

**CHANGE  
IN  
NEW JERSEY  
MUNICIPAL  
ORGANIZATION**

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June 2006

## Change in New Jersey Municipal Organization

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# Change in New Jersey Municipal Organization<sup>1</sup>

## Motivation for Change

How and why do residents of a community become involved in advocating a change in local government organization? Local government organization is not usually a major topic of conversation among most people. Although the services of local government may be close to the residents, the subjects of organization and procedures are relatively abstract, and attention may easily be diverted by the emphasis placed by the media on the more glamorous aspects of state and federal government and international affairs. Nevertheless, people do get involved, and change does take place. While a multitude of factors may provide motivation, four seem to be most important, and they are discussed below, not necessarily in order of importance.

### *Growth of Municipal Responsibilities*

As a community grows in population, the size and complexity of local government increases. In many cases, the older forms of government may then be found to be inadequate, particularly in terms of providing for some central control and coordination of the new offices and agencies that must be established to meet the growing responsibilities of the municipality.

### *Frustration with the Existing Government*

A second source of motivation for change comes from a sense of frustration that citizens may experience in dealing with their existing form of government. This often begins with concern about a particular issue, ranging from such dramatic events as a new housing development or shopping center, or a major tax increase, to more mundane issues, such as a failure in garbage collection. When the existing government fails to act with the expected degree of responsiveness and professionalism, the concern of the individual citizens frequently is transferred from the original issue to the deficiencies of the system itself.

A second form of frustration comes from within the municipal government itself, when part-time elected officials find themselves swamped with the operational details of administering the day-to-day activities of the municipal government. Such demands on the time of the governing body member can lead to divided loyalties among private employment, family responsibilities, and public obligations. The result may be a search for a form of government in which administrative functions are professionalized by the appointment of full-time persons, leaving the part-time elected official free to consider the broader policy issues facing the community.

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<sup>1</sup> Adapted and updated from Ernest C. Reock, Jr. and Raymond D. Bodnar, *The Changing Structure of New Jersey Municipal Government*, New Jersey County and Municipal Government Study Commission, April 1985.

### *Perceived Lack of Representation*

When citizens begin to believe that their local government officials do not represent them adequately, attention may turn to a change in form of municipal government as a solution. Such a belief often develops when all members of the governing body are elected at large from the entire municipality and a disproportionate number come from one segment of the community. If the sections of the community considered under-represented can be defined in geographic terms, then a movement for ward representation may develop in order to spread the elective offices more widely throughout the municipality.

Another variation is found when citizens realize that they have a form of government in which their primary elected representative—the mayor—is not elected directly by the voters, but is selected by and from among his or her peers on the municipal governing body. The tradition of directly electing the chief executive is so clearly recognized at the national level with the president, and at the state level with the governor, that a different approach locally sometimes triggers a feeling that adequate provision for representation has not been made.

Finally, where a substantial portion of a community is outraged by some action of the municipal governing body or mayor there may be a feeling that the public officials of the community are not listening to their constituents, and the demand may be translated into a search for a form of government where the voters have a direct voice in public policy through the devices of initiative and referendum.

### *Political Control*

Lastly, but certainly not least in importance, is a desire by political factions that are out of office to use a change in form of government to enhance their position. The history of change in New Jersey communities is marked by frequent demands for municipal reorganization by the “outs,” since any major change in charter results in all municipal offices being vacated and new elections being held.

Any one of these factors may spark a movement for change in form of municipal government. The potential for actually bringing about the change is far higher when more than one of the motivations coincide in a community at the same time.

## Methods of Changing the Form of Government

The laws of New Jersey permit two basic statutory methods for initiating a change in the form of municipal government. One is the direct petition method; the other is the election of a charter study commission.

The direct petition method is the oldest, having precedents going back into the nineteenth century. It is most appropriate when there is believed to be a consensus in the community as to the form of government that would be best for that municipality. The laws for each optional form of government establish the number of signatures that must be gathered on a petition in order to

place on the ballot a question as to whether the existing form of government should be abandoned and replaced with a specified new form. A referendum is held according to a schedule contained in the law, and the decision of the voters prevails. More details will be presented below.

The second method of change is through the election of a charter study commission. This method is most appropriate when there is dissatisfaction with the present form of government, but there is no obvious consensus as to what form should replace it. The charter study commission approach is authorized only under the Optional Municipal Charter Law of 1950 (OMCL)<sup>2</sup>. The question of whether there shall be a charter study commission can be placed on the ballot either through a petition or through the enactment of an ordinance by the existing municipal governing body. At the same time that the voters decide whether there will be such a commission, they vote for the members, with the five persons receiving the highest votes becoming the members if the commission is authorized.

A charter study commission under the OMCL may recommend that the municipality change to one of the OMCL forms of government, in which case the question of whether that form should be adopted must be placed on the ballot for referendum of the voters. The charter study commission also may recommend a special charter, with further action being required, but the study commission may not place on the ballot a question dealing with any other forms of municipal government that are not a part of the OMCL.

In general, the two approaches cannot proceed simultaneously; priority goes to the first official action that is taken<sup>3</sup>. Thus, if a direct petition for change has been filed and has the proper number of valid signatures, an ordinance for a charter commission referendum has no effect.

Persons or groups considering a campaign for change in their form of government should be aware that expenditures intended to influence the vote on a public question, as well as the expenditures for charter commission candidates, come within the scope of the New Jersey Campaign Contributions and Expenditures Reporting Act. Accurate accounts must be kept from the beginning of such a campaign in case the total expenditures exceed the limit that will require the filing of official reports<sup>4</sup>.

Another approach to change has been used in a number of municipalities in recent years. This is the appointment by the mayor or the governing body of a charter study *committee* as distinguished from a charter study *commission*. A charter study committee is strictly an advisory body, having no basis in state law. While its members may conduct the same kind of a study of the form of government as a statutory commission under the OMCL, the advisory committee has no authority to place its recommendations on the ballot. If such a committee concludes that a new form of municipal government is appropriate, it must proceed with the direct petition

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<sup>2</sup> *N.J.S.A.* 40:69A-1 *et seq.*

<sup>3</sup> *N.J.S.A.* 40:43-9.1.

<sup>4</sup> For more information, contact the New Jersey Election Law Enforcement Commission, 609-292-8700, [www.elec.state.nj.us/](http://www.elec.state.nj.us/).

method or with action to initiate a statutory charter study commission, gathering enough signatures to place the question on the ballot.

Two additional situations can arise where a form of government must be specified. When two or more municipalities establish a joint municipal consolidation commission to consider merging into a single municipality, one of the responsibilities of the consolidation commission is to recommend a form of government for the new municipality. The only forms of government that may be considered are those in use in the municipalities studying consolidation, plus the Commission Form, the Municipal Manager Form (1923), and the various options under the Optional Municipal Charter Law<sup>5</sup>. The other situation occurs if the legislature acts to create a new municipality from a portion of an existing municipality. The incorporation act would then include some identification of the form of government to be established in the new community.

## The Direct Petition Method

It is possible for the citizens of any community to use a direct petition and referendum approach to change their form of government to an optional form under the Commission Form of Government Law of 1911, the Municipal Manager Form of Government Law of 1923, or the Optional Municipal Charter Law of 1950. The requirements, procedures, and schedule vary slightly among the three laws.

