resolution, petition or other proceedings for adoption of any other charter or form of government. *Essex County Mayors' Conference v. Board of Chosen Freeholders of Essex County*, 124 N.J.Super. 393, 307 A.2d 131 (L.1973).

Faulkner Act as a whole was adopted as essentially one, integral comprehensive plan for local government and its different cognate provisions, adopted at one time, lend significance to each other. *Seminara v. Smith*, 89 N.J.Super. 349, 215 A.2d 47 (1965).

3. Construction with other laws

The Faulkner Act cannot be considered as an entirely independent legislative scheme, separate and apart in every respect from general election laws, but necessarily depends upon them. *Pritel v. Burris*, 94 N.J.Super. 485, 229 A.2d 257 (A.D.1967).

Both Civil Service Act and act [§ 40:69A-1 et seq.] providing an optional method of appointing municipal officers and employees were applicable and had to be construed together, where voters in two consecutive elections approved both such statutes. *Loboda v. Clark Tp.*, 74 N.J.Super. 159, 180 A.2d 721 (1962) affirmed 40 N.J. 424, 193 A.2d 97.

4. Purpose

Intent of Faulkner Act is to give municipality which adopts one of its optional plans a new broom. *Myers v. Worrick*, 182 N.J.Super. 117, 440 A.2d 72 (L.1981).

Intent of Faulkner Act is to confer greatest possible power of local self-government and to encourage citizen interest and participation. *Lawrence v. Schrof*, 162 N.J.Super. 375, 392 A.2d 1243 (L.1978).

Initiative and referendum procedure is one of cornerstones of fundamental Faulkner Act purpose of encouraging citizen interest and participation in municipal affairs. *Meridian Development Co. v. Edison Tp.*, 91 N.J.Super. 310, 220 A.2d 121 (1966).

Faulkner Act discloses intent of Legislature to give newly formed government widest possible authority to determine organization of departments and to control personnel, so that new municipal government is not hampered by a variety of holdover boards and departments. *McCartney v. Franco*, 82 N.J.Super. 570, 198 A.2d 490 (1964) affirmed 87 N.J.Super. 292, 209 A.2d 329.

It was intentment of Faulkner Act to confer greatest possible powers of local self-government consistent with Constitution upon municipalities adopting a plan pursuant thereto. *Riddlestorffer v. City of Rahway*, 82 N.J.Super. 36, 196 A.2d 550 (1964).

It was intentment of Faulkner Act to confer greatest possible power of local self government, consistent with State Constitution, upon municipalities adopting plan pursuant to Act, as well as to reduce vast number of types of local government with all their varying rules and regulations, by providing a flexible general pattern adaptable to various communities and their needs. *Mentus v. Town of Irvington*, 79 N.J.Super. 465, 191 A.2d 806 (1963).

One of objectives of Faulkner Act was to centralize maximum powers in new government, giving it widest possible authority to determine organization of departments. *Broadway Nat. Bank of Bayonne v. Parking Authority of City of Bayonne*, 40 N.J. 227, 191 A.2d 169 (1963).

Faulkner Act was intended to confer greatest possible power of local self-government consistent with State Constitution, upon municipalities adopting plan pursuant to act, as well as to reduce number of types of local government by providing flexible general pattern adaptable to various communities and their needs; liberal construction is to be given act in favor of municipal corporations formed for local government. *City of Newark v. Department of Civil Service*, 68 N.J.Super. 416, 172 A.2d 681 (1961).

5. Law governing

In that the Optional County Charter Law (Musto Act), was modeled after the Optional Municipal Charter Law (Faulkner Act), procedures provided in Faulkner Act for review of initiative or referendum petition and not procedures provided in the Elections Law govern review of initiative or referendum petition.

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6. Preemption

Section 40:9-165 providing refer- endum procedure to test salary ordi- nances where increase in salary for elective official or managerial executive or confidential employee is in issue is in such instances the exclusive vehicle therefor, and preempts the Faulkner Act's general referendum provisions. *Myers v. Worrick*, 182 N.J.Super. 117, 440 A.2d 72 (L.1981).

The Faulkner Act, relating to local government, did not contemplate that its provisions were to constitute exclusive sources of authority for local govern- mental employment. *Myers v. Cedar Grove Tp.*, 66 N.J.Super. 530, 169 A.2d 689 (1961) reversed on other grounds 36 N.J. 51, 174 A.2d 890.

7. Power of legislature

The power of Legislature to abolish the run-off election under Faulkner Act which comprehensively provides 15 plans of local government and leaves adoption of any of them to local option must be exercised by a law which is general in character. *Batistich v. Bren- nan*, 45 N.J. 533, 213 A.2d 761 (1965) affirmed 45 N.J. 533, 213 A.2d 761.

8. Municipalities within act

Optional Municipal Charter Law ap- plies to City of Jersey City. *Whelan v. New Jersey Power & Light Co.*, 45 N.J. 237, 212 A.2d 136 (1965).

9. Abolition of office

Purpose of § 40:69A-207 abolishing all existing municipal offices upon change of form of municipal government under Faulkner Act is to allow first governing body elected under act to have a clean slate of elected and appointed personnel. *McCartney v. Franco*, 82 N.J.Super. 570, 198 A.2d 490 (1964) affirmed 87 N.J.Su- per. 292, 209 A.2d 329.

Governing body of municipality which had been operating under commission form of government and which was re- organized under mayor-council plan "D" could not be held to have abolished civil

service position by its failure to provide for such a position in adopting adminis- trative code under mayor-council plan, in view of transitional provisions of ad- ministrative code whereunder civil ser- vants were transferred to appropriate de- partments. *Town of Irvington v. Huhn*, 81 N.J.Super. 489, 196 A.2d 22 (1964).

Where department of public affairs and office of secretary to director there- of were abolished following adoption by city of a mayor and council plan of government instead of commission form, plaintiff who occupied the posi- tion of secretary to the director was ac- corded the protection to which he was entitled under the Civil Service Law when his name was placed upon a re- employment list. *Chirichella v. Depart- ment of Civil Service*, 31 N.J.Super. 404, 107 A.2d 55 (1954).

10. Appointments

Upon taking effect of new plan of government in township, terms of mem- bers of municipal utilities authority im- mediately ceased and determined, and action of township council in appointing five new members of authority was val- id. *Jordan v. Zidel*, 40 N.J. 244, 191 A.2d 178 (1963).

The freeze on appointments imposed by § 40:69A-208(a) between the date of the municipal election and the date the newly elected officer takes office under any optional plan of government applies only in the year of the effective date of an optional plan of government adopted pursuant to § 40:69A-1 et seq. (the Faulkner Act). *Atty.Gen.F.O.1964, No. 4.*

11. Court-ordered referendum

Superior Court had inherent authority to control execution of its own orders, and would exercise such authority, in declaring invalid a statute which stripped board of aldermen of City of Paterson of virtually all its legislative powers and vested them in newly cre- ated boards, all appointed by mayor, by providing opportunity to citizens of city to initiate proceedings to avail them- selves of any options available, so as to avoid creation of chaotic conditions and provide for continuation of orderly func- tions of government. *Mason v. City of Paterson*, 120 N.J.Super. 184, 293 A.2d

40:69A-1

Note 11

460 (L.1972) affirmed 62 N.J. 471, 303 A.2d 84.

12. Notice of proposed question

Although there was an admitted failure to publish notice of the proposed public question at general election as required by § 19:12-7 in view of the mailing of sample ballots to all township residents showing such question thereon and the vast amount of publicity con-

OPTIONAL MUNICIPAL CHARTERS

cerning the issue of the charter study commission embodied in public question which was approved by nearly two to one vote of those who actually voted on question, it could not be said that the procedural omission had the effect of imposing so vital an influence on election that the election should be vitiated, and the election was valid. Richards v. Barone, 114 N.J.Super. 243, 275 A.2d 771 (L.1971).

40:69A-2. Election of charter commission members at same time public question is submitted

A charter commission of five members shall be elected by the qualified voters at the same time as the public question is submitted. Duly nominated candidates for the office of charter commissioner shall be placed upon the ballot containing the public question in the same manner as is provided by law for candidates nominated by petition for other offices elective by the people of a single municipality, except that they shall be listed without any designation or slogan. Each voter shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for five members of a charter commission who shall serve if the question is determined in the affirmative.

L.1950, c. 210, p. 461, § 1-2, eff. June 8, 1950.

Library References

American Digest System

Appointment or election of municipal officers; mode of filling office in

general, see Municipal Corporations ¶129.

Encyclopedias

Appointment or election of municipal officers by particular officer or board, see C.J.S. Municipal Corporations § 473.

Appointment or election of municipal officers; by popular election, see C.J.S. Municipal Corporations § 472.

WESTLAW Research

Municipal corporations cases: 268k[add key number].

FORMS

Listing of Voters 2

1. Listing Under the dates for listed with "gan," "bra designation the candic mark or

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(c) affirm subsc to ad each signe istere

40:68A-13. Negotiability of bonds or obligations

Cross References

Negotiation of negotiable instruments,
see N.J.S.A. §§ 12A:3-201, 12A:3-202.

40:68A-43.1. Annual budget, and financial obligations and leases,
sales or dispositions of realty; approval of Di-
rector of the Division of Local Government Ser-
vices in the Department of Community Affairs

In accordance with rules and regulations which the Local Finance Board is hereby authorized to adopt, municipal port authorities created pursuant to P.L.1960, c. 192 (C.40:68A-29 et seq.) are subject to the following provisions:

(a) Every authority shall be required to submit an annual budget to the Local Finance Board Director of the Division of Local Government Services in the Department of Community Affairs for approval.

(b) The issuance of any obligations of an authority, agreements regarding municipal guaranties of authority bonds, financing agreements entered into by an authority, and all leases, sales or dispositions of real property made by an authority shall be subject to the approval of the Local Finance Board. L.1981, c. 547, § 3. Amended by L.2015, c. 95, § 11, eff. Aug. 10, 2015.

40:68A-60. Exemption from execution

Notes of Decisions

In general 1

1. In general

Statute exempting all port authority property from execution precluded mort-

gagee from foreclosing on municipal port authority's real estate. First Nat. Bank of Chicago v. Bridgeton Mun. Port Authority, 338 N.J.Super. 324, 768 A.2d 1066 (A.D. 2001), certification denied 168 N.J. 295, 773 A.2d 1158. Execution ⇌ 22

SUBTITLE 3A

OPTIONAL MUNICIPAL CHARTERS

CHAPTER 69A

FORMS OF MUNICIPAL GOVERNMENT: ADOPTION AND EFFECT

ARTICLE 1. PROCEDURE FOR ADOPTION
OF OPTIONAL CHARTER PLANS

A. CHARTER COMMISSION

Section

40:69A-12.

Reports and recommendations which commission may make.

40:69A-14.

Form of submission of question of adoption of optional plans of govern-
ment.C. PROVISIONS APPLICABLE TO ALL REFERENDA
ON CHARTER CHANGES

40:69A-23.

After adoption, no subsequent vote on change for 10 years.

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or obligations

ferences

financial obligations and leases,
rights of realty; approval of Division of Local Government Services
Department of Community Affairs

plans which the Local Finance Board is
to report authorities created pursuant to
be subject to the following provisions:
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Division of Local Government Services in
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ENT: ADOPTION AND EFFECT

FOR ADOPTION
CHARTER PLANS

MISSION

which commission may make.
of adoption of optional plans of govern-

TO ALL REFERENDA
CHANGES

on change for 10 years.

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D. ABANDONMENT OF AN OPTIONAL PLAN
AND REVERSION TO A PRIOR FORM

- 40:69A-25. Petition and referendum on reversion to prior plan.
- 40:69A-25.2. Group A or B alternative; adoption; transitional provisions.

ARTICLE 2. INCORPORATION AND POWERS

- 40:69A-29. General powers of municipalities governed by optional form of government.

ARTICLE 3. MAYOR-COUNCIL PLAN

D. MAYOR AND ADMINISTRATION

- 40:69A-43. Departments; heads; appointment; term of office; removal; officers and employees; boards of alcoholic beverage control.

ARTICLE 5. MAYOR-COUNCIL PLAN C

- 40:69A-60.5. Municipalities over 270,000 and 200,000 to 270,000 prior to Jan. 9, 1982; aides for council members.

ARTICLE 17. ADDITIONAL PROVISIONS COMMON TO OPTIONAL PLANS

A. ELECTIONS IN GENERAL

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

C. OFFICERS AND EMPLOYEES

- 40:69A-166. Repealed.

F. INITIATIVE AND REFERENDUM

- 40:69A-192. Referendum or initiative election.
- 40:69A-196. Results of election; majority vote for adoption; amendment or repeal within 3 years; conflicting measures.

H. SUCCESSION IN GOVERNMENT

- 40:69A-205. Schedule of installation of optional plan adopted.
- 40:69A-207. Existing offices abolished on effective date of optional plan; exception; administrative code to be adopted.

Cross References

Officers and employees, see N.J.S.A.
§ 40A:9-1.1 et seq.

