

CITIZENS LEAGUE REPORT

No. 131

**Proposed Amendment to the Home Rule
Enabling Act**

April 1961

Citizens League
545 Mobil Oil Building
Minneapolis 2, Minnesota

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APPROVED
BOARD OF DIRECTORS
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LEAGUE OF MINNESOTA MUNICIPALITIES' PROPOSAL
FOR AMENDMENT OF MINNESOTA HOME RULE ENABLING ACT

The amendment to the local government article of the Minnesota constitution (the "home rule amendment") approved by the voters in November 1958 grants the Legislature more discretion in prescribing procedures for adoption and amendment of municipal charters. The League of Minnesota Municipalities (LMM) has proposed a number of changes in these procedures by suggested amendments to the "home rule charter enabling act" (Minnesota Statutes, Chapter 410). These changes were recommended by the LMM's Home Rule Committee under the chairmanship of Sen. Donald M. Fraser.

The Citizens League Board of Directors requested the Forms and Structure Committee under Mrs. Stanley G. Peterson, chairman, to review the LMM proposal and suggest a Citizens League position on it. Last spring the committee met with Sen. Fraser and heard him explain the major changes being considered. Since then the committee has been kept abreast of the LMM's developments through contacts with Sen. Fraser and LMM executive secretary Orville C. Peterson, and reading of the minutes of the LMM Home Rule Committee.

The following explanation and League recommendations are based on the Forms and Structure Committee's report to the Board of Directors.

What the proposal seeks to accomplish

The objectives of the legislative proposal are contained in the resolution adopted by the LMM. The major changes that would be effected may be summarized as follows:

1. Permission to elect charter commission. Cities and villages would be permitted to elect the members of their charter commission instead of having them appointed by the judges of the district court. The municipalities would exercise this option by providing in their charters that commission members be elected.

Comment: As indicated in the LMM resolution, election of charter commissions is common throughout the country. If a municipality chose subsequently to revert to the appointive method, it could do so by amending its charter.

2. Expenses of charter commission. Charter commissions in cities of the first class would be allowed up to \$10,000 per year for expenses, and in smaller cities and villages up to \$1,500 per year, with authorization for the council to allow additional expenses if it wished. The council would have authority to levy a special tax to meet these expenses.

Comment: Under present law the commission is entirely dependent upon the city council for funds to pay its expenses. In Minneapolis, this has proven to be a handicap to commissions that were eager to conduct research, or even just have adequate secretarial help.

3. Eligibility of petition signers. In cities with permanent voter registration, only registered voters would be eligible to sign a petition for a charter amendment. At the present time, the courts have held that a petition-signer need not be a registered voter for his signature to be valid.

Comment: This is suggested as necessary to give the city clerk a certain test in determining the validity of a petition for a charter amendment. The present law merely refers to "voters".

4. Charter amendments by Council ordinance. A city council by a carefully restricted procedure would have authority to enact charter amendments on any subject except (a) the basic form of government, (b) increases in tax levy limits, (c) authorization for a new tax, (d) deprivation of the people's right to vote on a proposition or official or a change in the majority required for approval, (e) provisions relating to liquor patrol limits. The voters would have the right to petition for a referendum on any amendment the council proposed to adopt. Once passed by the council, voters would have the right to ask the district court for a declaratory judgment to determine whether or not the proposed amendment was within the exceptions noted above.

Comment: This change is suggested as desirable to "encourage modernization of many lengthy charters by the use of the home rule charter process without sacrifice of necessary safeguards". It could eliminate the need for resorting to the Legislature on matters of minor importance fixed by the charter.

5. Charter amendments proposed by council. A city council would be able to propose charter amendments on any subject to the charter commission. After reviewing the proposed amendment the commission would be able to suggest a substitute amendment, and the council could submit either its original proposal or the substitute for a vote of the people. The amendment submitted would become effective if approved by the voters in the same manner as amendments submitted by petition of the voters.

Comment: Initiation of charter amendments by the city council has been found in a number of states to provide a desirable supplementary method for proposing simple amendments on routine matters.

Conclusions and recommendations

The Citizens League Board of Directors supports adoption of the IMM's proposed amendments to the home rule enabling act, with these modifications:

1. Deletion of the provisions for city councils to amend charters by ordinance. The League is concerned that as presently drafted the bill may not exclude some subjects from council action that should be excluded. For example, one subject that was not excluded was the term of office of council members.

2. Deletion of the provision for the city council to submit charter proposals to the voters despite objections of the charter commission. The League believes this is an unjustifiable weakening of the charter commission, and tends to remove the principal initiative on charter proposals from the commission.

3. Requirement that petitions for charter amendments must contain signatures equal in number to at least five percent of the total votes cast at the last previous city general election, rather than the last previous State general election.

Five per cent of the total votes cast at the November 1960 state election in Minneapolis was about 11,250. Five per cent of the vote at the June 1959 city election was about 5,900. The IMM's proposal to change the requirement of eligibility of petition signers from "voters" to "registered voters" would increase the difficulty of obtaining the minimum number of valid signatures, for experience has shown that to be assured of having 5,900 valid signatures, a petition would actually have to get as many as one and one half times as many as that, or over 8,000. Experience in Minneapolis indicates that this would be a difficult task, and would probably make the petition process practicable only in the case of a major charter effort, such as the CIVIC Charter.

On the other hand, to obtain 11,250 valid signatures would necessitate the petitioner's getting as many as 17,000 signatures, a number that might well be beyond attainment. This would be likely to make the petition process useless, for all practical purposes.