### *Commission Form of Government*<sup>6</sup>

A question may be placed on the ballot to change to the Commission Form of government by a petition signed by at least 20 percent of the number of registered voters at the last preceding general election. If this is done, the municipal clerk must call an election for this purpose on the third Tuesday following the date on which the petition is filed. In order to effect the change, there must be a favorable majority for the change, and the number of affirmative votes must total at least 30 percent of the total number of persons voting in the municipality at the last general election. If the change is authorized by the voters, an election for the first board of commissioners is held on the fifth Tuesday following the referendum, and the newly elected members of the governing body take office on the first Tuesday following their election. If the proposal is defeated, no additional petition for adoption of the Commission Form of government may be filed until after the beginning of the last year of the term of office of the mayor elected at the election following defeat of the original proposal.

### *Municipal Manager Form of Government*<sup>7</sup>

Procedures under the Municipal Manager Form are similar to those under Commission government, but with a few variations. The process is started by a petition signed by a number of voters equal to 15 percent of the number of persons who voted in the municipality at the last general election for General Assembly. The referendum on the question then is held on the fourth

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<sup>5</sup> *N.J.S.A.* 40:43-66.50.

<sup>6</sup> *N.J.S.A.* 40:71-1, 2, 67; 40:75-1.

<sup>7</sup> *N.J.S.A.* 40:80-1, 2, 89; 40:81-4.

Tuesday following filing of the petition, but not within four weeks of a regular municipal election. As with Commission government, there must be a favorable majority for the question, and the number of affirmative votes must total at least 30 percent of the number of persons voting at the last general election. If the change in form of government is approved, the first election of members of the council is held on the fourth Tuesday following the referendum and the new council members take office on the fourth Tuesday after their election. If the proposal is defeated, there is a two-year waiting period before another petition for adopting the Municipal Manager Form may be filed.

### *Optional Municipal Charter Law*<sup>8</sup>

Provisions for a direct petition approach are somewhat different under the Optional Municipal Charter Law. The number of signatures necessary to place a question of change on the ballot varies with the size of the municipality:

- 25 percent of the registered voters in municipalities of 7,000 or less
- 20 percent in municipalities over 7,000, but less than 70,000
- 10 percent in municipalities of 70,000 or more

The registered voters are counted as of the date that the petition is filed. If a valid petition is filed, the municipal clerk must place the question on the ballot at the next general or regular municipal election, if there is to be one, at least 60 and no more than 120 days after the petition is filed. If there is no regularly scheduled election during that time, the clerk must arrange for a special election within that period. A simple majority is required for approval.

Election of the first governing body members depends upon the plan proposed. If it is a partisan form of government with elections at large, the first election takes place at the next general election at least seventy-five days after approval in the referendum. If wards have to be drawn, the first partisan election would be held at the next general election at least 120 days following the referendum. In nonpartisan forms, the time of the first election is at the regular municipal May election, respectively 75 and 120 days after the referendum, depending upon whether the plan is for at-large or ward elections. The first elected officials take office on January 1 following their election in partisan forms of government and on July 1 following election in nonpartisan plans.

If a proposal for change initiated by direct petition under the Optional Municipal Charter Law is defeated on referendum, no subsequent direct petition for change may be filed under this law until four years after the referendum<sup>9</sup>. However, this waiting period does not apply to a petition or an ordinance for a charter study commission, which may be filed or enacted immediately after the referendum on the first petition.

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<sup>8</sup> N.J.S.A. 40:69A-18, 19,20; 40:69A-205.

<sup>9</sup>N.J.S.A. 40:69A-21.



## The Work of a Charter Study Commission

### *Establishing the Commission*<sup>10</sup>

An election for a charter commission can be authorized either by local ordinance or by a petition signed by the registered voters of the municipality (see Chart 1). The question to be submitted to the voters is stated in the statute as follows:

Shall a charter commission be elected to study the charter of (name of municipality) and to consider a new charter or improvements in the present charter and to make recommendations thereon?

Actually, the voters must take two actions, one to approve or disapprove this question and the second to elect five charter commissioners.

In order to place the question for a charter study on the ballot by petition, certain requirements must be met. The petition must be signed by 25 percent of the registered voters in municipalities with 7,000 or less inhabitants, 20 percent in municipalities with more than 7,000 but less than 70,000, and 10 percent in municipalities of 70,000 or more inhabitants.

The law provides specific instructions about the petition form. Papers are to be uniform in size and style. Persons are to sign in ink or indelible pencil. Five voters are to be designated as the Committee of the Petitioners and are responsible for the circulation and filing of the petition and also to indicate that the signatures are genuine.

The petition is filed with the municipal clerk, who must provide for an election at the next general or regular municipal election that is scheduled not less than seventy-five days after the passage of the ordinance or the submission of the petition.

Persons who wish to be candidates for the charter commission must be registered voters of the municipality. They may be nominated by petition of at least 3 percent or one hundred of the registered voters, whichever is less; the number cannot be less than ten. Candidates run on a nonpartisan basis; that is without political party designation or slogan; bracketing of a group of candidates on the ballot is not permitted<sup>11</sup>. Petitions must be filed at least sixty days before the election. The five candidates who receive the highest number of votes constitute the charter commission; if the question for a study is not approved then no candidates are elected.

### *Organization of the Commission*<sup>12</sup>

The charter commission must organize and hold its first meeting within fifteen days after the election. Essential tasks have to be accomplished, including the election of a chairperson, the establishment of meeting times and places, and the adoption of rules for the conduct of charter commission business. Most charter commissions also elect a vice-chairperson, a secretary, and a

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<sup>10</sup> *N.J.S.A.* 40:69A-1 to 4, 186.

<sup>11</sup> *Dios v. Ronnie*, 76 *N.J.Super.* 390 (1962).

<sup>12</sup> *N.J.S.A.* 40:69A-5 to 7.

treasurer. Although some charter commissions have functioned without by-laws and have not encountered many problems, it is desirable that a set of rules be adopted early in the commission's work.

Charter commission business must be conducted by a quorum, which is a majority of the members. If a vacancy occurs, the remaining members may appoint any qualified citizen. The law does not define such a citizen; in practice many charter commissions have selected the losing candidate who received the highest number of votes.

It is imperative that the charter commission follow the provisions of the Open Public Meetings Act, more commonly referred to as the Sunshine Law<sup>13</sup>. Essentially, this means giving appropriate notice of meetings, holding most meetings in public, and keeping minutes of all sessions, including executive sessions that may be authorized under circumstance defined in the Law. Applicability of the Open Public Meetings Act to charter commission activities was affirmed in a 1977 case involving the Atlantic City Charter Study Commission<sup>14</sup>.

The function and duty of the charter commission is stated by law<sup>15</sup>:

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.

The charter commission is given a period of nine months from the date of its election to complete its study and report to the community. It may report earlier than that time if its work is completed. When the commission has completed its organization, it should spend some time planning its work and preparing a budget.