ARTICLE 1. PROCEDURE FOR ADOPTION
OF OPTIONAL CHARTER PLANS

A. CHARTER COMMISSION

40:69A-1. Election on question whether charter commission shall
be elected

Notes of Decisions

- 2. Construction
Judicially-created legislative/administrative distinction used in determining whether an ordinance is subject to referendum is not supported by the referendum statute in Faulkner Act, its legislative history, or its place in the overall statutory scheme; abrogating *Cuprowski v. City of Jersey City*, 101

Last additions in text indicated by underline; deletions by strikeouts



N.J.Super. 15, 242 A.2d 873, *D'Ercole v. Mayor and Council of Norwood*, 198 N.J.Super. 531, 487 A.2d 1266, *Menendez v. City of Union City*, 211 N.J.Super. 169, 511 A.2d 676, *Twp. of N. Bergen v. City of Jersey City*, 232 N.J.Super. 219, 556 A.2d 1255, *Lawrence v. Schrof*, 162 N.J.Super. 375, 392 A.2d 1243, *Millennium Towers Urban Renewal LLC v. Mun. Council of Jersey City*, 343 N.J.Super. 367, 778 A.2d 598, and *Tumpson v. Farina*, 120 N.J. 55, 575 A.2d 1368. In re Ordinance 04-75, 192 N.J. 446, 931 A.2d 595 (2007). Municipal Corporations ⇨ 108.6

Municipalities that elect to organize themselves under the Faulkner Act may choose between four plans of government: the mayor-council plan, the council-manager plan, the small municipality plan, and the mayor-council administrator plan. In re Ordinance 04-75, 192 N.J. 446, 931 A.2d 595 (2007). Municipal Corporations ⇨ 80

Faulkner Act, or Optional Municipal Charter Law, is an elective statutory scheme that authorizes participating municipalities to choose between four plans of government that are set forth in the Act. *McCann v. Clerk of City of Jersey City*, 167 N.J. 311, 771 A.2d 1123 (2001). Municipal Corporations ⇨ 58

3. Construction with other laws

Holding election on whether to change municipality's government from mayor-council to commission on date of general election, rather than third Tuesday following filing of petition, as required by Walsh Act, was appropriate; holding election on third Tuesday would have disenfranchised absentee voters who were required to be given notice of proposed question fifty days prior to election, and holding election on date of general election would probably result in a larger voter turn-out since offices of President and United States Senator were also on ballot. *City of North Wildwood v. North Wildwood Taxpayers' Ass'n*, 338 N.J.Super. 155, 768 A.2d 262 (L.2000). Municipal Corporations ⇨ 48(1)

Election law statutes and provisions of Faulkner Act and Walsh Act are to be read in pari materia. *City of North Wildwood v. North Wildwood Taxpayers' Ass'n*, 338 N.J.Super. 155, 768 A.2d 262 (L.2000). Election Law ⇨ 53(1)

4. Purpose

New Jersey's Faulkner Act was created with the intent to confer upon municipali-

MUNICIPALITIES AND COUNTIES

ties the greatest possible power of local self-government consistent with the New Jersey Constitution and the applicable law. *Armano v. Martin*, D.N.J.2016, 2016 WL 184418. Municipal Corporations ⇨ 65

Faulkner Act was created with the intent to confer upon municipalities the greatest possible power of local self-government consistent with State Constitution, and municipalities that adopt one of the Faulkner Act plans have wide authority to determine the organization of departments and to control personnel. *McCann v. Clerk of City of Jersey City*, 167 N.J. 311, 771 A.2d 1123 (2001). Municipal Corporations ⇨ 64.5

Faulkner Act intended to confer greatest possible power of self-government, consistent with State Constitution, upon municipalities adopting a plan pursuant to Act, as well as reduce large number of types of local government with all their varying rules and regulations by providing a flexible pattern adaptable to various communities and their needs. *McCann v. Clerk, City of Jersey City*, 338 N.J.Super. 509, 770 A.2d 723 (A.D.2001), affirmed 168 N.J. 285, 773 A.2d 1151, supplemented 167 N.J. 311, 771 A.2d 1123. Municipal Corporations ⇨ 216(1); Public Employment ⇨ 21

Legislative intent of Faulkner Act was that upon adoption of one of the Act's optional plans, a "new broom" was given to new governmental plan, which allowed municipality to make a clean sweep, ensuring that new municipal government was not hampered by variety of holdover positions and employees from old government. *Keulerleber v. Township of Pemberton*, 260 N.J.Super. 541, 617 A.2d 277 (A.D.1992), certification denied 133 N.J. 434, 627 A.2d 1140. Municipal Corporations ⇨ 149(2); Public Employment ⇨ 141

5. Law governing

In that the Optional County Charter Law (Musto Act), was modeled after the Optional Municipal Charter Law (Faulkner Act), procedures provided in Faulkner Act for review of initiative or referendum petition and not procedures provided in the Elections Law govern review of initiative or referendum petitions filed under the Musto Act. *Citizens for Charter Change in Essex County v. Caputo*, 136 N.J.Super. 424, 346 A.2d 605 (A.D.1975), certification denied 74 N.J. 268, 377 A.2d 652, certification denied 74 N.J. 269, 377 A.2d 652. Counties ⇨ 3

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40:69A-12. Reports and recommendations which commission may make

The charter commission may report and recommend:

(a) That a referendum shall be held to submit to the qualified voters of the municipality the question of adopting one of the plans of government authorized in this act, and such of the alternative provisions as permitted thereunder, to be specified by the commission; or

(b) That the governing body shall petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter commission's report pursuant to Article IV, Section VII, Paragraph 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or

(c) That the form of government of the municipality shall remain unchanged; or

(d) That the charter of the municipality adopted under P.L.1950, c. 210 (C. 40:69A-1 et seq.) be amended to adopt one of the alternative provisions authorized under the current plan of government of the municipality, in which case a referendum shall be held to submit the question to the qualified voters of the municipality in the same manner as required for an ordinance adopted to that effect pursuant to sections 7 through 11 of P.L.1981, c. 465 (40:69A-25.1 through 40:69A-25.5) and sections 17-42 through 17-47 of P.L. 1950, c. 210 (C.40:69A-191 through 40:69A-196); or

(e) Such other action as it may deem advisable consistent with its functions as set forth in section 1-7 of this article.¹

L.1950, c. 210, p. 464, § 1-12. Amended by L.1953, c. 254, p. 1743, § 4, eff. July 20, 1953; L.1981, c. 465, § 1, eff. Jan. 9, 1982; L.1991, c. 430, § 1, eff. Jan. 18, 1992.

¹N.J.S.A. § 40:69A-7.

Historical and Statutory Notes

1991 Legislation

L.1991, c. 430, § 1, added subsec. (d) and redesignated former subsec. (d) as (e).

Research References

Treatises and Practice Aids

34 N.J. Prac. Series § 5:11, Modern Forms of Government--Optional Municipal Charter Law of 1950--Methods of Adoption.

35 N.J. Prac. Series § 20:6, Faulkner Act.

40:69A-14. Form of submission of question of adoption of optional plans of government

The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act, including any of the alternatives contained in this act, shall be submitted in the following form or such part thereof as shall be applicable:

"Shall (insert name of plan) of the Optional Municipal Charter Law, providing for (a division of the municipality into (insert number) wards, with (insert number) council members (one to be elected from each ward and . . . (insert number) . . . to be elected at large) for (insert "concurrent" or

Last additions in text indicated by underline; deletions by ~~strikeouts~~

CHAPTER 210

AN Act concerning municipalities, providing a plan of optional charters and for the manner of adoption and effect thereof.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

ARTICLE 1

PROCEDURE FOR ADOPTION OF PROPOSAL CHARTER PLANS

A. Charter Commissions

C. 40:69A-1. Charter and commission referendum.

1-1. Whenever authorized by resolution of the governing body or upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question: "Shall a charter commission be elected to study the charter of and to consider a new charter or improvements in the present charter and to make recommendations thereon?" The petition calling for such election shall conform to section 17-4 (b) hereof and shall be signed by the following per centum of registered voters of the municipality:

Petition signer's required.

- (a) twenty-five per centum (25%) in municipalities of 7,000 or less inhabitants;
- (b) twenty per centum (20%) in municipalities of more than 7,000 and less than 70,000 inhabitants;
- (c) ten per centum (10%) in municipalities of 70,000 or more inhabitants.

Question submitted to voters.

In either event, the municipal clerk shall provide for the submission of the question and for the election of a charter commission at the next general or regular municipal election, occurring not less than seventy-five days after the adoption of

the resolution or the filing of the petition with the clerk. At the election the question above stated shall be submitted as other public questions are submitted to the voters of a single municipality.

1-2. A charter commission of five members shall be elected by the qualified voters at the same time as the public question is submitted. Duly nominated candidates for the office of charter commissioner shall be placed upon the ballot containing the public question in the same manner as is provided by law for candidates nominated by petition for other offices elective by the people of a single municipality, except that they shall be listed without any designation or slogan. Each voter shall be instructed to vote on the question and, regardless of the manner of his vote on the question, to vote for five members of a charter commission who shall serve if the question is determined in the affirmative.

1-3. Candidates for the charter commission shall be registered voters of the municipality. They may be nominated by petition signed by at least three per centum (3%), but not less than ten, of the registered voters of the municipality, and filed with the municipal clerk not less than sixty days prior to the date of the election.

(a) Each nominating petition shall set forth the names, places of residence, and post-office addresses of the candidate or candidates thereby nominated, that the nomination is for the office of charter commissioner and that the petitioners are legally qualified to vote for such candidate or candidates. Every voter signing a nominating petition shall add to his signature, his place of residence, post-office address and street number, if any. No voter shall sign a petition or petitions for more than five candidates.

(b) Each nominating petition shall, before it may be filed with the municipal clerk, contain an acceptance of such nomination in writing, signed by the candidate or candidates therein nominated, upon or annexed to such petition, or if the same

C. 40:69A-2. Candidates for charter commission, how elected.

C. 40:69A-3. Qualifications of candidates.

Nominating petition.

Acceptance by candidate.

person or persons be named in more than one petition, upon or annexed to one of such petitions. Such acceptance shall certify that the candidate is a registered voter of the municipality, that the nominee consents to stand as a candidate at the election and that if elected he agrees to take office and serve.

Verification of nominating petition.

(c) Each nominating petition shall be verified by an oath or affirmation of one or more of the signers thereof, taken and subscribed before a person qualified under the laws of New Jersey to administer an oath, to the effect that the petition was signed by each of the signers thereof in his proper handwriting, that the signers are, to the best knowledge and belief of the affiant, registered voters of the municipality, and that the petition is prepared and filed in good faith for the sole purpose of endorsing the person or persons named therein for election as stated in the petition.

C. 40:69A-4. Canvass of election.

1-4. The result of the votes cast for and against the adoption of the public question shall be returned by the election officers, and a canvass of such election had, as is provided by law in the case of other public questions put to the voters of a single municipality. The votes cast for members of the charter commission shall be counted, and the result thereof returned by the election officers, and a canvass of such election had as is provided by law in the case of the election of members of the local governing body. The five candidates receiving the greatest number of votes shall be elected and shall constitute the charter commission, provided that if a majority of those voting on the public question shall vote against the election of a charter commission, none of the candidates shall be elected. If two or more candidates shall be equal and greatest in votes they shall draw lots to determine which one shall be elected.

C. 40:69A-5. Organization of charter commission.

1-5. As soon as possible and in any event no later than fifteen days after its election, the charter commission shall organize and hold its first meeting and elect one of its members as chairman.

fix its hours and place of meeting, and adopt such rules for the conduct of its business as it may deem necessary and advisable. A majority of the members of said commission shall constitute a quorum for the transaction of business but no recommendation of said commission shall have any legal effect pursuant to sections 1-15 and 1-16 of this act unless adopted by a majority of the whole number of the members of the commission.

C. 40:69A-6. Filling vacancies.

1-6. In case of any vacancy in the charter commission, the remaining members of such commission shall fill it by appointing thereto some other properly qualified citizen.

C. 40:69A-7. Function and duty.

1-7. It shall be the function and duty of the charter commission to study the form of government of the municipality, to compare it with other available forms under the laws of this State, to determine whether or not in its judgment the government of the municipality could be strengthened, made more clearly responsive or accountable to the people or whether its operation could be more economical or efficient, under a changed form of government.

C. 40:69A-8. No compensation.

1-8. Members of the charter commission shall serve without compensation but shall be reimbursed by the municipality for their necessary expenses incurred in the performance of their duties.

Consultants and assistants.

Within the limits of such appropriations and privately contributed funds and services as shall be made available to it, the charter commission may appoint one or more consultants and clerical and other assistants to serve at the pleasure of the commission and may fix a reasonable compensation to be paid such consultants and clerical and other assistants.

C. 40:69A-9. Hearings.

1-9. The charter commission shall hold public hearings, may hold private hearings and sponsor public forums and generally shall provide for the widest possible public information and discussion respecting the purposes and progress of its work.

C. 40:69A-10. Report within nine months.

1-10. The charter commission shall report its findings and recommendations to the citizens of the municipality within nine calendar months from the

date of its election. It shall publish or cause to be published sufficient copies of its report for public study and information and shall deliver to the municipal clerk sufficient copies of the report to supply it to any interested citizen upon request. If the charter commission shall recommend the adoption of any of the optional plans of government as authorized in section 1-12 (a) or 1-13, the report shall contain the complete plan as recommended.

