

Background

It is difficult to overstate the importance of the Charter Review Commission’s deliberations on the elections provisions of our charter. The right to vote is the bedrock upon which our city government stands. From the right to nominate and elect every elected official in the city to the various mechanisms available for Columbus’ residents to hold their government to ultimate account, our government thrives when our citizens have the rights and responsibilities associated with free, fair, open and honest elections.

The city’s first Charter Commission was acutely aware of the power of the ballot box. Indeed, those citizens devoted more time and attention to elections than any other issue.¹ Many of their progressive proposals arose from the need to reserve to the people the basic voting rights which make good government possible – overturning the spoils system, giving to every elector the right to vote for every city official, and expanding opportunities for citizen engagement in their government.

As previously discussed before this Commission, struggles over fundamental civil and political rights have frequently turned on securing unfettered access to vote. Eight years before passage of the Voting Rights Act, Dr. Martin Luther King stated, “So long as I do not firmly and irrevocably possess the right to vote I do not possess myself.” That same year, then-Senate Majority Leader Lyndon B. Johnson succinctly said, “This right to vote is the basic right without which all others are meaningless.”

On the 100th anniversary of the adoption of our city charter, this Charter Review Commission has the opportunity to modernize our charter’s election-related provisions – and, in the process, the mechanisms through which our citizens lay full claim to the fundamental right to vote.

Issue Overview

Our charter grants full effect to the right to vote by providing for non-partisan primaries and elections; the initiative and referendum; the recall; initiated charter amendments; and progressive approaches to elections administration. In reserving these rights to the people, our charter attempts to map an equitable path to exercise these rights.

But, so much as changed since our charter was adopted in 1914 and provisions related to these rights have not, in many instances, kept pace with evolving best practices. As a result, various charter provisions are outmoded, such as ballot forms and layouts; are inconsistent, such as signatures for the referendum and initiative; and are out of step with best practices, such as requiring that recall petitions only be signed at “the several fire engine houses of the city” or the city clerk’s office.

¹ Granted, they also held a “...lengthy discussion... concerning the extreme heat and the advisability of continuing the sessions during the summer, after which Mr. Greene moved to adjourn until the first Tuesday in September. The motion was agreed to.” Journal of the Columbus Charter Commission, July 3, 1913.

With this in mind, staff reviewed the city charter, current state law, and recognized best practices in an attempt recommend modernizations for the elections provisions of the charter. Staff has developed the following recommendations based on the firm belief that every Columbus citizen must be able to clearly, consistently and equitably exercise their voting rights.

Before diving into those recommendations, we would ask a simple question – why not default to state law on elections issues?

First, we have seen a concerted effort to erode voters’ rights in statehouses across the country. As the former Director of Policy and Research for the Ohio Secretary of State, I can attest to the disenfranchising effect of these state laws and the controversy surrounding them. Ohio’s current elections laws, passed over bipartisan objections, make it harder to cast a ballot and have it counted, unnecessarily intrude on local governments’ authority to promote voting, and put up unnecessary hurdles to the ballot box for petitioners and potential independent or minor party candidates. These laws effectively erect barriers around select voters, ignore common-sense, bipartisan regulations, and manipulate the elections process for partisan gain.

Second, many state law provisions regarding municipal elections have been unchanged since the 1950s – while those for state issues and elections have, for better or worse, been consistently updated. As a result, state law for issues like a charter amendment presents citizens and elected officials alike with a dizzying maze of less-than-consistent provisions.

Third, adoption of our strong home rule charter took place against the backdrop of constant interference by the general assembly into the affairs of local government. The charter’s framers intended – and staff recommend – that we fully exercise, in a responsible manner, our home rule authorities in the arena of elections. Because our home rule authority plays a critical role in this process, I defer to Chief Counsel Josh Cox to provide background on that issue for the Commission.