#### *The Charter Commission Budget*<sup>16</sup>

The charter study commission should prepare a budget for submission to the municipal governing body as soon as practicable. The commission must comply with the standard budget timetable in use in the municipality, making sure that its request is submitted in time to be included in the municipal budget. Because a charter commission usually begins its work prior to the beginning of the municipal budget year, the municipality may be able to make some funds available from the current budget before this date. However, it is unlikely that the commission will have major expenditures at this time.

Several major categories must be considered in preparing the budget: consultant fees, secretarial services, legal fees, printing, postage, travel, office supplies, advertising, tape recording, rental of meeting space, and other incidental expenses. Most of these categories are self-explanatory, but some may require elaboration.

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<sup>13</sup> *N.J.S.A.* 10:4-6 *et seq.*

<sup>14</sup> *Polillo v. Deane*, 74 *N.J.* 562 (1977).

<sup>15</sup> *N.J.S.A.* 40:69A-7.

<sup>16</sup> *N.J.S.A.* 40:69A-8

In earlier years, most charter study commissions engaged professional consultants to assist them in their work, and costs could become substantial. More recently, commissions have been conducting their studies with less reliance on consultants. The staff of the Rutgers University Center for Government Services is available to provide limited assistance at no charge. Additional help may be available from the State Division of Local Government Services and the New Jersey Municipal Management Association.

Secretarial service costs will depend on how extensive a record the commission plans to make of its proceedings. The Open Public Meetings law requires that minutes be prepared and made available to the public. However, there appears to be no requirement for a detailed, verbatim record of the commission's meetings. Some commissions have relied on note-taking by the members, backed up by tape recordings; others have hired secretarial personnel to prepare a more extensive record.

Legal fees will vary. Some charter commissions have been able to use the services of the counsel to the governing body. If an attorney is retained as consultant, any legal services may be covered by the consultant's fee. In most instances, the need for legal advice is quite infrequent, but it probably is desirable to have some funds in the budget for legal help if this should become necessary.

The cost of printing and distributing the commission's report usually is the largest item in the budget. This is difficult to forecast at this time because the charter commission will have to guess at the size of its report, the kind of report that will be written, and the resources available for its dissemination.

Some travel funds should be requested because the commission may want to visit other municipalities or to reimburse persons from other municipalities who may come to be interviewed or provide other information.

Some advertising may be necessary if the commission desires to promote a special meeting or other function.

On occasion, a charter commission might have to rent some meeting space. This may be necessary when a commission chooses to move its meetings into various areas or neighborhoods.

Charter commissioners receive no compensation but can be reimbursed for expenses.

### *Phases of the Charter Commission's Work*

Following a planning period, usually about three weeks to a month after election, there generally are three phases to a charter commission's work: a study of the present form of government, an examination of alternatives, and the development of conclusions and recommendations. If the commission has been elected at the November general election, the first

phase, a review of the existing government, often runs from about December 15 to March 1. The second phase, a study of alternatives, may extend from March 1 to May 1, and the third phase, decision making and report writing, from about May 1 until the report is filed. There can be some overlap in the phases. A common schedule is to plan initially for one meeting a week. As the commission approaches the end of its time period, however, more frequent meetings may be necessary.

One of the problems faced by many charter commissions is that the public may lose interest in their work once the initial election is over. At the same time, one of the virtues of the charter study approach is that it provides a number of months during which the commission has an opportunity to educate the community, as well as themselves, about the alternatives available and the strong and weak points of each. This is in contrast with the direct petition approach, where a group of residents propose a form of government that they favor, with full information and discussion possibly being more limited before a final decision must be made by referendum. Charter commissioners should make a concerted effort to keep their work before the public and to provide maximum information upon the alternatives that they are considering.

As soon as the schedule is adopted, it is a good idea for the charter commission to inform citizens about the study process. This could be done as a progress report to the present municipal governing body. Although all meetings are open to the public, experience has shown that few citizens attend the early meetings of the commission. This is understandable because the initial work of the commission is confined to planning the study and preparing the budget. A suggested format would be to have the commission chairperson review the statutory charge to the charter commission and explain what the commission has already done. A description of the total study process is helpful, with an emphasis upon the commission's desire to focus its attention on different subjects in each separate phase of the study. This is quite important because many charter commissions face a situation in which citizens, for various reasons, will ask questions related to a point not yet reached in the charter study process. For example, in some of the early meetings, citizens will ask the commission whether they plan to recommend a change in government, even though the commission may just be in the initial study phase. Questions of this sort can be deferred more easily if the public is aware of the different phases of the study. A question and answer period should follow, with a request from the commission to its fellow citizens to attend meetings and to urge all citizens to take an interest in the work of the commission.

### *The First Study Phase—The Present Form of Government*

As this phase of the study begins, a dual process takes place. Charter commission members will probably wish to schedule a set of interviews with present and past local government officials. At the same time, they should begin to read pertinent studies and documents about their present form of government.

Choice of Interviewees - Perhaps the most important initial step in the interview process is to develop a list of interviewees. It is best to make the list as inclusive as possible at first, and then eliminate duplication before making final selections of those to be invited for an interview. Persons who should be interviewed include members of the present governing body, past

members of the governing body, and appointed municipal officials, such as department heads, chief administrative officers, and the chairpersons of municipal boards and commissions. The major purpose of these interviews is to obtain an understanding of the present form of government and to develop some insight into its strengths and weaknesses.

An inevitable question at this point is who or what category of person should be interviewed first? The most logical and diplomatic answer might be the incumbent governing body members, because they are responsible for the conduct of the government and should be most familiar with it. It is also very important for the commission to develop a good rapport with the governing body, because their support and assistance is helpful as the commission begins to interview department heads and other municipal officials. If the governing body is made aware of the commission's objectivity during the interview, any fears or unfounded rumors about the interview process can be allayed.

Another important group of persons to be considered for inclusion on the interview list is former members of the governing body and other past municipal officials. This list could become overly extensive if the commission does not exercise some discretion and act selectively in the final determination of who will be interviewed.

The next group of interviewees include the chief administrator, department heads, and the chairpersons of the various municipal boards and commissions. These persons, particularly the department heads and administrators, are the professionals who operate the local government and who should be most aware of the strengths and weaknesses of the present form of government. These interview groups are perhaps the most familiar with the present form of government.

However, there is another group of persons whose role places them in a position to observe local government. These are local civic leaders. The commission should develop a list of such organizations and individuals as soon as possible. This list can be used for other purposes during the entire course of the study. Some obvious examples are the local political clubs and county committees, the League of Women Voters, the Chamber of Commerce, labor union organizations, and neighborhood groups. It must be stressed again that the charter commission be very selective in the final determination of who will be interviewed.

The Interview Process—During this scheduling process, the charter commission must decide upon the type of interview to be utilized. The interview can range from a very structured process to an open-ended, informal approach. The decision on the type of interview is very difficult because it goes to the heart of the commission's basic objectives, which are always tempered and guided by the word "study." The commission must ask: how will the interview process help us in our study of the present form of government? What interview approach and technique should we agree upon?