1-11. The charter commission shall be discharged upon the filing of its report; *provided*, that if the commission's recommendations require further procedure on the part of the governing body or the people of the municipality pursuant to section 1-15 or 1-16 of this act, the commission shall not be discharged until the procedure required under those sections has been finally concluded.

1-12. The charter commission may report and recommend:

(a) that a referendum shall be held to submit to the qualified voters of the municipality the question of adopting one of the optional forms of government authorized in articles 3 through 16, inclusive, of this act, to be specified by the commission; or

(b) that the governing body shall petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter commission's report pursuant to Article IV, Sec. VII, Par. 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or

(c) that the form of government of the municipality shall remain unchanged; or
(d) such other action as it may deem advisable consistent with its functions as set forth in section 1-7 of this article.

C-40:59A-11.
Discharge of
commission.
provided.

C-40:59A-12.
Content
of report.

1-13. (a) If the charter commission shall recommend the adoption of any of the optional forms of government set forth in articles 4, 5, 6, 7, 8, 10, 11 or 12 of this act, it may also specify that the municipal council shall consist of seven or nine members instead of five members as provided in said articles; or if the charter commission shall recommend the adoption of any of the optional forms of government set forth in articles 13, 14, 15 or 16 of this act, it may also specify that the council shall consist of five or seven members instead of three members as provided in said articles.

(b) If the charter commission shall recommend the adoption of any of the optional forms of government set forth in articles 5, 6, 8, 11 or 12 of this act it may further specify that the municipality shall be divided into three, four, five or six wards instead of two wards as provided in said articles within the limitations hereinafter provided:

(1) where the council is to consist of five members, the municipality may be divided into three wards;

(2) where the charter commission specifies that the council shall consist of seven members, the municipality shall be divided into four wards; and

(3) where the charter commission specifies that the council shall consist of nine members, the municipality shall be divided into five or six wards.

1-14. The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by articles 3 through 16, inclusive, of this act, including any of the alternatives contained in section 1-13 of this act shall be submitted in the following form or such part thereof as shall be applicable:

“Shall of the
(insert name of plan)
Optional Municipal Charter Law, providing

C-40:59A-13.
Recommendations as to number of councilmen.

C-40:59A-14.
Form of question for optional plan of government.

for (a division of the municipality into wards, with)
 (insert number) (insert number)
 councilmen, (one to be elected from each ward
 and to be elected at large)
 (insert number)
 be adopted by
 (insert name of municipality) ?

C. 40:69A-15.
 Submitting
 notice of plan
 procedure.

1-15. If the charter commission shall recommend that the question of adopting one of the optional forms of government authorized by articles 3 through 16, inclusive, of this act shall be submitted to the voters of the municipality, it shall be the duty of the municipal clerk to cause the question of adoption or rejection to be placed upon the ballot at such time as the commission shall in its report specify. The commission may cause the question to be submitted to the people at the next general or regular municipal election occurring not less than sixty days following the filing of a copy of the commission's report with the clerk, or at a special election occurring not less than sixty days or more than one hundred twenty days after the filing of the report, at such time as the commission's report shall direct. At such election the question of adopting that form of government recommended by the charter commission shall be submitted to the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality. The charter commission shall frame the question to be placed upon the ballot as provided in section 1-14 and, if it deems appropriate, an interpretative statement to accompany such question.

C. 40:69A-16.
 Petition for
 enabling legis-
 lation to carry
 out section
 1-15.

1-16. If the charter commission shall propose a special charter or specific amendment or amendments of or to the existing charter of the municipality, it shall be the duty of the governing body of the municipality to forthwith petition the Legislature for a special law or laws, pursuant to the Constitution of 1947 and in the manner provided by general enabling legislation thereunder, to carry

out the recommendations of the charter commission.

1-17. No resolution or petition for the election of a charter commission may be filed while proceedings are pending under any other petition or resolution pursuant to this act, or pursuant to any other statute for the adoption of any other charter or form of government available to the municipality, nor within four years after an election shall have been held pursuant to any such resolution or petition.

C. 40:69A-17.
 Limitations.

B. Procedure by Petition and Referendum

1-18. The legally qualified voters of any municipality may adopt any of the optional plans provided in article 3 through 16, inclusive, of this act upon petition and referendum, without a charter commission, as hereinafter provided.

C. 40:69A-18.
 Direct petition
 procedure.

1-19. Upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question of adopting any of the optional plans of government provided in articles 3 through 16, inclusive, of this act. The petition calling for such election shall conform to section 17-4(b) hereof and shall be signed by the following per centum of registered voters of the municipality:

C. 40:69A-19.
 Petition for
 adoption of
 optional plan.

(a) twenty-five per centum (25%) in municipalities of 7,000 or less inhabitants;

(b) twenty per centum (20%) in municipalities of more than 7,000 and less than 70,000 inhabitants;

(c) ten per centum (10%) in municipalities of 70,000 or more inhabitants.

The petition shall designate the plan to be voted upon, which may include any of the alternatives provided in section 1-13 of this article and the question to be placed upon the ballot shall be in the same form as is required by section 1-14 of this article.

C. 40:59A-20.
Submission
of question
to voters.

1-20. The municipal clerk shall provide for the submission of the question at the next general or regular municipal election if one is to be held not less than sixty days nor more than one hundred twenty days after the filing of the petition, and if a general or regular municipal election is not to be held within that time, at a special election within such time. The question of adoption of an optional plan of government shall be submitted to the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality.

C. 40:59A-21.
Limitations.

1-21. No petition for submission of the question of adopting an optional plan of government pursuant to this act may be filed while proceedings are pending pursuant to an ordinance passed or petition filed pursuant to this act or other statute for the adoption of any other charter or form of government available to the municipality, nor within four years after an election shall have been held pursuant to any such petition filed pursuant to this act.

C. Provisions Applicable to All Referenda on Charter Changes

C. 40:59A-22.
Referendum
Effective.

1-22. Whenever the legally qualified voters of any municipality by a majority of those voting on the question, vote in favor of adopting a change in their form of government pursuant to this act, either by the charter commission method or by direct petition and referendum, the proposed charter or charter amendment or amendments shall take effect according to its terms.

C. 40:59A-23.
Limitations.

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 three years thereafter, in the case of municipalities of 7,000 or less inhabitants, and five years thereafter in the case of all other municipalities.

C. 40:59A-24.
Constructing.

1-24. For the purposes of this act each of the optional forms of government provided in articles

3 through 16, inclusive, of this act, and each of said optional forms as modified by any available provisions concerning size of council and number of wards, is hereby declared to be a complete and separate form of government provided by the Legislature for submission to the voters of the municipality.

Abandonment of an Optional Plan and Reversion to a Prior Form

1-25. Any municipality may, subject to the provisions of section 1-23 of this act, abandon its optional plan and revert to the form of government under which it was governed immediately prior thereto, upon the filing of a petition and referendum as follows:

C. 40:59A-25.
Reversion to
prior
government
procedure.

(a) Upon petition of the registered voters of the municipality signed by the same number thereof as required in section 1-19, for an election to submit the question of abandonment and reversion as herein provided, the municipal clerk shall provide for submission of the question in like manner as provided in section 1-20.

(b) The form of the question shall be as follows: Shall abandon its present form of government, known as as provided by
Name of Municipality
Popular Name of Plan

(c) If a majority of those voting on the question vote in the affirmative the municipality shall revert to its prior form of government as of twelve o'clock noon of the sixth day following the election of officers under the form of government to which the municipality will revert. The first officers under such form of government shall be elected at the next regis-

lar municipal or general election, as the case may be, at which officers under the form of government to which the municipality will revert would be elected if such form were then in effect in the municipality. It shall be the duty of the municipal clerk to perform all the duties respecting such election as would be required of a municipal clerk for elections under the form of government to which the municipality will revert. Whenever a municipality has reverted to any form of government other than the commission form of government law (R. S. 40:70-1 et seq.) or the municipal manager form of government (R. S. 40:79-1 et seq.), at a later date than the one fixed for the filing of nominating petitions at the primary election, the candidates to be first elected shall be nominated by direct petition in the manner provided for a law for nomination by direct petition for a general election.

If a majority of those voting on the question in the negative, the question of abandonment and reversion shall not again be submitted for five years.

(d) The reversion to a prior form of government shall take effect as provided in section 17-57 through 17-59 of this act for transition to an optional plan hereunder.

ARTICLE 2

INCORPORATION AND POWERS

2-1. Upon the adoption by the qualified voters of any municipality of any of the optional forms of government set forth in this act, the municipality shall thereafter be governed by the plan adopted, by the provisions of this act common to optional plans and by all applicable provisions of general law, subject to the transitional provisions of article 17 of this act, unless and until the municipality should adopt another form of government as provided by law.

C 40:59A-26
Municipality
governed by
plan adopted

2-2. Upon such adoption of a plan under this act, the inhabitants of any municipality or municipalities within the corporate limits as now or hereafter established shall be and remain a body corporate and politic with perpetual succession, and with such corporate name as it has heretofore adopted or may hereafter adopt.

2-3. For the purposes of this act, a "general law" shall be deemed to be any law or provision of law, not inconsistent with this act, heretofore or hereafter enacted which is by its terms applicable or available to all municipalities, and the following additional laws whether or not such additional laws are so applicable or available to all municipalities: legislation relating to taxation, local courts, education, health, public authorities serving more than one municipality, and municipalities in unsound financial condition.

2-4. Each municipality governed by an optional form of government pursuant to this act shall, subject to the provisions of this act or other general laws, have full power to:

(a) organize and regulate its internal affairs, and to establish, alter, and abolish offices, positions and employments and to define the functions, powers and duties thereof and fix their term, tenure and compensation;

(b) adopt and enforce local police ordinances of all kinds and impose penalties of fine not exceeding five hundred dollars (\$500.00) or imprisonment for any term not exceeding ninety days or both for the violation thereof; to construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law, and to exercise all powers of local government in such manner as its governing body may determine;

(c) sue and be sued, to have a corporate seal, to contract and be contracted with, to buy,

C 40:59A-27
To remain
corporate
entity

C 40:59A-28
General
law defined

C 40:59A-29
Municipal
powers

sell, lease, hold and dispose of real and personal property, to appropriate and expend moneys, and to adopt, amend and repeal such ordinances and resolutions as may be required for the good government thereof;

(d) exercise powers of condemnation, borrowing and taxation in the manner provided by general law.

C. 40:69A-30.
Continued.

2-5. The general grant of municipal power contained in this article is intended to confer the greatest power of local self-government consistent with the Constitution of this State. Any specific enumeration of municipal powers contained in this act or in any other general law shall not be construed in any way to limit the general description of power contained in this article, and any such specifically enumerated municipal powers shall be construed as in addition and supplementary to the powers conferred in general terms by this article. All grants of municipal power to municipalities governed by an optional plan under this act, whether in the form of specific enumeration or general terms, shall be liberally construed, as required by the Constitution of this State, in favor of the municipality.

ARTICLE 3

MAYOR-COUNCIL PLAN A

A. Form of Government

C. 40:69A-31.
Form of
Government.

3-1. The form of government provided in this article shall be known as the "mayor-council plan A" and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted it pursuant to this act.

3-2. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

B. Elected Officials

3-3. The mayor shall be elected by the voters of the municipality at a regular municipal election, and shall serve for a term of four years beginning on the first day of July next following his election.

C. 40:69A-33.
Mayor, term.

3-4. The council shall consist of five members who shall be elected at large by the voters of the municipality at a regular municipal election and shall serve for a term of four years beginning on the first day of July next following their election.

C. 40:69A-34.
Council, term.

3-5. Vacancies in any elective office shall be filled by election for the remainder of the unexpired term at the next general election occurring not less than sixty days after the occurrence of the vacancy. Such election to fill a vacancy shall be upon direct nomination by petition in the manner provided by law for the filing of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill such vacancies temporarily by appointment to serve until the qualification of a person so elected.

C. 40:69A-35.
Vacancies.

C. Council

3-6. The legislative power of the municipality shall be exercised by the municipal council, except as may be otherwise provided by general law.

C. 40:69A-36.
Legislative powers.

3-7. The council, in addition to such other powers and duties as may be conferred upon it by this charter or otherwise by general law, may:

C. 40:69A-37.
Additional powers.

(a) require any municipal officer, in its discretion, to prepare and submit sworn statements regarding his official duties in the performance thereof, and otherwise to investigate the conduct of any department, office or agency of the municipal government;

(b) remove any municipal officer, other than the mayor or a member of council, for cause, upon notice and an opportunity to be heard.

C. 40:69A-38.
Municipal
clerk, duties,
qualifications.

3-8. The council shall appoint a municipal clerk, who shall serve as clerk of the council. Keep its minutes and records of its proceedings, maintain and compile its ordinances and resolutions as this act requires, and perform such functions as may be required by law. The municipal clerk shall, prior to his appointment, have been qualified by training or experience to perform the duties of the office.

