

Introduction

Home rule cities may amend their charters in accordance with procedures found in MCL 117.21-117.25 of the Home Rule City Act (Act 279 of 1909). The amendment process may be used to change details in the charter. It is not permissible to change the form of government by charter amendment (e.g. providing for a city-manager system in place of a mayor-council form). Examples of changes that can be made by amendment are changes to increase or decrease the number of councilmembers, changing the position of clerk or treasurer from an elected to an appointed one, setting the purchasing dollar amount limit that can be spent before the municipality is required to establish a bid process, and establishing pension plans.

Another important restriction on the amendment process is that any proposed amendment must be confined to one subject. If a subject embraces more than one related proposition, each proposition must be separately stated to afford electors the opportunity to vote for or against each proposition (MCL 117.21).

Proposal

Charter amendments may be proposed in one of two ways, either by resolution of 3/5 of the members of the city's governing body (MCL 117.21) or by initiatory petition (MCL 117.21, 117.25).

Initiatory petitions are filed with the city clerk. The petition shall state what body, organization or person is interested in and responsible for the circulation of the petitions and the securing of the amendment, and must contain the signatures of at least 5% of the qualified registered electors of the city (MCL 117.25).

Publication

If the initiatory petition provides language for the ballot, the legislative body may add an explanatory caption. If the petition does not include ballot language, then ballot language shall be determined by resolution of the legislative body. The proposed charter amendment must be published in full with existing charter provisions which would be altered or abrogated by the amendment (MCL 117.21). The manner of publication shall be as prescribed by the city governing body (MCL 117.23). The publication requirement may be met by setting forth the amendment and the existing sections altered or abrogated in:

the resolution proposing the amendment, if proceedings are published; or
the election notice; or
a separate publication.

Submission to the Governor

All proposed charter amendments must be submitted to the Governor for approval. This should be done immediately after the council resolution to submit the amendment to a vote of the electors is adopted. The amendment is approved by the Governor if it is found to be legally unobjectionable. Amendments proposed by initiatory petition shall be submitted to the electors notwithstanding any objection by the Governor.

Statement of Purpose

The act requires that a statement of the purpose of the proposed charter amendment be prepared to consist of a true and impartial statement of the purpose in not more than 100 words, including the short title or caption, in such language as shall create no prejudice for or against such amendment. The statement is prepared for printing on the ballot. However, the act requires that the text of the statement be

submitted to the Attorney General for approval as complying with the act. It is necessary that it be submitted for such approval as early as conveniently possible. (This latter requirement is not to be confused with the requirement for submission of the proposed amendment to the Governor).

Frequently the "statement of purpose" is framed as a question and in this form is submitted directly to the electors. This has been held to be a valid method (Thompson v Dearborn, 348 Mich. 23)

Election Procedure

(a) *Election Date.* The amendment shall be submitted to the electors at the next regular city election or general state election to be held not earlier than 90 days after submission of the initiatory petition to the city clerk (MCL 117.21).

(b) *Election Notice.* Notice of the proposition to be voted on shall be added to the regular election notice, by including a caption or brief description of the proposal along with the location where an elector can obtain the full text (MCL 168.653a). The publication of the election notice must be at least 7 days before election day, while the publication of the notice of last day of registration must be at least 7 days before the last day for receiving registrations. (See Appendix B for suggested election notice form).

(c) *Form of Ballot.* In the case of an initiatory petition, the form of ballot customarily is established by the petition language. If the petition does not include ballot language, then the governing body is to determine the ballot language by resolution. If the section of the charter to be amended is reasonably short, the ballot will usually set forth the section in its amended form in full. Occasionally in such cases both the section in its existing form and in its proposed amendment form will be set forth on the ballot. However, it is required only that the statement of purpose appear on the ballot (MCL 117.21), and the statement of purpose may be in the form of the question itself. If it is not, then the question can be framed with reference to the statement of purpose somewhat like this:

"Shall Section_____of the city charter be amended to provide_____, as explained above?"

In addition to the 100-word statement of purpose, a short title or caption may be used on the ballot for quick identification.

The proposed charter amendment in full shall be posted in a conspicuous place in each polling place (MCL 117.21).

Filing

If the amendment is approved by the electors, two printed copies must be filed within 30 days after the election with the Secretary of State and two copies with the county clerk, together with a statement certified by the city clerk of the vote for and against the amendment. Upon such filing, the amendment becomes effective unless a different date for taking effect is set forth in the amendment (MCL117.24).

Resubmission

A proposed charter amendment defeated in an election may not be resubmitted to the electors for a period of two years (MCL 117.21).