

Charter Amendment—HRC Initiatory Petition

Introduction

Home rule cities can amend their charters in accordance with procedures found in the Home Rule City Act. MCL 117.21-117.25. 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 council-manager system in place of a mayor-council form). Examples of changes that can be made by amendment are: increasing or decreasing the number of councilmembers, changing the clerk or treasurer position from elected to appointed, setting the purchasing limit that can be spent before the municipality is required to establish a bid process, and establishing pension plans.

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 percent 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. If the proposed amendment is to be submitted at a regular or general election, notice of the proposition to be voted on will be added to the regular election notice, by including a caption or brief description of the proposal(s) 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 seven days before election day, while the publication of the notice of last day of registration must be at least seven days before the last day for receiving registrations.

(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).

SUGGESTED FORM FOR ELECTION NOTICE

ELECTION NOTICE

To the qualified electors of the city of _____,

Notice is hereby given that a _____ election

(indicate whether regular, special, or primary)

will be held in _____, on _____ (date),

from 7 a.m. to 8 p.m. for the purpose of voting on the following proposals:

(list all proposals to be submitted to voters)

Proposal No. 1

[Insert caption of proposal, if any, as it will appear on ballot.]

[Insert statement of purpose as submitted to and approved by Attorney General] so as to read as follows:

[Insert section of charter in its proposed amended form.]*

Provisions of existing charter to be altered by such proposal, if adopted, now reads as follows:

[Insert the section or sections abrogated or altered in full.]*

List of polling place locations _____

(clerk)

[Insert the section or sections abrogated or altered in full.]*

List of polling place locations _____

(clerk)

* If proposed charter amendment together with existing charter provisions which would be altered or abrogated have been published in full with the published proceedings of the meeting at which the resolution was adopted or in a separate publication, these portions of the election notice may be omitted.