D. Mayor and Administration

C. 40:69A-39.
Executive
powers.

3-9. The executive power of the municipality shall be exercised by the mayor.

C. 40:69A-40.
Mayor's duties.

3-10. The mayor shall enforce the charter and ordinances of the municipality and all general laws applicable thereto. He shall annually report to the council and the public on the work of the previous year and on the condition and requirements of the municipal government and shall from time to time make such recommendations for action by the council as he may deem in the public interest. He shall supervise all of the departments of the municipal government and shall require each department to make an annual and such other reports of its work as he may deem desirable.

C. 40:69A-41.
Ordinance,
adoption.

3-11. (a) Ordinances adopted by the council shall be submitted to the mayor, and he shall within ten days after receiving any ordinance, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the municipal clerk together with a statement setting forth his objections thereto or to any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to him, or unless council upon reconsideration thereof on or after the third day following its return by the mayor shall by a vote of two-thirds of the members resolve to override the mayor's veto.

(b) The mayor may attend meetings of council and may take part in discussions of council but shall have no vote except in the case of a tie on the question of filling a vacancy in the council, in which case he may cast the deciding vote.

C. 40:69A-42.
Acting mayor.

3-12. The mayor shall designate the business administrator, any other department head, or the municipal clerk to act as mayor whenever the mayor shall be prevented by absence from the municipality, disability or other cause from attending to the duties of his office. During such time the person so designated by the mayor shall possess all the rights, powers, and duties of mayor. Whenever the mayor shall have been unable to attend to the duties of his office for a period of sixty consecutive days for any of the above stated reasons, an acting mayor shall be appointed by the council, who shall succeed to all the rights, powers and duties of the mayor or the then acting mayor.

C. 40:69A-43.
Department
heads.

3-13. (a) The municipality shall have a department of administration and such other departments, not exceeding nine in number, as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality shall be allocated and assigned among and within such departments.

Director.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor.

Removal of
department
head.

(c) The mayor may in his discretion remove any department head after notice and an opportunity to be heard. Prior to removing a department head the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution by a two-thirds vote of the whole number of the council, disapproving the removal.

Appointment
and removal
of subordinate
employees.

Proviso.

C. 40:69A-44,
Business
administrator,
qualification.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees subject to the provisions of the Revised Statutes, Title 11, Civil Service, where that Title is effective in the municipality, or other general law; *provided, however*, that council may provide by ordinance for the appointment and removal of specific boards or commissions by the mayor.

3-14. The department of administration shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor shall:

Duties.

- (a) assist in the preparation of the budget;
- (b) administer a centralized purchasing system;
- (c) be responsible for the development and administration of a sound personnel system; and
- (d) perform such other duties as council may prescribe.

E. Budget and Control

C. 40:69A-45,
Budget,
hearing.

3-15. The municipal budget shall be prepared by the mayor with the assistance of the business administrator. During the month of November, the mayor shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before the mayor or the busi-

ness administrator at public hearings, which shall be held during that month, on the various requests.

3-16. On or before the fifteenth day of January the mayor shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto a detailed analysis of the various items of expenditure and revenue. Council may reduce any item or items in the mayor's budget by a vote of a majority of the council, but an increase in any item or items therein shall become effective only upon an affirmative vote of two-thirds of the members of council.

3-17. The council shall where practicable provide for the maintenance of a system of work programs and quarterly allotments, for operation of the budget. It shall be the duty of the officer or department administering any such program to develop and report appropriate unit costs of budgeted expenditures.

3-18. The council shall provide by ordinance for the exercise of a control function, in the management of the finances of the municipality, by some officer other than the business administrator. The control function shall include provision for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit of all claims and demands against the municipality prior to payment, and for the control of all payments out of any public funds by individual warrants for each payment to the official having custody thereof.

ARTICLE 4

MAYOR-COUNCIL PLAN B

4-1. The form of government provided in this article shall be known as the "mayor-council plan B" and shall, together with articles 2 and 17 and sections 3-6 through 3-18, inclusive, of article 3,

C. 40:69A-46,
Budget
submitted
to council.

C. 40:69A-47,
To provide
for the
exercise
and control
of municipal
allotments.

C. 40:69A-48,
Financial
control.

C. 40:69A-49,
Form of
government.

govern any municipality the voters of which have adopted it pursuant to this act.

4-2. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

4-3. The mayor shall be elected by the voters of the municipality at a regular municipal election, and shall serve for a term of four years beginning on the first day of July next following his election.

4-4. The council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven or nine members. Members of the council shall be elected at large by the voters of the municipality at a regular municipal election and shall serve for a term of four years, except as herein after provided for those first elected, beginning on the first day of July next following their election.

4-5. At the first election as provided in article 17 of this act following the adoption by a municipality of this plan, five, seven, or nine councilmen as provided in section 4-4 of this article shall be elected and shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; if the municipal council is to consist of nine members, four shall serve for four years and five for two years. The length of the term of the respective members of the first council shall be determined by lot immediately upon the organization of the council next following the election.

4-6. Vacancies in any elective office shall be filled by election for the remainder of the unexpired term at the next general or regular municipal election occurring not less than sixty days after the occurrence of the vacancy. Whenever such election

to fill a vacancy shall be at the general election, the nomination of candidates shall be by petition in the manner provided by law for the filling of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill vacancies temporarily by appointment to serve until the qualification of a person so elected.

ARTICLE 5
MAYOR-COUNCIL PLAN C

5-1. The form of government provided in this article shall be known as the "mayor-council plan C" and shall, together with articles 2 and 17 and sections 3-6 through 3-18, inclusive, of article 3, govern any municipality the voters of which have adopted it pursuant to this act.

5-2. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

5-3. The municipality shall be divided into two wards unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality is to consist of from three to six wards.

5-4. The mayor shall be elected by the voters of the municipality at a regular municipal election, and shall serve for a term of four years beginning on the first day of July next following his election.

5-5. The council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven or nine members. Councilmen shall serve for a term of four years beginning on the first day of July next following their election. They shall be elected at large and by wards at a regular municipal election in the following manner:

C. 40:69A-51.
Mayor, term.

C. 40:69A-52.
Council elected at large, term.

C. 40:69A-53.
Term of first councilmen.

C. 40:69A-54.
Vacancies.

C. 40:69A-55.
Form of government.

C. 40:69A-56.
Government by.

C. 40:69A-57.
Municipality divided into wards.

C. 40:69A-58.
Mayor, term.

C. 40:69A-59.
Council, election, term.

(a) in a municipality having two wards and five councilmen, one councilman shall be elected from each ward and three at large;

(b) in a municipality having three wards and five councilmen, one councilman shall be elected from each ward and two at large;

(c) in a municipality having four wards and seven councilmen, one councilman shall be elected from each ward and three at large;

(d) in a municipality having five wards and nine councilmen, one councilman shall be elected from each ward and four at large;

(e) in a municipality having six wards and nine councilmen, one councilman shall be elected from each ward and three at large.

C. 40:69A-6a. Vacancies.

5-6. Vacancies in any elective office shall be filled by election for the remainder of the unexpired term at the next general election occurring not less than sixty days after the occurrence of the vacancy. Such election to fill a vacancy shall be upon direct nomination by petition in the manner provided by law for the filling of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill vacancies temporarily by appointment to serve until the qualification of a person so elected.

ARTICLE 6

MAYOR-COUNCIL PLAN D

C. 40:69A-61. Form of government.

6-1. The form of government provided in this article shall be known as the "mayor-council plan D" and shall, together with articles 2 and 17 and sections 3-6 through 3-18, inclusive, of article 3, govern any municipality the voters of which have adopted it pursuant to this act.

C. 40:69A-62. Government body.

6-2. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

6-3. The municipality shall be divided into two wards unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality is to consist of from three to six wards.

6-4. The mayor shall be elected by the voters of the municipality at a regular municipal election, and shall serve for a term of four years beginning on the first day of July next following his election.

6-5. The council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven or nine members. Councilmen shall serve for a term of four years, except as hereinafter provided for those first elected, beginning on the first day of July next following their election. They shall be elected at large and by wards at regular municipal elections in the following manner:

C. 40:69A-65. Council, election, term.

(a) in a municipality having two wards and five councilmen, one councilman shall be elected from each ward and three at large;

(b) in a municipality having three wards and five councilmen, one councilman shall be elected from each ward and two at large;

(c) in a municipality having four wards and seven councilmen, one councilman shall be elected from each ward and three at large;

(d) in a municipality having five wards and nine councilmen, one councilman shall be elected from each ward and four at large;

(e) in a municipality having six wards and nine councilmen, one councilman shall be elected from each ward and three at large.

C. 40:69A-66. Terms of first councilman.

6-6. At the first election as provided in article 17 of this act, following the adoption by a municipality of this plan, five, seven or nine councilmen as provided in section 6-5 of this article, shall be elected. The councilmen elected at large shall serve for a term of four years and the councilmen elected from wards, for a term of two years.

C. 40:69A-67.
Vacancies.

6-7. Vacancies in any elective office shall be filled by election for the remainder of the unexpired term at the next general or regular municipal election occurring not less than sixty days after the occurrence of the vacancy. Whenever such election to fill a vacancy shall be at the general election, the nomination of candidates shall be by petition in the manner provided by law for the filing of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill vacancies temporarily by appointment to serve until the qualification of a person so elected.

ARTICLE 7

MAYOR-COUNCIL PLAN E

C. 40:69A-68.
Form of
government.

7-1. The form of government provided in this article shall be known as the "mayor-council plan E" and shall, together with articles 2 and 17 and sections 3-6 through 3-18, inclusive, of article 3, govern any municipality the voters of which have adopted it pursuant to this act.

C. 40:69A-69.
Government
body.

7-2. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

C. 40:69A-70.
Mayor, term.

7-3. The mayor shall be elected by the voters of the municipality at the general election to be held on the first Tuesday after the first Monday in November or at such other times as may be provided by law for holding general elections, and shall serve for a term of four years beginning on the first day of January next following his election.

C. 40:69A-71.
Council, elec-
tion, term.

7-4. The council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven or nine members. Members of the council shall be elected at large by the voters of the municipality at the general election to be held on the first

Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections and shall serve for a term of four years, except as hereinafter provided for those first elected, beginning on the first day of January next following their election.

C. 40:69A-72.
Term of first
councilmen.

7-5. At the first election as provided in article 17 of this act, following the adoption by a municipality of this plan, five, seven or nine councilmen, as provided in section 7-4 of this article, shall be elected and shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; if the municipal council is to consist of nine members, four shall serve for four years and five for two years. The length of the term of the respective members of the first council shall be determined by lot immediately after the organization of the council next following the election.

C. 40:69A-73.
Vacancies.

7-6. Vacancies in any elective office shall be filled for the remainder of the unexpired term at the next general election to be held not less than sixty days after the occurrence of the vacancy. The council shall fill the vacancy temporarily by appointment to serve until the qualification of the person so elected. Any person appointed to fill a vacancy shall be a member of the same political party as the prior incumbent.

ARTICLE 8

MAYOR-COUNCIL PLAN F

C. 40:69A-74.
Form of
government.

8-1. The form of government provided in this article shall be known as the "mayor-council plan F" and shall, together with articles 2 and 17 and sections 3-6 through 3-18, inclusive, of article 3, govern any municipality the voters of which have adopted it pursuant to this act.

C. 40:69A-75.
Governing
Body.

8-2. Each municipality hereunder shall be governed by an elected council, and an elected mayor and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

C. 40:69A-76.
Municipality
divided into
wards.

8-3. The municipality shall be divided into two wards unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1, of this act, the municipality is to consist of from three to six wards.

C. 40:69A-77.
Mayor, term.

8-4. The mayor shall be elected by the voters of the municipality at the general election to be held on the first Tuesday after the first Monday in November or at such other times as may be provided by law for holding general elections, and shall serve for a term of four years beginning on the first day of January next following his election.

C. 40:69A-78.
Council, elec-
tion, term.

8-5. The council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven or nine members. Members of the council shall serve for a term of four years, except as hereinafter provided for those first elected beginning on the first day of January next following their election. They shall be elected at large and by ward at the general election to be held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections in the following manner:

- (a) in a municipality having two wards and five councilmen, one councilman shall be elected from each ward and three at large;
- (b) in a municipality having three wards and five councilmen, one councilman shall be elected from each ward and two at large;
- (c) in a municipality having four wards and seven councilmen, one councilman shall be elected from each ward and three at large;
- (d) in a municipality having five wards and nine councilmen, one councilman shall be elected from each ward and four at large;

(e) in a municipality having six wards and nine councilmen, one councilman shall be elected from each ward and three at large.

8-6. At the first election as provided in article 17 of this act following the adoption by a municipality of this plan, five, seven or nine councilmen, as provided in section 8-5 of this article, shall be elected. The councilmen elected at large shall serve for a term of four years and the councilmen elected from wards, for a term of two years.

C. 40:69A-79.
Term of first
Councilmen.

8-7. Vacancies in any elective office shall be filled for the remainder of the unexpired term at the next general election to be held not less than sixty days after the occurrence of the vacancy. The council shall fill the vacancy temporarily by appointment to serve until the qualification of the person so elected. Any person appointed to fill a vacancy shall be a member of the same political party as the prior incumbent.