At this point most charter commissions struggle with a very fundamental question. "As we develop the interview process to assist us in the study of our present form of government, how do we avoid questions which could get into detailed management areas or issues of public policy?" The commission should reflect upon this problem as the members review drafts of the

interview suggestions. Perhaps one of the most pertinent guides is in the phrase “study of the form of government.” The commission is really not charged statutorily with making a detailed management analysis of present operations or of reviewing the merits of various public policies. Although they will brush against this in their interviewing, it is not their main mission, and it could easily push the commission into many time-consuming hours of detailed and perhaps acrimonious or fruitless interviews.

Perhaps the most common interview process is the formal structured interview in which most, if not all, of the same questions are asked of all interviewees. Obviously, some of the questions are not pertinent to every person because of the nature of their position and the differences in duties and responsibilities.

The detail and number of questions in the structured interview have varied, depending upon the decision of the charter commission. However, there are several standard categories of questions that commissions have used. Perhaps the most important opening question, can be described as a “lead-in” or “warm-up.” The question merely asks the person to take a few minutes to relate their background, their qualifications, and their duties and responsibilities in local government. This approach gives the interviewee a chance to relax and to develop an easier relationship with the commission members. It is important for the chairperson, either before or right after this question, to describe the total interview and about how much time it will take.

A second major category of questions lies in the area of the theory and operation of the present structure of government. For example, what is the interviewee’s opinion on the size of the governing body; is it too large, too small? Is it representative of the overall community? What is the interviewee’s relationship with the governing body and with the mayor? To whom does he or she report? How frequently does he or she meet with members of the governing body?

Another category of questions can touch upon some aspects of general management: Please describe the budget process. How is your departmental budget prepared? Who reviews it? How is it controlled? Please explain the purchasing process and the personnel system. Who does the capital planning and programming? These and other similar questions can give some insight into the overall management but, again, they are in no way an attempt at detailed management analysis.

A fourth category of questions involves communications with the public: Do you have a public relations or public information program? If so, who is responsible? Are there occasional press releases about operations or problems? Is there an annual report released to citizens?

Some questions can be directed toward the area of intergovernmental relations: What state or federal aid has the municipality obtained? Who is responsible for such programs? Are there any cooperative agreements with other municipal or regional agencies? Do municipal officials and staff meet with their colleagues from other municipalities on a regular basis?

After these categories have been exhausted, the commission may choose to move into a discussion of alternatives. For example, do you believe that the structure of government should

be based upon a separation of executive and legislative functions? Do you favor the direct election of the mayor by the electorate? Do you believe that the council should exercise dual legislative and administrative powers and functions? Should the chief executive be appointed or elected? In these questions the commission is doing some ground work for the second phase of its study—the examination of alternatives.

A final major discussion area enables the commission to give the interviewee an opportunity to focus upon his or her basic evaluation of the present form and structure. What do you believe are the strengths of the present form of government? What do you believe are the weaknesses of the present form? Finally, how do you believe that the present form of government could be improved? Some charter commissions may ask a question about whether the person favors a different or changed form of government. However, if an interviewee favors a change, his or her comments about this will develop from the earlier questions listed above.

A very practical aspect of an interview is the decision as to whether a charter commission should use a tape recorder during the interviews. Several considerations should be taken into account before a final decision is made. Will the presence of a recorder be cumbersome and will it inhibit the free-flow of the interview? How will the tape be used and by whom? Should the tapes be transcribed? How much will the process cost? The answers to most of these questions can be obtained relatively easily. The most difficult one is the possible inhibiting effect and how the tapes will be used. If each charter commission member takes adequate notes during the interviews, a tape recorder may not be necessary. Or it may be used only for checking on answers for clarity or misinterpretation. In short, the tapes could be used as a back-up to the individual note-taking system. No definitive answer can be given to the inhibiting factor. Some persons do not mind the presence of a recorder and some do. If the charter commission conducts the interviews as a committee of the whole, and careful notes are taken, no recorder may be necessary.

No matter what interview process is used, it is very important that the charter commission decide upon a method to produce some record of each interview. If the commission has the services of a secretary, one of the members could dictate his or her notes while they are fresh in mind, to be reviewed by the entire commission for additions or corrections. If no secretarial help is provided, one of the commissioners could volunteer to draft notes for review and suggestions by the entire commission. Clear, clean copies of the major interview notes are essential to the commission when they meet to draw conclusions about the present form of government. A verbatim transcript of each interview is probably not necessary and may even be detrimental, since the major points may be buried in a large volume of typed material.

Trends of the Present Local Government—Another task for the charter commission during the first phase of the study is to read as many pertinent documents as possible about the present local government. These would include the local master plan, any regional studies that pertain to the area, studies or surveys of particular departments, and studies done by agencies in the private sector. However, charter commissions should not be overly disappointed and frustrated if they do not find a large number of such studies. Local governments tend to be frugal, and important studies that might be done are many times given a low priority.

The charter commission may face an additional problem if it decides to describe some of the trends in its local government. First, there may be a dearth of local data that is organized coherently. Second, it may be difficult to present the data in a method that the general citizen can understand. Third, the data presented may not be as significant and helpful as the commission originally believed.

Most commission reports have little, if any, statistical data on the trends of their local government. Those that do present some data are very selective. The most consistent data shown are population growth, budget history and budget projections. The gathering of data is time-consuming, and the interpretation of it should be made by someone who is proficient in the field. If a commissioner has the time and the expertise to work on such data, the commission is fortunate. If not, it might be better for the commission to concentrate on other aspects of its study.

Public Hearing on the Present Form of Government—When the charter commission approaches the end of the first study phase it probably should hold a public hearing with sufficient notice to citizens and organizations<sup>17</sup>. The major purpose of this hearing is to obtain input from citizens and organizations about the present form of government. The hearing would also provide an opportunity for the commission to inform its fellow citizens about the study and what has been done up to that time.

The hearing should be held in a central location on an evening or evenings that would be convenient for most citizens. If a municipality is large in area and has several distinct neighborhoods or regions, it might be advantageous for the commission to hold hearings in each of these areas on different evenings to make it convenient for more citizens.

To open the hearing, it might be well for the commission chairperson, after a brief introduction of the commission members, to discuss briefly the charge to the commission and to explain how the study is to be conducted and what has happened to date. Although a major purpose of this hearing is to obtain citizen input about the present form of government, it is desirable for the chairperson or one of the commissioners to take a few minutes to describe the present form of government. A commission cannot assume that most citizens have any great familiarity with the existing structure, its origin and background, and the theory of its organization.

Perhaps the most difficult or awkward moment of the public hearing now occurs. The commission will open the meeting to the public for their comments and views about the present form of government. In order not to be met by a stunning silence, a commission should prepare a list of questions which might be used to prime the thoughts of those in attendance. For example:

- Do the day-to-day operations of our government seem to be handled effectively?
- Do you feel that the present form of government provides adequate representation for all citizens?

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<sup>17</sup> *N.J.S.A.* 40:69A-9.



- What are the major strengths and weaknesses of the present form of government?

In most public hearings, questions and answers develop along the lines mentioned above, and the commission has an excellent opportunity to gauge citizen reaction and understanding of the present form of government.