Staff, therefore, recommends adopting general laws of the state where common sense provisions have been firmly established, while enshrining in our charter those modified provisions that best protect citizens’ voting rights.

Recommendations

General Provisions

- Elections conducted under general laws of the state, unless provided by charter or ordinance
- Maintain nonpartisan elections by secret ballot
- Maintain every citizens’ right to vote for every elected official in their city government

Campaign finance

- Add “disclosure requirements” and “ballot issues” to current authority of council to regulate campaign finance

Ballots

- Eliminate all ballot forms in charter; include some additions (e.g., summaries vs. full text of ballot issues)
- Retain ability to make modifications to ballots by charter or ordinance of council

Nominations

- Use state petition forms, except provided by charter or ordinance
- Maintain requirement that candidate submit 1,000 valid signatures
- Eliminate requirement that signers “pledge to support” candidate
- Remove archaic requirement that candidates “accept” nomination
- Add “disqualified” to death and withdrawal as conditions to replace candidates in primaries or generals; use state law deadlines and processes for withdrawal, replacement

Petitions for ordinance, referendum, recall, charter amendment

- Uniform general provisions, including petition templates
- Adopt modified version of state law for municipal petitions, incorporating elements of state law regarding statewide issues because those sections are more up-to-date (e.g., part-petition circulated as a single instrument; printing in uniform color; title must be without argument and placed on top of sequentially numbered pages; full text must appear on petition; circulator’s statement must disclose payment for circulation)
- Must file statement of intent to compensate and report of compensation for paid petitions, which harmonizes state law requirements for municipal and state ballot issues
- May not withdraw physical petitions, as they are public records; may withdraw a petition from consideration or from the ballot
- All petitions filed with city clerk – both certified copy and final petition
- Establish duties of clerk, city attorney, council, and board of elections in processing petition
- State law controls circulation and validation, with limited exceptions
- Signatures may not be collected prior to filing certified copy
- One year to file ordinance or charter amendment petition after filing certified copy, modeled after state law provisions for petitions
- Maintain 30 day window to file referendum or recall after filing certified copy
- Council must, with the exception of recall petitions, determine the sufficiency of a petition
- Council must act by ordinance on petitions
- Per case law, ordinance may not be vetoed or subject to referendum

Initiative and referendum

- Require 5% of votes cast in last mayoral election (state law prescribes 10% of votes cast for governor; charter currently prescribes 5% of last municipal election, creating unnecessary inconsistency for voters)
- Give board of elections 10 days to validate petition signatures, in line with state law
- Council must determine sufficiency of petition with 14 days of the board's report on signatures (state law is silent re: timeframe for municipal action to determine sufficiency)
- Council then has 30 days to pass/repeal, or submit to voters (charter currently provides two council meetings to make such decision – essentially seven days; constitution provides four months for general assembly consideration of an initiated statute)
- Council must prescribe ballot summary and may prescribe arguments for/against to be posted in voting locations
- Clarify those ordinances not subject to referendum: annual appropriations (vs. "the annual appropriation ordinance") and ordinances submitting proposal to electors

Charter amendments

- Retain constitutional requirements re: signatures, deadlines
- Initiated charter amendment limited to a single subject
- Council must prescribe ballot summary and may prescribe arguments for/against to be posted in voting locations

The Recall

- Adopt modified version of state law (our charter currently allows recall by general law, in addition to the charter provision)
- Maintain requirement that recall petition have signatures of 15% of votes cast in the last regular municipal election
- May not file within 180 days of taking office or within 90 days of a general election for the office
- No more than three elected officials may be recalled at a single election
- City clerk to determine sufficiency of petition
- Maintain requirement that vacancy after recall be filled as otherwise provided by charter

Additional considerations

- Establishment of voting as a fundamental right – For discussion: city authority to protect voter rights, expand voter registration and participate, and promote non-partisan voter registration and participation
- Establishment of a sunset provision on initiated ordinance or referendum