C. 40:69A-80.
Vacancies.

ARTICLE 9

COUNCIL-MANAGER PLAN

A. Form of Government; Election of Councilmen

9-1. The form of government provided in this article shall be known as the "council-manager plan A" and shall together with articles 2 and 17, govern any municipality, the voters of which have adopted this plan pursuant to this act.

C. 40:69A-81.
Form of
Government.

9-2. Each municipality under this article shall be governed by an elected council and by an appointed municipal manager, and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

C. 40:69A-82.
Governing
Body.

9-3. The municipal council shall consist of five members, who shall serve for a term of four years, beginning on the first day of July next following their election.

C. 40:69A-83.
Council, elec-
tion, term.

9-4. Members of the municipal council shall be elected at large by the voters of the municipality, at a regular municipal election.

C. 40:69A-84.
Members
elected
at large.

C. 40:69A-85.
Vacancies.

9-5. Vacancies in the council shall be filled by election for the remainder of the unexpired term at the next general election occurring not less than sixty days after the occurrence of the vacancy. Such election to fill a vacancy shall be upon direct nomination by petition in the manner provided by law for the filing of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected.

B. Council

C. 40:69A-86.
Organization
of council.

9-6. On the first day of July following their election, the members elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within two days of said organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled.

C. 40:69A-87.
Mayor's
powers and
duties.

9-7. The mayor shall preside at all meetings of the municipal council and shall have a voice and vote in its proceedings. He shall fill vacancies occurring in the trustees of the public library and in the board of education where the municipality is operating under chapter 6 of Title 18 of the Revised Statutes for such terms of office as are provided by law. All bonds, notes, contracts and written obligations of the municipality shall be executed on its behalf by the mayor or, in the event of his inability to act, by such councilman as the municipal council shall designate to act as mayor during his absence or disability. The powers and duties of the mayor shall be only such as are expressly conferred upon him by this article.

C. 40:69A-88.
Council's
powers.

9-8. All powers of the municipality and the determination of all matters of policy shall be vested in the municipal council except as otherwise provided by this act or by general law.

C. 40:69A-89.
Council to ap-
point manager,
clerk and
auditory boards.

9-9. The municipal council shall appoint a municipal manager and a municipal clerk. Both of such offices may be held by the same person. The council may provide for the manner of appointment of a municipal attorney, any planning board, zoning board of adjustment or personnel board in the municipality, and may create commissions and other bodies with advisory powers.

C. 40:69A-90.
To create and
define powers
and duties of
municipal depart-
ments, etc.,
manager,
deputy.

9-10. The municipal council shall continue or create, and determine and define the powers and duties of such executive and administrative departments, boards and offices, in addition to those provided for herein, as it may deem necessary for the proper and efficient conduct of the affairs of the municipality, including the office of deputy manager which shall not be included in the classified service under Title II of the Revised Statutes. Any department, board or office so continued or created may at any time be abolished by the municipal council.

C. 40:69A-91.
Intent of
article.

9-11. It is the intention of this article that the municipal council shall act in all matters as a body, and it is contrary to the spirit of this article for any of its members to seek individually to influence the official acts of the municipal manager, or any other officer, or for the council or any of its members to direct or request the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. The council and its members shall deal with the administrative service solely through the manager and shall not give orders to any subordinates of the manager, either publicly or privately. Nothing herein contained shall prevent the municipal council from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any officer or department, or any matter

relating to the welfare of the municipality, and delegating to such committees or commissions such powers of inquiry as the municipal council may deem necessary. Any councilman violating the provisions of this section shall, upon conviction thereof in a court of competent jurisdiction, be disqualified as councilman.

C. Municipal Manager

C. 40:69A-92.
Municipal
manager,
qualifications.

9-12. The municipal manager shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council.

C. 40:69A-93.
Municipal
manager,
term, removal.

9-13. The municipal manager shall hold office for an indefinite term and may be removed by a majority vote of the council. At least thirty days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the preliminary resolution.

9-14. The manager may designate a qualified administrative officer of the municipality to perform his duties during his temporary absence or disability. In the event of his failure to make such

designation, the council may by resolution appoint an officer of the municipality to perform the duties of the manager during such absence or disability until he shall return or his disability shall cease.

9-15. The municipal manager shall:

- (a) be the chief executive and administrative official of the municipality;
- (b) execute all laws and ordinances of the municipality;

(c) appoint and remove a deputy manager if one be authorized by the council, all department heads and all other officers, subordinates, and assistants for whose selection or removal no other method is provided in this article, except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the municipal council;

(d) negotiate contracts for the municipality subject to the approval of the municipal council; make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the municipal council;

(e) see that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation call the same to the attention of the municipal council;

(f) attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote;

(g) recommend to the municipal council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the municipality, make reports to the council as requested by it, and at least once a year make an annual report

C. 40:69A-95.
Municipal
manager and
auditor.

of his work for the benefit of the council and the public;

(h) investigate at any time the affairs of any officer or department of the municipality;

(i) perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.

The municipal manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

9-16. The municipal budget shall be prepared by the municipal manager. During the month of November in each year, the municipal manager shall require all department heads to submit requests for appropriations for the ensuing budget year, and to appear before him at public hearings, which shall be held during that month, on the various requests.

9-17. On or before the fifteenth day of January the municipal manager shall submit to council his recommended budget together with such explanatory comment or statement as he may deem desirable. The budget shall be in such form as is required by law for municipal budgets, and shall in addition have appended thereto detailed analysis of the various items of expenditure and revenue.

The council shall, where practicable, provide by ordinance for the operation of a system of work programs and quarterly allotments for operation of the budget, and for development and reporting of appropriate unit costs of budgeted expenditures.

9-18. Any provision of general law conferring the appointing power or other power upon the mayor or other executive head of the municipality shall be construed as meaning the municipal manager in a municipality governed under this article, and the appointments or the power exercised by the municipal manager in accordance with such provision shall be classified and given the same

C. 40:69A-96.
Budget preparation.

C. 40:69A-97.
Submission of budget to council.

To provide for budgetary operation.

C. 40:69A-98.
Constructing appointments.

force and effect as if executed by the official named therein, except that members of the board of education and of the trustees of the public library, whenever required to be appointed by any such provision by any board or official of the municipality, shall be appointed under this article by the mayor.

ARTICLE 10

COUNCIL-MANAGER PLAN B

10-1. The form of government provided in this article shall be known as the "council-manager plan B" and shall together with articles 2 and 17 and sections 9-5 through 9-18 of article 9, govern any municipality, the voters of which have adopted this plan pursuant to this act.

10-2. Each municipality under this article shall be governed by an elected council and by an appointed municipal manager, and by such other officers and employees as may be duly appointed pursuant to this article, general law, or ordinance.

10-3. The municipal council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act the municipality shall be governed by a council of seven or nine members. Members of the municipal council shall be elected at large by the voters of the municipality at a regular municipal election and shall serve for a term of four years, except as hereinafter provided for those first elected, beginning on the first day of July next following their election.

10-4. At the first election as provided in article 17 of this act, following the adoption by a municipality of this plan, five, seven, or nine councilmen, as provided in section 10-3 of this article, shall be elected and shall serve for the following terms: If the municipal council is to consist of five members, two shall serve for four years and three for two years; if the municipal council is to consist of seven members, three shall serve for four years and four for two years; if the municipal council is

C. 40:69A-99.
Form of government.

C. 40:69A-100.
Governance.

C. 40:69A-101.
Council, election term.

C. 40:69A-102.
Terms of first councilmen.

to consist of nine members, four shall serve for four years and five for two years. The length of term of the respective members of the first council shall be determined by lot immediately after the organization of the council next following the election.

C 40:59A-109.
Vacancies.

10-5. Vacancies in the council shall be filled by election for the remainder of the unexpired term at the next general or municipal election occurring not less than sixty days after the occurrence of the vacancy. Whenever such election to fill a vacancy shall be at the general election, the nomination of candidates shall be by petition in the manner provided by law for the filing of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected.

ARTICLE 11

COUNCIL-MANAGER PLAN C

C 40:59A-104.
Form of
Government.

11-1. The form of government provided in this article shall be known as the "council-manager plan C" and shall, together with articles 2 and 17 and sections 9-6 through 9-18 of article 9, govern any municipality, the voters of which have adopted this plan pursuant to this act.

C 40:59A-105.
Governing
Body.

11-2. Each municipality under this article shall be governed by an elected council and by an appointed municipal manager, and by such other officers and employees as may be duly appointed pursuant to this article, general law, or ordinance.

C 40:59A-106.
Municipality
divided into
wards.

11-3. The municipality shall be divided into two wards unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality is to consist of from three to six wards.

C 40:59A-107.
Council, elec-
tion, term.

11-4. The council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven

or nine members. Councilmen shall serve for a term of four years beginning on the first day of July next following their election. They shall be elected at large and by wards at a regular municipal election in the following manner:

(a) In a municipality having two wards and five councilmen, one councilman shall be elected from each ward and three at large;

(b) In a municipality having three wards and five councilmen, one councilman shall be elected from each ward and two at large;

(c) In a municipality having four wards and seven councilmen, one councilman shall be elected from each ward and three at large;

(d) In a municipality having five wards and nine councilmen, one councilman shall be elected from each ward and four at large;

(e) In a municipality having six wards and nine councilmen, one councilman shall be elected from each ward and three at large.

C 40:59A-108.
Vacancies.

11-5. Vacancies in the council shall be filled by election for the remainder of the unexpired term at the next general election occurring not less than sixty days after the occurrence of the vacancy. Such election to fill a vacancy shall be upon direct nomination by petition in the manner provided by law for the filing of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected.

ARTICLE 12

COUNCIL-MANAGER PLAN D

12-1. The form of government provided in this article shall be known as the "council-manager plan D" and shall, together with articles 2 and 17 and sections 9-16 through 9-18 of article 9, govern

C 40:59A-109.
Form of
Government.

C. 40:69A-110.
Government body.

any municipality the voters of which have adopted this plan pursuant to this act.

12-2. Each municipality under this article shall be governed by an elected council and by an appointed municipal manager, and by such other officers and employees as may be duly appointed, pursuant to this article, general law, or ordinance.

C. 40:69A-111.
Municipality divided into wards.

12-3. The municipality shall be divided into two wards unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality is to consist of from three to six wards.

C. 40:69A-112.
Council, election, term.

12-4. The municipal council shall consist of five members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of seven or nine members. Members of the municipal council shall serve for a term of four years, except as hereinafter provided for those first elected, beginning on the first day of July next following their election. They shall be elected at large and by wards at regular municipal elections in the following manner:

(a) in a municipality having two wards and five councilmen, one councilman shall be elected from each ward and three at large;

(b) in a municipality having three wards and five councilmen, one councilman shall be elected from each ward and two at large;

(c) in a municipality having four wards and seven councilmen, one councilman shall be elected from each ward and three at large;

(d) in a municipality having five wards and nine councilmen, one councilman shall be elected from each ward and four at large;

(e) in a municipality having six wards and nine councilmen, one councilman shall be elected from each ward and three at large.

C. 40:69A-113.
Term of first councilman.

12-5. At the first election as provided in article 17 of this act, following the adoption by a municipality of this plan, five, seven or nine councilmen, as provided in section 12-4 of this article, shall be elected. The councilmen elected at large shall serve for a term of four years and the councilmen elected from wards, for a term of two years.

C. 40:69A-114.
Vacancies.

12-6. Vacancies in the council shall be filled by election for the remainder of the unexpired term at the next general or municipal election occurring not less than sixty days after the occurrence of the vacancy. Whenever such election to fill a vacancy shall be at the general election, the nomination of candidates shall be by petition in the manner provided by law for the filing of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected.

ARTICLE 13

SMALL MUNICIPALITY PLAN A

C. 40:69A-115.
Form of Government.

13-1. The form of government provided in this article shall be known as the "small municipality plan A." It may be adopted by any municipality having a population of less than 12,000 inhabitants and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted the plan pursuant to this act.

C. 40:69A-116.
Government body.

13-2. Each municipality shall be governed by an elected mayor and councilmen and such other officers as shall be appointed pursuant to this article, general law or ordinance.

C. 40:69A-117.
Council, election, term.

13-3. The council shall consist of the mayor and two councilmen, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a mayor and four or six councilmen. Members of the council shall be elected at large by the voters of the municipality and shall serve for a term of three years beginning on the first day of July next following their election.

C. 40:69A-118.
Election of mayor and councilmen.

13-4. The mayor and council shall be elected at a regular municipal election at which time the candidates for mayor and for councilmen, two, four or six as the case may be, receiving the greatest number of votes shall be elected.

C. 40:69A-119.
Vacancies.

13-5. Vacancies shall be filled by election for the remainder of the unexpired term at the next general election occurring not less than sixty days after the occurrence of the vacancy. Such election to fill a vacancy shall be upon direct nomination by petition in the manner provided by law for the filling of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected.