It is very important that the commission avoid being drawn into any discussion about the other phases of its study. Patience and tact should be exercised, because some citizens will ask questions about the study that the commission cannot answer at this time. In some situations, these questions may be “planted” for various reasons, and the commission has to reemphasize the deliberative nature of its study and that those questions will be addressed in the appropriate study phase. It is important that commission members avoid being drawn into premature public statements about their conclusions and recommendations.

Other problems can develop in this first public hearing. Some citizens may want to make statements about a form of government they may favor or disfavor or use the hearing to judge the actions of incumbent officials. Again, the commission must exercise tact in handling this situation that might anticipate other phases of the study or might involve inappropriate observations about present officials or employees.

Conclusion of the First Study Phase—After the public hearing or series of public hearings, the commission should close its first phase of the study. Members should review what has been done and weigh the strengths and weaknesses of the present form of government. The commission also may want to discuss some very tentative conclusions about the present form, although they should be careful to emphasize that no firm decision has been made, because two major phases of the study remain.

#### *The Second Study Phase—Alternative Forms of Government*

In this phase, the charter commission faces the task of learning about alternative forms of government. An essential step here is to read the statutory provisions for the other forms of government and, if possible, any literature that describes the philosophies and concepts of each form. Secondly, the commission probably will wish to schedule a series of interviews and meetings with persons from municipalities that have changed their form of government.

Interviews—A charter commission consultant can be helpful in suggesting persons to be interviewed from municipalities that have been operating under another form of government. The interviews can provide the commission with valuable and practical information about how a different form of government functions. It is important that the commission decide on a standard interview process. Most commissions have conducted interviews as a group, since everyone has the opportunity to ask questions and benefit from the dialogue between the guest and the commission members. A few commissions have divided into subcommittees of two in order to spread the workload. If the commission interviews as a whole, then the provisions of the Open Public Meetings Act must be met.

Again, the commission must decide on the type of interview, open ended or structured. One might suggest that there is not much difference, because it is obvious that the interview would describe the form of government, its strengths, its weaknesses, and how it functions on a day-to-day basis. To a certain extent, this may be true, but the commission should decide upon some specific questions it wants discussed. For example, the following is a random selection of such questions:

1. What are the particular strengths of the \_\_\_\_\_ Form?
2. What are the particular weaknesses of the \_\_\_\_\_ Form?
3. Do you believe that the \_\_\_\_\_ Form provides for a clear focusing of administrative responsibility?
4. Does the \_\_\_\_\_ Form have any built-in potential for conflict between council and mayor?
5. Are the executive powers assigned to the municipal (manager or mayor) strong enough or too strong?
6. What is the role of council members with regard to day-to-day administration?
7. How do council members handle complaints from residents?
8. What are the steps in the budget process?
9. Do you think that the \_\_\_\_\_ Form is viewed favorably in the community? How do you determine this?

In conducting interviews, the commission should be aware that persons from other forms of government usually are advocates for their form, and their answers may require some probing with follow-up questions.

Informational Meetings—As these interviews are conducted, the charter commission should schedule a series of public informational meetings at which the various alternative forms of government can be described. It would be well to focus upon one alternative form at each meeting, which should make it easier for those in attendance to understand each form of government. Persons from municipalities that have adopted an alternative form may be invited to participate. They should be knowledgeable and possess good speaking abilities. It is a good idea to ask different persons than those who were initially interviewed. This approach exposes the commission to the experiences of several municipalities that have changed their form of government.

The major objective of these meetings is to explain to local residents an alternative form of government and how it functions. Some charter commissions have adopted a format in which

an elected council member from one place participates with an executive person from a different municipality. This gives the commission and those in attendance the benefit of the experiences in two municipalities. Each speaker should be given a brief amount of time to explain the form, and then the meeting should be opened to questions from the commission and the audience.

A variation in the meeting procedure would be to have a consultant or one of the commissioners describe the form of government in general and have the guests respond, followed by questions from the audience. If commission members can become familiar enough with an alternative form of government to provide an accurate description of it in a public meeting, they will enhance their status as knowledgeable persons whose ultimate recommendations should be given substantial weight.

It is extremely important for the charter commission to utilize its contacts with the media during these public meetings. Good, accurate, and adequate coverage of the meetings is essential. In addition, newspapers can provide not only news articles but, perhaps, special features that explain the form of government to be discussed at each of the public meetings. If there is local radio and television coverage, the commission should meet earlier with station representatives to determine what programming format might be most helpful and available.

Public Hearing on Alternative Forms of Government—During the course of the public meetings described above, the charter commission should announce at least one public hearing to be held in the near future<sup>18</sup>. The major purpose of this hearing is to obtain input about the alternative forms of government from local residents and comments on what they may favor or disfavor. Hopefully, this input should be based upon citizen attendance at the public informational meetings and their reading of the media coverage about the alternative forms of government. However, this cannot be presumed and the commission must be prepared to provide brief explanations if a citizen appears who was not present at the meetings when the alternative forms were described.

The commission must be careful not to respond in great detail to questions which might be asked about whether or not it favors any particular form of government. Tact and diplomacy must be exercised to point out that the commission is still in its study phase and that a decision will be made when all the data are reviewed and the members have had an opportunity to reflect upon the entire study. Most charter commissions have found that citizens are not reluctant to express their views at these public hearings. Many will have made up their mind in favor of a change in form of government. Others will express a desire for no changes.

While commission members should consider carefully the comments made at the public hearing, they must keep in mind that probably only a very small percentage of the municipality's residents will appear and speak. The tendency to "count heads" for or against some alternative form at the hearing should be resisted. Charter commission members are elected to use their own

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<sup>18</sup> N.J.S.A. 40:69A-9.

judgment as to what is best for the municipality and, by the time of the public hearing, they most likely will know more about the various forms of government than anyone else in the community.

### *The Third Study Phase—Decision*

If a commission has been diligent in following the schedule described in the sections above, it will have completed the second phase of its study about the first of May in most cases. The commission now is ready to begin the third phase of its study—the decision process.

Perhaps the first step at its initial meeting in this phase is for the commission to review the major points of its data and the conclusions about its study of the present form of government. Many commissions will take a tentative vote on whether or not they want to recommend the retention of the present form. It should be emphasized by the commission that this vote is not its final decision.

The next step should be a discussion of the alternative forms of government. This involves a review of the commission's interviews with the persons from other communities and the public meetings held on alternative forms. A review of the public hearing should also be discussed at this time. The commission chairperson should preside at these meetings and attempt to make progress toward a decision without placing any member of the commission in a position where he or she feels pressured. A major portion of the discussion should include each commissioner's analysis and conclusions about the strengths and weaknesses of the alternative forms of government. The chairperson again must exercise tact and diplomacy in guiding the decision process toward a reasonable conclusion.

After such an intensive discussion, most charter commissions will take a tentative vote to determine how close they are to a decision. Even if the vote is for a change in government, there may not be unanimity about the form to be recommended. Once a majority decision is reached however, it becomes the recommendation of the charter commission. If the minority member or members feel strongly about their position, they are entitled to write a minority report which must be appended to the majority report and, if any member recommends one of the forms of government contained in the OMCL, the full text of that plan must be included in the commission's report<sup>19</sup>.