C. 40:69A-120.
Legislative power exercised in quorum.

13-6. The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. The mayor shall participate and vote as other council members. A majority of the whole number of the governing body shall constitute a quorum for the transaction of business but a smaller number may meet and adjourn from time to time. The mayor shall preside over all meetings of the council. The council shall select from among its members a president of the council who shall serve in place of the mayor in the event of his absence, disability or refusal to act.

C. 40:69A-121.
Executive power exercised by mayor.

13-7. The executive power of the municipality shall be exercised by the mayor. It shall be his duty to see that all laws and ordinances in force and effect within the municipality are observed. He shall address the council and report to the residents annually, and at such other times as he may deem desirable, on the condition of the municipality and upon its problems of government.

C. 40:69A-122.
Appointment of municipal officials.

13-8. An assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance shall be appointed by the mayor with the advice and consent of the council. One person may be appointed to two or more

such offices, except that one person shall not be the assessor and treasurer, or assessor and collector.

13-9. The mayor shall also appoint a finance committee of council, which may consist of one or more councilmen, and may appoint and designate other committees of council of similar composition.

13-10. All officers and employees whose appointment or election is not otherwise provided for in this article or by general law shall be appointed by the mayor. If the municipality has not adopted the provisions of Title 11 of the Revised Statutes (Civil Service), it shall be the duty of the mayor to recruit, select and appoint persons qualified by training and experience for their respective offices, positions and employments.

13-11. Appointive officers and employees need not be residents of the municipality unless council shall so require.

13-12. A municipal clerk shall be appointed by the mayor with the advice and consent of council. The municipal clerk shall be qualified by previous training or experience to perform the duties of his office. He shall serve at the pleasure of the council, except as otherwise provided by this act.

13-13. The municipal clerk shall serve as clerk of the council, perform such functions as may be required by law of municipal clerks generally, have such other powers and duties as council may prescribe. He shall maintain the records and minutes of the governing body.

13-14. The mayor shall prepare the annual budget with the assistance of the treasurer and the cooperation of the other members of the council.

13-15. The treasurer shall be the chief financial officer of the municipality and shall keep and maintain books and records of all financial transactions of the municipality in accordance with the standards and requirements of the State Division of Local Government. The treasurer shall have custody of all public moneys of the municipality. He shall make monthly reports to council of all receipts, expenditures, commitments and unencumbered appropriation balances.

C. 40:69A-123.
Finance committee.

C. 40:69A-124.
Mayor's appointment.

C. 40:69A-125.
Mayor to be nonresident.

C. 40:69A-126.
Municipal clerk, appointment, qualifications, term.

C. 40:69A-127.
Municipal clerk's powers and duties.

C. 40:69A-128.
Mayor to report annual budget.

C. 40:69A-129.
Treasurer, power and duties.

C. 40:69A-136.
Disbursement
of municipal
funds.

13-16. No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with law. All disbursements shall be by bank check or draft signed by the mayor and countersigned by the treasurer, upon warrant of the chairman of the finance committee of council approved by council.

C. 40:69A-131.
Tax collector,
power and
duty.

13-17. The municipal tax collector shall receive and collect all moneys assessed or raised by taxation or assessment for any purpose. The collector shall enter in suitable books or other records to be kept by him the sums received each day together with the account to which each receipt is credited. Within forty-eight hours after the receipt of any moneys of the municipality, or on the first banking day thereafter, the collector shall deposit such moneys in the authorized public depository of the municipality to the credit of the appropriate account. He shall report to council at least once each month at the same time as the treasurer is required to report, all receipts and deposits and cash on hand belonging to the municipality. Within sixty days after the end of the fiscal year, and at such other times as may be required by council, the collector shall make and furnish a detailed and true list of all delinquent taxpayers for the next preceding year or for such period as council may require.

C. 40:69A-132.
Bond given by
treasurer and
collector.

13-18. The treasurer and the collector shall each give bond, at the expense of the municipality, in accordance with general law.

C. 40:69A-133.
Form of
Government.

14-1. The form of government provided in this article shall be known as the "small municipality plan B." It may be adopted by any municipality having a population of less than 12,000 inhabitants and shall, together with articles 2 and 17 and sections 13-6 through 13-18, inclusive, of article 13, govern any municipality the voters of which have adopted this plan pursuant to this act.

ARTICLE 14

SMALL MUNICIPALITY PLAN B

14-2. Each municipality shall be governed by an elected council, a mayor elected from and by the council, and such other officers as shall be appointed pursuant to this article, general law or ordinance.

14-3. The council shall consist of three members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a council of five or seven members. Councilmen shall be elected at large and shall serve for a term of three years beginning on the first day in July next following their election.

14-4. Members of the council shall be elected at a regular municipal election at which election the councilmen, three, five or seven as the case may be, receiving the greatest number of votes shall be elected.

14-5. Vacancies shall be filled by election for the remainder of the unexpired term at the next general election occurring not less than sixty days after the occurrence of the vacancy. Such election to fill a vacancy shall be upon direct nomination by petition in the manner provided by law for the filling of vacancies in municipal offices where candidates are nominated by direct petition for a general election. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected.

14-6. On the first day of July following their election, the members elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within two days of said organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled.

C. 40:69A-134.
Government
body.

C. 40:69A-135.
Council, elec-
tion, term.

C. 40:69A-136.
Election of
Councilmen.

C. 40:69A-137.
Vacancy.

C. 40:69A-138.
Organization,
presenter.

ARTICLE 15

SMALL MUNICIPALITY PLAN C

C. 40:69A-143.
Form of
government.

15-1. The form of government provided in this article shall be known as the "small municipality plan C." It may be adopted by any municipality having a population of less than 12,000 inhabitants and shall, together with articles 2 and 17 and sections 13-6 through 13-18, inclusive, of article 13, govern any municipality the voters of which have adopted this plan pursuant to this act.

C. 40:69A-140.
Governing
body.

15-2. Each municipality shall be governed by an elected mayor and councilmen and such other officers as shall be appointed pursuant to this article, general law or ordinance.

C. 40:69A-141.
Council, elec-
tion, term.

15-3. The council shall consist of the mayor and two councilmen, unless pursuant to the authority under sections 1-13 or 1-19 of article 1 of this act, the municipality shall be governed by a mayor and four or six councilmen. Members of the council shall be elected at large by the voters of the municipality and shall serve for a term of three years, except as hereinafter provided for those first elected, beginning on the first day of January next following their election.

C. 40:69A-142.
Term of first
councilmen.

15-4. At the first election as provided in article 17 of this act, following the adoption by a municipality of this plan, a mayor shall be elected to serve for a term of three years and two, four or six councilmen, as provided in section 15-3 of this act, shall be elected and shall serve for the following terms: if the council is to consist of three members, one shall serve for one year and one for two years; if the council is to consist of five members, two shall serve for a term of one year and two for two years; or if the municipal council is to consist of seven members, three shall serve for a term of one year and three for a term of two years. The length of term of the respective members of council shall be determined by lot immediately after the organization of the council following their election.

15-5. The mayor and councilmen shall be elected at the general election to be held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections. Vacancies in the council shall be filled by election for the remainder of the unexpired term at the next general election to be held not less than sixty days after the occurrence of the vacancy. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected. Any person appointed to fill a vacancy shall be a member of the same political party as the prior incumbent.

C. 40:69A-143.
Term of
election.

Vacancies.

ARTICLE 16

SMALL MUNICIPALITY PLAN D

16-1. The form of government provided in this article shall be known as the "small municipality plan D." It may be adopted by any municipality having a population of less than 12,000 inhabitants and shall, together with articles 2 and 17 and sections 13-6 through 13-18, inclusive, of article 13, govern any municipality the voters of which have adopted this plan pursuant to this act.

C. 40:69A-144.
Form of
government.

16-2. Each municipality shall be governed by an elected council, a mayor elected from and by the council, and such other officers as shall be appointed pursuant to this article, general law or ordinance.

C. 40:69A-145.
Governing
body.

16-3. The council shall consist of three members, unless pursuant to the authority granted under sections 1-13 or 1-19 of article 1 of this act the municipality shall be governed by a council of five or seven members. Councilmen shall be elected at large and shall serve for a term of three years, except as hereinafter provided for those first elected, beginning on the first day of January next following their election.

C. 40:69A-146.
Council, elec-
tion, term.

16-4. At the first election as provided in article 17 of this act, following the adoption by a municipality of this plan, three, five or seven members of the council, as provided in section 16-3 of this

C. 40:69A-147.
Term of first
councilmen.

C. 40:69A-148
Time of
election

Vacancies

C. 40:69A-149
Organization

article, shall be elected and shall serve for the following terms: if the council is to consist of three members, one shall serve for one year, one for two years and one for three years; if the council is to consist of five members, two shall serve for one year, two for two years and one for three years; or if the council is to consist of seven members, three shall serve for a term of one year, two for a term of two years and two for a term of three years. The length of the term of the respective members of the council shall be determined by lot immediately after the organization of the council following their election.

16-5. Members of the council shall be elected at the general election to be held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections. Vacancies in the council shall be filled by election for the remainder of the unexpired term at the next general election to be held not less than sixty days after the occurrence of the vacancy. Council shall fill the vacancy temporarily by appointment to serve until the qualification of a person so elected. Any person appointed to fill a vacancy shall be a member of the same political party as the prior incumbent.

16-6. On the first day of January next following their election, the members elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within two days of said organization meeting to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled.

ARTICLE 17

ADDITIONAL PROVISIONS COMMON TO OPTIONAL PLANS

A. Elections in General

17-1. Regular municipal elections shall be held in each municipality on the second Tuesday in May 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.

17-2. 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, and the polls shall be open from seven o'clock in the forenoon until eight o'clock at night at the prevailing time. The election officers conducting such elections shall be those provided for conducting the general election.

17-3. Every municipal officer elected under any of the plans provided in this act shall serve for the term of office specified in the plan and until his successor is elected and qualified.

B. Regular Municipal Elections

17-4. At least forty-five days prior to a regular municipal election, and at least forty-five days prior to the first election for municipal officers in municipalities which have adopted articles 3 through 6, inclusive, or 9 through 14, inclusive, of this act, the names of candidates for all offices shall be filed with the municipal clerk in the manner and form and under the conditions hereinafter set forth:

(a) The petition of nomination shall consist of individual certificates, equal in number to at least one per centum (1%), but in no event less than ten of the legally qualified voters, and shall read substantially as follows:

"I, the undersigned, a qualified elector of the municipality of _____, residing at _____,

C. 40:69A-150
Date of regular
municipal
election

C. 40:69A-151
Place and
hours of elec-
tion, officers

C. 40:69A-152
To serve for
term specified

C. 40:69A-153
Names of
candidates
filed, term
and date of
election

certify that I do hereby join in a petition of the nomination of whose residence is at for the office of mayor (or councilman as the case may be) to be voted for at the election to be held in such municipality on the 19, and I further certify that I know this candidate to be a qualified elector of said municipality and a man of good moral character, and qualified, in my judgment, to perform the duties of said office and I further certify that I have not signed more petitions or certificates of nominations than there are places to be filled for the above office.

(Signed)

(b) The signatures on the petition need not be appended to one paper but each signer shall add to his signature his place of residence, giving the street and number, if any. One of the signers of each such paper shall make an oath before an officer competent to administer oaths that the statements therein made are true to his best knowledge and belief, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

C. 40:69A-154.
Clerk to
of forms,
certificates,
enumeration
of petition.

17-5. (a) The municipal clerk shall furnish, upon application, a reasonable number of forms of individual certificates of the above character.

(b) Each certificate shall contain the name of one candidate, and no more. Each signer must not, at the time of signing the certificate, have signed more certificates for candidates for that office than there are places to be filled for such office, and all certificates of an elector whose certificate or certificates have not complied substantially with the foregoing provisions shall be rejected.

(c) When such a petition of nomination is presented for filing to the municipal clerk, he shall forthwith examine the same and ascertain whether

it conforms to the provisions of this section, and if not found in conformity thereto, he shall designate the defect and return the petition to the person making the oath. Such petition may again be presented when properly amended if this can be done at least thirty days before the election.

17-6. Any candidate whose name is to be printed on the ballot may petition the municipal clerk to print opposite his name on the ballot, a designation, in not more than six words, as named by him in such petition, for the purpose of indicating either an official act or policy to which he is pledged or committed, but the designation shall not indicate political party affiliations. On the filing of such petition the clerk shall cause the designation to be printed opposite the name of such candidate upon the ballot. If several candidates for the same office shall petition that their names be grouped together and that the one designation named by them shall be printed opposite their names, the clerk shall group their names in a bracket, and opposite the bracket shall print the same designation as aforesaid. Petitions requesting a designation or grouping of candidates shall be filed with the clerk on or before the last day fixed for filing the petition for nomination. If two candidates or groups select the same designation the clerk shall notify the candidate or group whose petition was last filed, and such candidate or group shall select a new designation.