An awkward situation may now face the commission. After several months of study open to the public, a decision has been reached and reported in the media. However, the report has not been written; it has not even been outlined. Yet, the commission will be subjected to questions by the media and by many residents. Most of the answers to various questions eventually will be covered in a well-written report. In the interim, most commissions, if they have been diligent in the study process, can handle such questions. If the media representatives have also been faithful in their assignments, they can provide excellent information about the commission's decision in their news coverage. If there is a recommendation for change, the commission has to consider how to maintain the interest of the community in its decision when the citizens will not vote on

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<sup>19</sup> N.J.S.A. 40:69A-10.

any recommendation until sometime in the future.

### *Types of Conclusions and Recommendations*

The recommendations of the charter study commission may take one of three different directions:

1. The commission may determine that the existing form of government is adequate and, therefore, recommend no change. If this conclusion is reached, the commission is discharged upon filing its report and the charter study process is completed.

Some commissions may favor the existing form of government, but may discern some ways in which that form may be made more effective; for example, they may suggest the enactment of an administrative code or the hiring of an administrator. If this sort of recommendation is made, it is strictly advisory. The charter commission is discharged, and implementation is at the discretion of the incumbent governing body.

2. The commission may decide that one of the optional forms of government under the OMCL is preferable to the existing form of government. If this is its recommendation, the municipal clerk must place the question of adopting that form on the ballot for a final decision by the voters within 60 to 120 days after the commission report is filed. The charter commission may specify whether this vote takes place at a regularly-scheduled election or at a special election within that period. The incumbent municipal governing body has no authority regarding this election. The charter study commission remains in office until that vote is taken.
3. Finally, the commission may conclude that a change in form of government is desirable, but none of the forms available is adequate. The commission then would draft a special charter for the community and include it in the commission report. In this case the municipal governing body would be required to ask the state legislature to enact the charter as a special law, and the charter commission would remain in office until this process is concluded.

### *Preparation of the Report*

Regardless of the type of conclusion reached, the charter commission must prepare a report. The nature and scope of the report depends to a very large extent upon the approach and the depth of the charter commission's study. If the commission has followed its schedule, and has been conscientious and hard working, there should be abundant information from which to structure a final report. The first step should be the preparation of a draft outline. If the commission has a consultant, he or she may be asked to do this task; if not, one of the commissioners or perhaps a subcommittee of two will prepare an outline.

After the commission approves the final report outline, a decision must be made about who will write the actual draft. Again, if the commission has retained a consultant, he or she may

do it, or a member of the commission may do the writing with the consultant acting as an editor. In any event, this begins the process of writing the final report, and the writer should submit drafts at appropriate intervals so the commission can review them and make any suggestions for revision.

It is very important for the commission at the outline stage or earlier to meet with the finance director or the person responsible for printing, in order to follow proper procedures for bidding the reproduction of the final report.

Contents of the Report—What kind of a report does a charter commission write for distribution to the citizens of the community? A review of recent reports reveals great variation, which may be a reflection of each commission's approach to its study. In essence, this may be an answer to the question, because the report will reflect the work of the commission, tempered by the individual orientation, talents, and views of each commissioner. From this mix, the commission must guide the writer in the preparation of the report; this is not always an easy assignment. A typical charter commission report will contain the following items:

1. Cover.
2. Title page.
3. Table of Contents.
4. Letter of transmittal. This letter should be written by the chairperson or one of the commissioners and not by the consultant. A consultant is an outsider and does not know the community as well as people living there. The commission can be expected to know the people and have a feeling for the approach to be used in such a letter. The letter of transmittal usually reviews the mission of the charter commission, summarizes the study process, and summarizes the commission recommendations. If the commission is recommending a change in form of government, the exact wording of the question to go on the ballot must be in the report somewhere, and the letter of transmittal is an appropriate place.
5. Brief summary of the report.
6. Timetable for action. This is a list of the specific dates by which any further action should take place.

7. Main body of the report.
  - a. History and background of the community
  - b. History and background of the existing form of local government
  - c. Brief description of the present form of government
  - d. Strengths and weaknesses of the present form
  - e. Alternatives considered
  - f. Commission recommendation and reasons for it
  - g. Advisory recommendations. Some charter commissions have made general suggestions for steps to be taken before or after any form of government becomes effective. For example, suggestions might be made about the search process and qualifications for candidates as a municipal administrator if a new form of government would require such a position.
  - h. Appendix—full text of any new form of government recommended. The full text must include all of the statutory provisions from the OMCL that pertain to the recommended form of government, including those general sections that are applicable to all forms of government under the OMCL.

The layout and format of the report is important and should be discussed with someone knowledgeable about printing. First of all there are questions about the size and the cover. Should the cover be plain, use photographs, or have an artistic flair? The type of print and the page format should be reviewed. The use of illustrative materials, charts, graphs, and tables should be decided upon; in short, the physical design, including selection of colors, should be well thought out with expert consultation.

Unless the final report is extremely short, consideration must be given to the variety of readers who will receive the report. Should the report be written for the complete reader, one who will read page-by-page, cover-to-cover? What about the browser who will merely scan pages and sections? If the charter commission attempts to take all kinds of readers into consideration, they may never agree on the length, layout, and format of the final report. Usually, most charter commissions will prepare a report that states the case in a series of succinct sections or chapters that makes it relatively easy for the citizen to read in its entirety.

Printing and Distribution of the Report—The statutory charge to the commission requires that a recommendation be made within nine calendar months from the date of election. This is usually the first week of August. The commission is required to file an original signed copy with the clerk, to provide the clerk with sufficient copies for any interested citizens, and to distribute a copy to each member of the governing body.

These statutory requirements create a practical problem for a charter commission. If the commission has adhered to its study plan, when should the printed report be distributed? When a commission organizes and plans its work in November and December, nine months seems to be a very long time. But as the commission proceeds with its study and enters each

successive phase, the time factor usually looms larger and larger. Most charter commissions use the full nine months, although some have reported earlier.

The problem a charter commission must face is how to coordinate the filing of its official signed copy of the report and the distribution of printed copies. The commission faces the practical situation of not having its printed report available for distribution when it makes its decision. A minimum number of mimeographed or xeroxed copies for the media, for the governing body, and for interested citizens should be available at the time when the commission officially delivers its original signed copy to the municipal clerk. Printed copies in greater number can be made available later

An important decision for the commission is to determine how many copies of its report should be printed after the minimal requirements mentioned above are met. This will depend on a knowledge of the community and the methods available for distributing reports. A copy could be printed for every registered voter, or one for every household, or an arbitrary number could be selected, with copies left at the municipal building and other central locations where citizens could obtain one. A charter commission knows its community and should be able to make a good estimate of the number that should be prepared.

Distribution of the printed report can be done in several ways. Mail is the most obvious, but this has to be weighed in relation to the resources for addressing and mailing the report and the costs involved. The printed report should be distributed to libraries, schools, stores, and of course, the major local groups and organizations of the community. It may be necessary also to prepare a bilingual translation of the report if this is appropriate, based upon the composition of the community.

#### *Charter Commission Activities After Filing of the Report*

If a charter commission recommends a change to an optional form of government under the OMCL, it is not released from its duties until after the referendum on adoption of that form. This provision enables the commission to carry out activities related to its report and the vote to be held on the recommendation.

A charter commission's decision frequently is made during a rather slack period of the year in the middle of the summer. This does not mean that the commission should sit back and wait until the election results are tabulated. A campaign of public information efforts should continue through Election Day.

The first of these efforts may be an offer to all interested local groups and organizations for one or more members of the commission to speak about the charter study and the recommendations. Most charter commissions have found that this request is accepted by many groups.

Another approach utilized by charter commissions is to set up neighborhood meetings for a discussion on the report. These can be held in individual homes if someone is willing to host



the meeting.

Coverage by the media is important. Good, clear articles about the report should reach those unable or unwilling to attend public meetings. Local radio stations can also be helpful in providing coverage and perhaps arranging for a series of call-in shows with members of the charter commission. The development of a good relationship with the media is very important to the commission.

Some charter commissions may choose to make door-to-door trips, either on a team or individual basis, to meet informally with citizens and to discuss the report. This informal approach must be considered in relation to the size of the community and the stamina and schedules of the charter commissioners.

In essence, the charter commission should undertake an all-out effort to explain the report, answer questions, and urge citizens to read the report and consider their vote in the election. In these efforts, the commission must be very careful, however, not to utilize public funds to campaign openly for a favorable vote, and any campaign expenditures must conform to campaign finance law and regulations.

#### *Subsequent Charter Study Commissions*

Regardless of the type of recommendation made by a charter study commission, no petition may be filed or ordinance enacted to hold an election for another charter study commission for four years following the election of the initial study commission<sup>20</sup>. However, this waiting period does not apply to a direct petition action for change, which may be started immediately after the conclusion of a charter study commission's work if an optional form of government is not adopted.

### Abandonment of an Optional Form of Government

Each of the laws providing optional forms of municipal government also permit abandonment of such a form after a specified trial period and reversion to the form of government used in the community prior to adoption of the optional plan. The trial periods vary—six years for the Commission Form<sup>21</sup>, four years for the Municipal Manager Form<sup>22</sup>, and three or five years under the OMCL, depending on whether the population of the municipality is 7,000 or less or is larger than that figure<sup>23</sup>. Other details also vary, including the number of signatures required to initiate the process, the time of the referendum on abandonment, and the effective date of the change.

These provisions deal only with abandonment and reversion to a prior form of government. Presumably, if the voters of a municipality wished to replace one of the optional

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<sup>20</sup> *N.J.S.A.* 40:69A-17.

<sup>21</sup> *N.J.S.A.* 40:76-1.

<sup>22</sup> *N.J.S.A.* 40:85-1.

<sup>23</sup> *N.J.S.A.* 40:69A-23, 25.

forms with some other optional form, the statutory provisions for the new form of government being proposed would control the procedure. The only exception noted to this general statement is under the OMCL, where the law states that the required trial period for any of the optional plans (three or five years) applies to a proposed change to any other form of government, not just a reversion to the prior form<sup>24</sup>.

## Amendment of a Charter Under the Optional Municipal Charter Law<sup>25</sup>

A law enacted in 1981 makes it possible to change a number of the details of a municipal charter under the OMCL without going through the entire procedure in either the charter study commission or the direct petition approaches. If a community wishes to keep its form of government under one of three original OMCL plans — the Mayor-Council Form, the Council-Manager Form, or the Small Municipality Form — but to change some aspects of the form, this can be done through a referendum question that may be placed on the ballot either by petition of the voters, by an ordinance enacted by the governing body, or by action of a charter study commission. For a petition, the number of signatures required is equal to at least 15% of the total votes cast in the municipality at the last election at which members of the General Assembly were elected.

Charter details that may be changed include:

1. Having either partisan or non-partisan elections.
2. Election of all council members at large or election partially from wards.
3. Election of council members for staggered or concurrent terms of office.
4. Election of the mayor directly by the voters or selection from among the members of the council (Council-Manager and Small Municipality Forms only).
5. Having a council of different size (five, seven, or nine for the Mayor-Council and Council-Manager Forms; three, five, or seven for the Small Municipality Form).

It should be noted that changes can be made only in those details on which the community had choices at the time that the optional plan was originally adopted. The Mayor-Council-Administrator Form is not subject to this amendment procedure, since none of the above details are subject to variation under that form of government.

The amending procedure under the OMCL cannot be used until four years after original adoption of the optional plan, and there is a four-year waiting period before any additional amendments of the same nature can be submitted to the voters. Every change must be voted on as a separate question.

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<sup>24</sup> *N.J.S.A. 40:69A-23*

<sup>25</sup> *N.J.S.A. 40:69A-25.1 et seq.*

## Use of Runoff Elections

Runoff elections are used only in nonpartisan forms of government. Under the provisions of the Uniform Nonpartisan Elections Law<sup>26</sup> any municipality having nonpartisan elections may decide to have runoff elections or to abandon them if they are already in effect. The change, which must be approved in a referendum, may be initiated either by an ordinance adopted by the governing body or by a petition signed by registered voters equal in number to 10 percent of the votes cast at the last preceding election for general assembly.

## Special Charters

The new state constitution of 1947 continued an earlier prohibition against the enactment of special acts regulating the internal affairs of individual municipalities and counties, but provided that such laws could be enacted if requested locally:

Upon petition by the governing body of any municipal corporation formed for local government, or of any county, and by vote of two-thirds of all the members of each house, the legislature may pass private, special or local laws regulating the internal affairs of the municipality or county. The petition shall be authorized in a manner to be prescribed by general law and shall specify the general nature of the law sought to be passed. Such law shall become operative only if it is adopted by ordinance of the governing body of the municipality or county or by vote of the legally qualified voters thereof. The legislature shall prescribe in such law or by general law the method of adopting such law, and the manner in which the ordinance of adoption may be enacted or the vote taken, as the case may be<sup>27</sup>.

Chapter 199 of the Laws of 1948 was enacted by the legislature to implement the new constitutional provisions for special local legislation<sup>28</sup>. Table 2 outlines the procedure by which a municipality may obtain a special charter.

### *Initiating the Procedure*

The legal steps for obtaining a special charter may be initiated either by the municipal governing body, or by the voters, or by a charter study commission (see Chart 2).

Any municipal governing body may adopt an ordinance authorizing a petition from that body to the legislature for a private, special, or local law embodying a special charter. The ordinance must specify the general nature of the law desired and may be adopted only after a public hearing held at least ten days after a notice of the hearing has been published<sup>29</sup>.

The voters of a municipality may initiate the action for a special charter by circulating a petition and obtaining signatures of 20 percent of the registered voters in the municipality or 15,000 signatures, whichever figure is less. This petition from the voters must indicate the general nature of the law desired and is filed with the municipal clerk. The clerk has ten days

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<sup>26</sup> *N.J.S.A.* 40:45-5 *et seq.*

<sup>27</sup> *Constitution of New Jersey*, Article IV, Section 7, Paragraph 10.

<sup>28</sup> *N.J.S.A.* 1:6-1 to 20.