17-7. The municipal clerk shall draw lots to determine the order in which the names of the candidates or groups of candidates shall appear upon the ballots. The name of the person or group of candidates first drawn shall occupy first place on the ballot, or voting machine, and the name of the person or group of candidates next drawn shall occupy second place, and so forth. The manner of drawing by lot shall be as follows: Paper cards with the name of each candidate or group of candidates written thereon shall be placed in a covered box with an aperture in the top large enough to allow the cards

C. 40:69A-155.
Printing
on
candidate's
opposite
name, regular
form, grouping.

C. 40:69A-156.
Drawing
positions
on ballot,
procedure.

to be drawn therefrom. The municipal clerk in the presence of any candidate shall draw from the box each card without knowledge on his part as to which card he is drawing. The municipal clerk shall at least two days prior to the drawing notify each candidate by registered mail of the time and place of the drawing. The candidate or his representative shall have the right to examine the cards prior to their being placed in the covered box.

17-8. Immediately after the expiration of the time for filing certificates, statements and petitions for candidates, and the drawing for position, the municipal clerk shall cause the names of the candidates as they are to appear upon the ballots to be published in proper form for three successive days in all the daily newspapers published in the municipality, or if there be no daily newspaper, then in two successive issues of any other newspapers published or circulated in the municipality.

17-9. When persons bearing the same name are nominated for the same office, any or either of them can file with the municipal clerk a statement in writing containing not more than six words as a means of identification of such candidate. The statement or designation so filed shall be printed upon the official ballot to be used at the election.

17-10. The municipal clerk shall cause the ballots to be printed and authenticated by his 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 such candidates for each office the words "Vote for one (two, three, four, five or six as the case may be)." The ballot shall be printed upon plain, substantial white paper, and shall be substantially in the following form:

"Municipal election of (here insert corporate name of municipality), county of (here insert name of county), held (here insert the date of the election). To vote for any person make a cross (X) or plus (+) mark in the square preceding the name

voted for. Vote only for as many persons as there are officers to be elected. If you wrongly mark the ballot, tear or deface same and return it to election officer and obtain 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 for, 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 one and one-tenth times 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.

17-11. At the regular municipal election in any municipality which has adopted articles 3 through 6, inclusive, or 9 through 12, inclusive, of this act, the candidates receiving the greatest number and a majority of votes cast shall be elected to the respective offices; *provided, however*, that if:

(a) five councilmen at large are to be elected and two or more candidates for said office receive a majority of the votes cast in the election, the five candidates receiving the greatest number of votes shall be elected; or

(b) four councilmen at large are to be elected and two or more candidates for said office receive a majority of the votes cast in the election, the four candidates receiving the greatest number of votes shall be elected; or

(c) three councilmen at large are to be elected and one or more candidates for said office receive a majority of the votes cast in the election, the three candidates receiving the greatest number of votes shall be elected; or

(d) two councilmen at large are to be elected and one or more candidates for said office receive a majority of the votes cast in the election, the two candidates receiving the greatest number of votes shall be elected.

C. 40:59A-157.
Number of
candidates
published.

C. 40:59A-158.
Candidates
bearing
same name.

C. 40:59A-159.
Ballots,
statements,
instructions,
delivery.

C. 40:59A-160.
Printed
ballots.

Proviso.

C. 40:39A-161.
Run-off
election.

17-12. In any regular municipal election referred to in section 17-11, 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 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 fifth Thursday next following such municipal election. The candidates for councilmen at large not elected at such municipal election, equal in number to twice the number of councilmen at large remaining to be elected, who received the greatest number of votes at such municipal election and the two candidates for mayor or for ward councilman who received the greatest number of votes at such election, shall be the candidates for the office for which they were nominated, at such run-off election. Military service ballots shall forthwith 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 such 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 therein, as the case may be.

17-13. In any municipality which has adopted articles 13 or 14 of this act, the candidate for mayor, if there be one, who receives the greatest number of votes shall be elected and the number of places for councilmen equal to the number of places to be filled in the council, receiving the greatest number of votes shall be elected.

C. 40:39A-162.
Elected
candidates.

C. Officers and Employees

17-14. No officer or employee elected or appointed in any municipality shall be interested directly or indirectly in any contract or job for work or materials, or the profits thereof, to be furnished or performed for the municipality, and no such officer or employee shall be interested directly or indirectly in any contract or job for work or materials or the profits thereof, to be furnished or performed, for any person operating any interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such municipality.

17-15. No officer or employee shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a municipality, any interurban railway, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly, from any person, any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the municipal officials heretofore provided by any franchise or ordinance be affected by this section.

17-16. No candidate for office, appointment or employment, and no officer, appointee, or employee in any municipality shall directly or indirectly give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

C. 40:39A-164.
Not permitted
special
privileges.

C. 40:39A-165.
Prohibits
position, etc.
for political
support.

C. 40:69A-166.
Filing date
for certificate of
office upon
conviction.

17-17. Any person convicted of a crime or offense involving moral turpitude shall be ineligible to assume any municipal office, position or employment in a municipality governed pursuant to this act, and upon conviction thereof while in office shall forfeit his office. Any person who shall violate any of the provisions of sections 17-14, 17-15 or 17-16 of this article shall upon conviction forfeit in a court of competent jurisdiction forfeit his office.

C. 40:69A-167.
Failure to
appear and
testify grounds
for removal.

17-18. If any person hereafter elected or appointed to any office or position in a municipality governed under this act shall, after lawful notice or process, willfully refuse or fail to appear before any court, any legislative committee, or the Governor, or having appeared shall refuse to testify or to answer any question regarding the property, government or affairs of the municipality, or regarding his nomination, election, appointment or official conduct on the ground that his answer would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any such matter in relation to which he may be asked to testify, may be removed from office by the governing body of the municipality in its discretion. Any person removed from office pursuant to this section shall not thereafter be eligible for election or appointment to any office or employment in such municipality.

Barred from
holding office.

D. Recall

C. 40:69A-168.
Recall election.

17-19. Any elective officer shall be subject to removal from office for cause connected with his office, after he has served at least one year, upon the filing of a recall petition and the affirmative vote of a majority of those voting on the question of removal at any general, regular municipal or special election.

C. 40:69A-169.
Petition.
Content.

17-20. A recall petition shall demand the removal of a designated incumbent, shall be signed by qualified voters equal in number to at least twenty-five per centum (25%) of the registered voters of the municipality, and shall be filed with the

municipal clerk. It shall set forth a statement of the cause upon which the removal is sought.

C. 40:69A-170.
Signature to
recall petition.
Removal
conviction.
According.

17-21. The signatures to a recall petition need not all be appended to one paper but each signer shall add to his signature his place of residence giving the street and number or other sufficient designation if there shall be no street and number. One of the signers to each such paper shall take an oath before an officer competent to administer oaths that the statement therein made is true as he believes and that each signature of the person appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing the petition the municipal clerk shall complete its examination and ascertain whether or not such petition is signed by the requisite number of qualified voters, and shall attach to the petition his certificate showing the result of his examination. If by that certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The municipal clerk shall, within five days after such amendment, make a similar examination and determination of the amended petition, and if the certificate shall show the same to be insufficient, it shall be returned to the person filing it without prejudice to the filing of a new petition to the same effect.

C. 40:69A-171.
Service of
notice.

17-22. If the petition shall be sufficient the municipal clerk shall within two days notify the mayor, councilman or councilmen whose recall is sought thereby. If such notice cannot be served personally upon the mayor, councilman or councilmen affected, service may be made by registered mail addressed to the officer's last known address. If within five days after the service of the notice by the municipal clerk the mayor, councilman or councilmen sought to be recalled by such petition do not resign, or having tendered their resignation it shall not have been accepted by the municipal council, the municipal clerk shall order and fix a date for holding a recall election not less than sixty nor more than ninety days from the filing of the pe-

tion. Notice of the filing of the petition and of the date of the election shall be posted for public view in the office of the municipal clerk and he shall also insert the notice forthwith in a newspaper published in the municipality, or if there be no such newspaper, then in a newspaper having general circulation in such municipality.

17-23. The ballots at the recall election shall conform to the requirements respecting the election of municipal officers in the municipality, as provided in this article or in Title 19 of the Revised Statutes (Elections), whichever shall apply in the municipality in accordance with the provisions of this act, except that the words "recall election" shall appear on the ballot. The recall features of the ballot shall appear at the top thereof and shall be separated from the portion of the ballot for the election of officers by a heavy black line. The proposal for recall shall be placed on the ballot in the following manner:

"Shall (here insert name of incumbent) be removed from office by recall?" This matter shall occupy two lines in boldface type. Immediately below the above wording shall appear the phrase "for recall," and immediately underneath such phrase the words "against recall." Immediately at the left of each of these two phrases shall be printed a square, in which the voter may make a cross (X) or plus (+) or a check (V) mark. Immediately below the foregoing shall appear the following:

"Indicate your vote by placing a cross (X) or plus (+) or a check (V) mark in one of the squares above."

17-24. If the removal of more than one officer is sought the same provisions for submitting to the electors the question and direction heretofore described shall be repeated in the case of each officer concerned and their position on the ballot for their recall shall be in the order of the filing of the petition with the municipal clerk.

C. 40:69A-172.
Ballots.
Specification.

Question.

Voting
directions.

C. 40:69A-173.
Question and
direction for
recalls for
each officer.

17-25. The same ballot used for submitting the question or questions of recall shall be used for the election of a successor to the incumbent sought to be removed and immediately under the black line following the recall question shall appear the phrase "Nominees for successors of (here insert name of incumbent) in the event he is recalled." The names of all persons nominated as successors shall be placed upon the ballot in the same manner provided for other elections of municipal officers in the municipality.

17-26. The provisions of this article or of Title 19 of the Revised Statutes (Elections), whichever shall apply in the municipality in accordance with the provisions of this act, concerning the nomination of municipal officers, preparation of the ballot, election of municipal officers, counting and canvassing of the results of the election of such officers, shall apply to the election for the recall of officers and the election of their successors. Where the plan of government in effect in the municipality provides for partisan elections, the county committee of each political party shall be authorized to select a candidate for successor of a recalled incumbent in the same manner as provided by Title 19 of the Revised Statutes for nominations to fill a vacancy after the last day for filing petitions for nominations in the primary elections.

17-27. The municipal clerk shall cause to be made due publication of notices of arrangements for holding all recall elections and they shall be conducted as are other elections for municipal officers in the municipality.

17-28. (a) If a majority of votes in connection with the recall of any officer be in favor of the recall, the term of office of such officer shall terminate, upon the certification of the results of election by the municipal clerk.

(b) If the results of such recall election shall, by the certificate of the municipal clerk, be shown to be against the recall of the officer he shall continue in office as if no recall election had been held, and

C. 40:69A-174.
Voting for
successors to
recalled officer.

C. 40:69A-175.
Applicable
provisions
to control
election.

C. 40:69A-176.
To publish
notice of
arrangements.

C. 40:69A-177.
Results of
recall elections.

the vote for the election for the successor of such officer taken at the time of such attempted recall shall be void.

17-29. If the office of the incumbent shall become vacant either by his resignation or by the result of the recall election, his successor shall be the nominee receiving the greatest number of votes at the recall election. The person so elected shall serve for the remainder of the unexpired term.

E. Local Legislation

C. 40:69A-179. Meetings of council open to public. Minutes.

17-30. The council shall by ordinance or resolution designate the time of holding regular meetings, which shall be at least monthly. The mayor may, and upon written request of a majority of the members of the council, shall call a special meeting of the council. In the call he shall designate the purpose of the special meeting and no other business shall be considered. All meetings of the council shall be open to the public. The municipal clerk shall keep a journal of its proceedings and record the minutes of every meeting.

C. 40:69A-180. Rules of procedure.

17-31. (a) Council shall determine its own rules of procedure, not inconsistent with ordinance or statute. A majority of the whole number of members of the council shall constitute a quorum, but no ordinance shall be adopted by the council without the affirmative vote of a majority of all the members of the council.

C. 40:69A-181. Adoption and publication of ordinances, proviso.

(b) Each ordinance or resolution shall be introduced in written or typewritten form and shall be read and considered as provided by general law. The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered on the minutes. The minutes of each meeting shall be signed by the officer presiding at such meeting and by the municipal clerk.

17-32. (a) Except as may otherwise be provided in this act, all ordinances shall be adopted and published in the manner required by general law; provided, however, that any ordinance may incorporate by reference any standard technical regula-

tions or code, official or unofficial, which need not be so published whenever ten copies of said regulations or code have been placed on file in the office of the municipal clerk and in the office of the body or department charged with the enforcement of said ordinance for the examination of the public so long as said ordinance is in effect.

(b) No ordinance other than the local budget ordinance shall take effect less than twenty days after its final passage by council and approval by the mayor where such approval is required, unless the council shall adopt a resolution declaring an emergency and at least two-thirds of all the members of the council vote in favor of such resolution.

17-33. The municipal clerk shall record all ordinances and resolutions adopted by council and at the close of each year with the advice and assistance of the municipal attorney, shall bind, compile or codify all the ordinances and resolutions, or true copies thereof, of the municipality which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances and resolutions.

17-34. No rule or regulation made by any department, officer, agency or authority of the municipality, except such as relates to the organization or internal management of the municipal government or a part thereof, shall take effect until it is filed either with the municipal clerk or in such other manner as may be provided by ordinance. The council shall provide for the prompt publication of such rules and regulations.

F. Initiative and Referendum

17-35. The voters of any municipality may propose any ordinance and may adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the municipal council by a petition signed (a) in the case of municipalities of 70,000 or less inhabitants, by twenty-five per centum (25%) of

C. 40:69A-182. Ordinances, codifying, indexing, and binding.

C. 40:69A-183. Rules and regulations, filing, publishing.

C. 40:69A-184. Voters may initiate ordinance, proviso.

the registered voters of the municipality, and (b) in the case of municipalities of more than 70,000 inhabitants, by fifteen per centum (15%) of the registered voters of the municipality.

C 40:69A-185.
Voters to have
power of
referendum.

Ordinance
effective.

17-36. The voters shall also have the power of referendum which is the power to approve or reject at the polls any ordinance submitted by the council to the voters or any ordinance passed by the council, against which a referendum petition has been filed as herein provided. No ordinance passed by the municipal council, except when otherwise required by general law or permitted by the provisions of section 17-32 (b) of this act, shall take effect before twenty days from the time of its final passage and its approval by the mayor where such approval is required. If within twenty days after such final passage and approval of such ordinance a petition protesting against the passage of such ordinance shall be filed with the municipal clerk and if the petition shall be signed in the case of municipalities of 70,000 or less inhabitants by twenty-five per centum (25%) of the registered voters of the municipality and in the case of municipalities of more than 70,000 inhabitants, by fifteen per centum (15%) of the registered voters of the municipality, the ordinance shall be suspended from taking effect until proceedings are had as herein provided.

17-37. All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition paper the names and

C 40:69A-186.
Petition
Procedulations.

addresses of five voters, designated as the Committee of the Petitioners, who shall be regarded as responsible for the circulation and filing of the petition and for its possible withdrawal as herein-after provided. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

17-38. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the municipal clerk as one instrument. Within twenty days after a petition is filed, the municipal clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters. After completing his examination of the petition, the municipal clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify at least two members of the Committee of the Petitioners of his findings.

17-39. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been served by the municipal clerk by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The municipal clerk shall, within five days after such an amendment is filed, examine the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the Committee of the Petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

C 40:69A-187.
Filed as one
instrument,
certification.

C 40:69A-188.
Amending
petition.

C. 40:69A-139.
Effect of a finding of an ordinance.

17-40. Upon the filing of a referendum petition with the municipal clerk, the ordinance shall be suspended until ten days following a finding by the municipal clerk that the petition is insufficient or, if an amended petition be filed, until five days thereafter; or, if the petition or amended petition be found to be sufficient, until it be withdrawn by the Committee of the Petitioners or until repeal of the ordinance by vote of the council or approval or disapproval of the ordinance by the voters.

C. 40:69A-139.
Initiative ordinance submitted to council.

17-41. Upon a finding by the municipal clerk that any petition or amended petition filed with him in accordance with this act is sufficient, the clerk shall submit the same to the municipal council without delay. An initiative ordinance so submitted shall be deemed to have had first reading and provision shall be made for a public hearing.

C. 40:69A-139.
Filing, request for referendum petition.

17-42. If within sixty days of the submission of a certified petition by the municipal clerk the council shall fail to pass an ordinance requested by an initiative petition in substantially the form requested or to repeal an ordinance as requested by a referendum petition, the municipal clerk shall submit the ordinance to the voters unless, within ten days after final adverse action by the council or after the expiration of the time allowed for such action, as the case may be, a paper signed by at least four of the five members of the Committee of the Petitioners shall be filed with the municipal clerk requesting that the petition be withdrawn. Upon the filing of such a request, the original petition shall cease to have any force or effect.

C. 40:69A-139.
Ordinance submitted to voters.

17-43. Any ordinance to be voted on by the voters in accordance with section 17-36 or section 17-42 of this article shall be submitted at the next general or regular municipal election occurring not less than sixty days after the date of final action by council or the expiration of the time allowed for action by council in section 17-42 of this article, as the case may be, provided that if no such election is to be held within ninety days the council may in its discretion provide for a special election.

17-44. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this article, but there shall not be more than one special election in any period of six months for such purpose.

C. 40:69A-139.
Limits number of special election.

17-45. Whenever an ordinance is to be submitted to the voters of the municipality at any election in accordance with this article, the clerk shall cause the ordinance to be published in at least two of the newspapers published or circulated in the municipality. The publication shall be not more than twenty nor less than five days before the submission of the ordinance or proposition to be voted on.

C. 40:69A-139.
Publication of ordinance.

17-46. The ballots to be used at such election shall be in substantially the following form:

C. 40:69A-139.
Form of ballot.

"To vote upon the public question printed below, if in favor thereof mark a cross (X) or plus (+) or check (V) in the square at the left of the word Yes, and if opposed thereto mark a cross (X) or plus (+) or a check (V) in the square to the left of the word No."

	"Shall the ordinance (indicate whether submitted by council or initiative or referendum petition) providing for (here state nature of proposed ordinance or proposition) be adopted?"
Yes.	<input type="checkbox"/>
No.	<input type="checkbox"/>

17-47. 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. 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.

C. 40:69A-139.
Ordinance valid and binding.

G. *Wards*

C. 40:69A-197.
To divide
into wards.

17-48. Whenever any municipality adopts articles 5, 6, 8, 11 or 12 of this act, said municipality shall be divided into wards by the ward commissioners as hereinafter provided.

C. 40:69A-198.
Ward commission.

17-49. The members of the county board of elections of the county in which such municipality is situated, together with the municipal clerk of the municipality, shall constitute the ward commissioners.

C. 40:69A-199.
Division
into wards.
Procedure.

17-50. Within five days following the election at which the voters of the municipality shall have adopted one of said optional plans, the ward commissioners shall meet and, having first taken and subscribed before some officer authorized to administer oaths, an oath faithfully and impartially to perform the duties imposed upon them, shall forthwith proceed to divide the municipality into such number of wards as is specified in the adopted plan.

C. 40:69A-200.
Ward
commission.
population.

17-51. The ward commissioners shall fix and determine the ward boundaries so that each ward is formed of compact and contiguous territory. The wards so created shall not differ in population, according to the most recent Federal census, by more than ten per centum (10%) of the population of the least populous ward created.

C. 40:69A-201.
Report by
ward com-
missioners.

17-52. Within thirty days after the adoption of one of said optional plans, the ward commissioners shall make and file their report and certificate over at least three of their signatures setting forth and properly describing the ward boundaries fixed and determined, to which there shall be annexed a map of the municipality with the ward boundaries clearly marked thereon.

File.

The report so certified shall be filed in the office of the clerk of the county, and a copy thereof shall also be filed with the Secretary of State and in the office of the clerk of the municipality.

17-53. A notice of the ward boundaries as fixed and determined by the ward commissioners shall be published by the clerk of the municipality at least once in at least one newspaper circulating in the municipality within two weeks immediately next succeeding the filing of the report and certificate required by section 17-52 of this article.

Upon completion of the publication, the former wards, if any, shall be superseded, and thereafter all officers elected or appointed in the municipality for or representing the wards thereof shall be elected from or appointed for the wards fixed by the ward commissioners hereunder.

Former wards
superseded.

17-54. Within three months following each decennial Federal census, the ward commissioners shall meet in the manner heretofore provided in this article for the purpose of making such adjustments in ward boundaries as shall be necessary pursuant to section 17-51 of this article. Within thirty days following such meeting, they shall discharge their duties and report to the municipality in the same manner as provided in sections 17-52 and 17-53 of this article.

C. 40:69A-203.
Adjournment
of ward
commissioners
report.

17-55. All officers elected for existing wards in any municipality wherein ward lines are changed pursuant to section 17-54 of this article, shall continue in office until their respective terms of office shall expire and until their successors are elected and qualified.

C. 40:69A-204.
Officers to
continue in
office.

H. *Succession in Government*

17-56. The schedule of installation of an optional plan adopted pursuant to this act shall, as provided herein, take the following course:

C. 40:69A-205.
Schedule of
optional plan.

(a) An election to submit the question of adoption of an optional plan may be held at any time in accordance with the provisions of article 1 of this act;

(b) In the event of a favorable vote of the voters at the above election, the first election of officers under the adopted plan shall take

place on (1) the second Tuesday in May occurring not less than seventy-five days next following the adoption of one of the optional plans in municipalities adopting articles 3, 4, 9, 10, 13 or 14 of this act; (2) the second Tuesday in May occurring not less than one hundred twenty days following the adoption of one of the optional plans in municipalities adopting articles 5, 6, 11, or 12 of this act; (3) at the next general election occurring no less than seventy-five days next following the adoption of one of the optional plans, in municipalities adopting articles 7, 13, and 16 of this act; or (4) at the next general election occurring not less than one hundred twenty days next following the adoption of one of the optional plans in municipalities adopting article 8 of this act.

Whenever a municipality has adopted any of the articles referred to in subsections (3) or (4) above, at a later date than the one fixed for the filing of nominating petitions at the primary election, the candidates to be first elected shall be nominated by direct petition in the manner provided by law for nomination by direct petition for a general election.

(c) An optional plan shall take effect, in accordance with the further provisions of this article at (1) twelve o'clock noon on the first day of July next following the first election of officers in municipalities adopting articles 3 through 6, inclusive, or 9 through 14, inclusive, of this act, or (2) twelve o'clock noon on the first day of January next following the first election of officers in municipalities adopting articles 7, 8, 15 or 16 of this act.

17-57. Upon the effective date of an optional charter adopted pursuant to this act, any other charter and its amendments and supplements theretofore applicable to the municipality shall be superseded with respect to such municipality. All ordinances and resolutions of the municipality to

C. 40:69A-206.
Old charter
superseded.

Ordinances
affected.

the extent that they are not inconsistent with the provisions of this act shall remain in full force and effect until modified or repealed as provided by law.

17-58. At twelve o'clock noon on the effective date of an optional plan adopted pursuant to this act, all offices then existing in such municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; *provided*, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, trustees of the free public library, or of any official or employee now protected by any tenure of office law, or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law. If the municipality is operating under the provisions of Title 11 of the Revised Statutes (Civil Service) at the time of the adoption of an optional plan under this act, nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of said Title 11 as it applies to said officers and employees.

C. 40:69A-207.
Existing offices
abolished.

Not to affect
tenure of civil
service tenure.

17-59. All actions and proceedings of a legislative, executive or judicial character which are pending upon the effective date of an optional plan adopted pursuant to this act may continue, and the appropriate officer or employee under such optional plan shall be substituted for the officer or employee theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

C. 40:69A-208.
Continuation
of officers.

I. General Provisions

17-60. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, sec-

C. 40:69A-209.
Provisions
severable.

C. 40:59A-210.
Short title.

tion or part thereof directly involved in the controversy in which such judgment shall have rendered.

17-61. This act shall be known as the Optional Municipal Charter Law.

17-62. This act shall take effect immediately. Approved June 8, 1950.

CHAPTER 211

An Act relating to qualifications, training and tenure with respect to certain municipal offices and positions and establishing a committee for the administration thereof.

BE IT ENACTED BY THE SENATE AND GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY:

1. This act shall be known as the "Optional Municipal Key Positions Law,"

2. Any municipality may, by referendum as hereinafter provided, adopt the provisions of this act and be governed thereby.

3. For the purposes of this act, unless the context clearly requires another meaning:

(a) "Committee" shall mean the Committee on Certification of Local Officers created by this act.

(b) "Appointing authority" shall mean any officer, board or governing body of any municipality empowered to make appointments.

(c) "Key position" shall mean the following offices or positions in a municipality governed under this act: municipal clerk; tax assessor; or board of assessors; tax collector (or receiver of taxes) by whatever title he may be known; and such other appointive officers as

C. 40:46-39.
Short title.
C. 40:46-40.
Adoption by referendum.
C. 40:46-41.
Terms defined.

may by general law now or hereafter have or be entitled to acquire any protection against removal in their tenure of office, provided that key positions shall not include policemen, firemen, teachers and other school district employees and any person holding any office or position for which a license is or may be required by law prior to appointment.

4. In any municipality governed under this act, no person holding a key position in such municipality shall hereafter acquire any protected tenure of office provided by general law unless and until he shall have obtained a certificate of qualification as herein provided.

5. There is hereby created a Committee on Certification of Local Officers. The committee shall consist of the Director of the State Division of Local Government and four municipal officials to be appointed by the Governor to serve for a term of four years and until the appointment and qualification of their respective successors.

No member shall receive any additional compensation for service on the committee; but members shall be reimbursed out of funds appropriated to the Department of Local Government for necessary expenses incurred in pursuance of duties as members of the committee. The committee shall organize, adopt rules of procedure, and shall annually select one of its members as chairman.

6. Subject to the provisions of this act and other applicable laws, the committee shall:

(a) establish and define standards of proficiency and competence for key positions, not inconsistent with the provisions of law;

(b) provide and issue certificates of qualification, to applicants who have successfully taken such noncompetitive examinations and met such standards of character, health, training and achievement as the committee may determine to be reasonably required for fully

C. 40:46-42.
Certificate of qualification before obtaining tenure.
C. 40:46-43.
Committee on Certification of Local Officials.
No compensation, organization.

C. 40:46-44.
Functions and powers of committee.