<sup>29</sup> *N.J.S.A.* 1:6-10.

within which to determine whether or not the voters' petition has enough valid signatures. If it does, the clerk certifies its validity, and submits it to the municipal governing body. The governing body then has thirty days within which to take one of two possible actions: (1) they may adopt a resolution authorizing the filing of a petition<sup>30</sup> from that body to the legislature to have the law enacted; or (2) they may adopt a resolution authorizing submission of the voters' petition to a local referendum at the next general or municipal election held at least 90 days after adoption of the resolution. If a majority of the persons voting in the referendum approve, the municipal governing body, within thirty days, must adopt a resolution authorizing the filing of a petition from that body with the legislature for the enactment of the law.

In a municipality that has elected a charter study commission, the commission may choose to recommend a special charter. In such a case, the charter commission prescribes the wording of the proposed special charter, and the municipal governing body is required to petition the legislature for its enactment. Several of the special charters enacted since 1947 have been proposed by charter study commissions.

#### *Responsibilities of the Municipal Chief Executive*

Once a resolution or ordinance authorizing a petition to the legislature has been adopted, the municipal chief executive officer is responsible for several steps in the procedure.

1. A petition must be prepared, describing the general nature of the law desired. This petition must be signed by the chief executive and attested by the clerk of the municipality.
2. A legislative bill must be prepared that would carry out the intent of the petition<sup>31</sup>.
3. A notice must be prepared and published in at least one newspaper circulating in the county at least one week before introduction of the legislative bill. Proof of publication must accompany the bill, when introduced.
4. The bill must be introduced into the legislature at the next session after the publication provisions can be met, accompanied by the petition, the resolution or ordinance authorizing the petition, and proof of the public notice of the intent to introduce such a bill.

#### *Action by the Legislature*

The legislature may enact such a private, special, or local law providing for a special municipal charter only by a two-thirds vote of all of the members of each house. There is no requirement that the legislature must act favorably.

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<sup>30</sup> Note the difference between the "petition" to the legislature, which the municipal or county governing body authorizes, and the "petition" circulated among the voters; these are two distinctly separate documents, although the statutory language uses the same word to apply to each.

<sup>31</sup> Except where the special charter has been recommended by a charter study commission, in which case the commission would have the right to specify the precise wording of the bill.

*Action by the Governor*

As with all other laws, the governor has the power either to approve or to veto a private, special, or local law providing for a special municipal charter. If he or she vetoes such an act, the veto could be overridden by a two-thirds vote of all the members of each house<sup>32</sup>.

*Final Local Action*

If the legislature does enact the statute requested and the governor approves it, the law becomes effective only after approval locally. This may be by the voters in a local referendum or by an ordinance of the municipal governing body, depending on how the legislature has worded the special act. If a referendum is held it must be at the next general election, unless enactment takes place within twenty-five days of a general election. In this case the referendum would be held at the next succeeding general or municipal election. An assessment of \$25 must be paid by the local governmental unit to the state treasury before the first day of July following the passage of the private, special, or local act; otherwise the law becomes void.

*Effective Date*

The private, special, or local act becomes effective immediately upon approval in the referendum although, presumably, the act itself could stipulate a later effective date to allow for election of new officers if this were an integral part of the special charter.

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<sup>32</sup> *Constitution of New Jersey*, Article V, Section 1, Paragraph 14.

Chart 1. Timetable for Charter Study

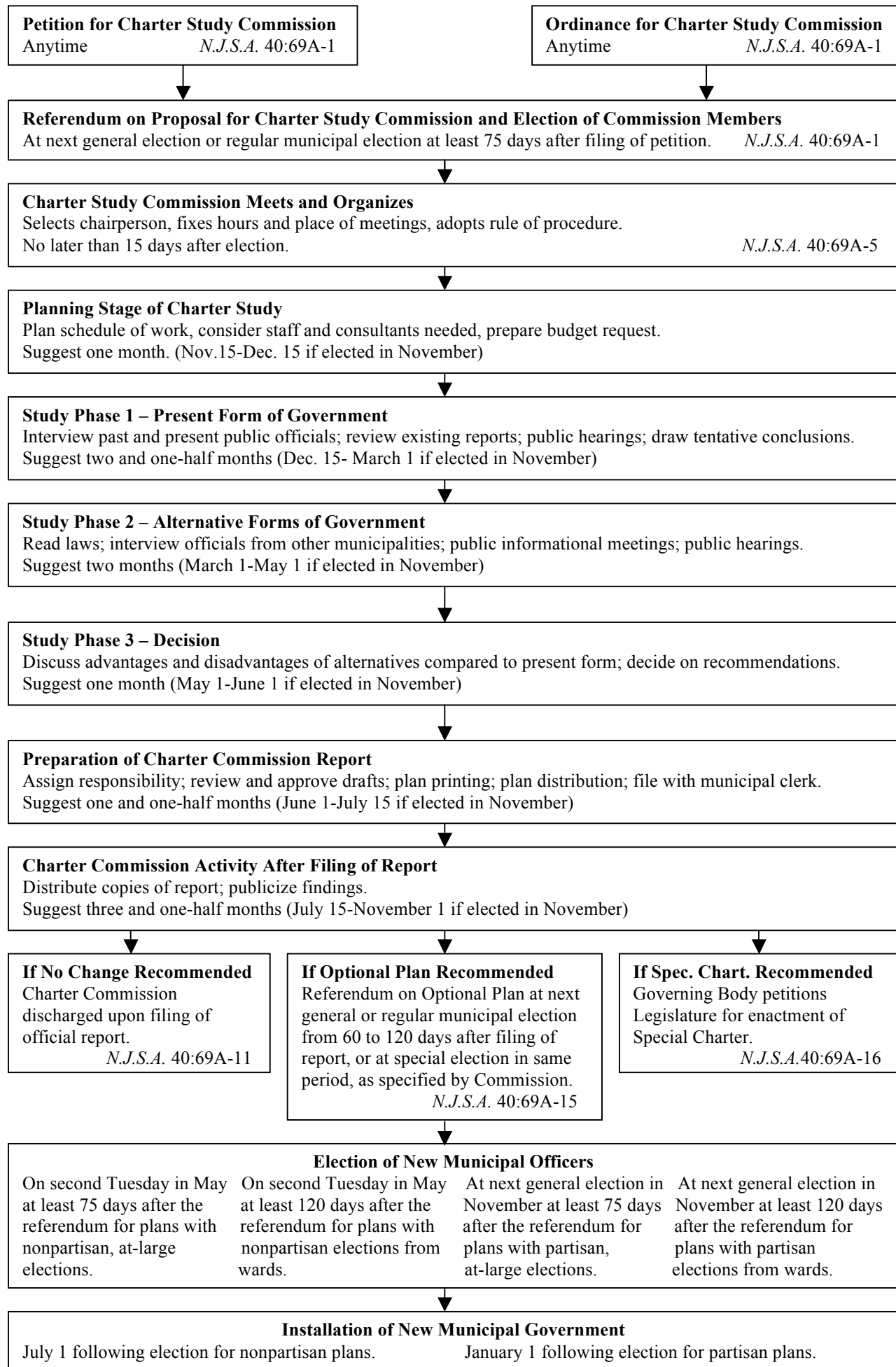


Chart 2. Timetable for Adoption of Special Charter

