



Metropolitan Nashville and Davidson County, TN

Legislation Text

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A resolution providing amendments to the Charter of the Metropolitan Government of Nashville and Davidson County, Tennessee, in accordance with Article 19, Section 19.01 thereof, and setting forth a brief description of each amendment to be placed upon the ballot.

WHEREAS, Article 19, Section 19.01 of the Charter of The Metropolitan Government of Nashville and Davidson County, Tennessee provides that the Metropolitan Government shall not adopt a resolution proposing amendments to the Charter more often than twice during the term of office of members of the Metropolitan Council; and

WHEREAS, Article 19, Section 19.01 of the Charter further requires to be set forth in the adoption resolution a brief description of each amendment so worded so as to convey the meaning of said amendment; and

WHEREAS, it is the desire of the Metropolitan Council by adopting this resolution to fulfill these two Charter requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Pursuant to the provisions of Article 19, Section 19.01 of the Charter of the Metropolitan Government of Nashville and Davidson County, the proposed amendments to the Charter of the Metropolitan Government of Nashville and Davidson County, attached hereto, are submitted to the people for approval in the manner provided by Section 19.01 of the Charter.

Section 2. The date prescribed for holding of the referendum election at which the electorate of the Metropolitan Government will vote to ratify or reject the amendments proposed in Section 1 of this Resolution shall be June 14, 2021, or such other date set by the Davidson Election Commission for a referendum election regarding amendments to the Metropolitan Charter submitted by 4 Good Government, provided that if the Davidson County Election Commission would only be required to hold an election as a result of the adoption of this Resolution and for no other matter, then this Resolution shall be null and void, and without any further effect. It is the express intent of the Metropolitan Council that this Resolution not trigger a special election for the sole consideration of the amendment to the Metropolitan Charter provided herein.

Section 3. This Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

AMENDMENT NO. ____

I. Section 3.05 of Article 3 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following provision as a new paragraph at the end thereof:

"In the event of conflict between this section and any provision of Article 18 (except section 18.02 of Article 18), this section shall prevail."

II. Section 3.06 of Article 3 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following new paragraph at the end thereof:

"Notwithstanding any other provision of this Charter to the contrary, the Council's exercise of power under Section 2.01(5) of the Charter shall be subject to a public referendum only to the extent required by state law."

III. Section 6.07 of Article 6 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following new paragraph at the end thereof:

"Notwithstanding any other provision of this section or this Charter to the contrary, the Council's authority to set property tax levies shall be subject to a public referendum only to the extent required by state law, and any automatic reversion of the property tax levy to a prior year's levy by operation of this Charter shall only be effective if specifically authorized by state law."

IV. Section 15.06 of Article 15 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following provision as new paragraphs at the end thereof:

"In order to recall an official identified in this section, a petition demanding the election of a successor of the person sought to be removed and containing a statement of the reason(s) why removal is sought must be filed with the metropolitan clerk. The only purpose of such statement is to furnish information to the electors."

"A recall petition for the offices of mayor, vice mayor, and councilmember-at-large shall contain signatures and addresses of registered qualified voters in number equal to fifteen (15) percent of the registered qualified voters in Davidson County; a recall petition for the offices of metropolitan board of public education and district councilmember shall contain the signatures and addresses of registered qualified voters in number equal to fifteen (15) percent of the registered qualified voters of the district from which the officer was elected. The above percentages shall be computed from the total number of qualified registered voters for each office according to the latest official count of registered qualified voters made by the Davidson County Election Commission thirty (30) days prior to the date the recall petition is initially filed with the metropolitan clerk. The signatures and addresses to any recall petition need not all be appended to one sheet of paper. The verification of the signatures shall be made by the Davidson County Election Commission and certified to the metropolitan clerk."

"A notice of the intention to obtain signatures for a recall petition, together with the form of the recall petition, must be filed with the metropolitan clerk prior to obtaining signatures of registered qualified voters. Such recall petition containing the required number of registered qualified voters must be filed with the metropolitan clerk not later than thirty (30) days following the date the notice is properly filed."

"Any person sought to be removed may be a candidate to succeed himself or herself; and unless he or she in writing or otherwise requests, it shall be the duty of the Davidson County Election Commission to place his or her name on the official ballot without nomination or petition by anyone."

"In the event of conflict between this section and sections 15.07 or 15.08 of Article 15, this section shall prevail."

V. Section 18.05 of Article 18 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following provision at the end thereof:

“For purposes of this section, ‘benefits’ means health insurance paid for in whole or in part by the Metropolitan Government for elected officials taking office after September 1, 2023.”

VI. Article 18 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following new Section 18.20:

“Sec. 18.20. - Professional sports teams defined.

For purposes of section 18.19, to the extent such section is codified in the Metropolitan Charter pertaining to professional sports teams, ‘professional sports team’ means a legal entity operating a sports team which first commences operations within the area of the Metropolitan Government of Nashville and Davidson County after the effective date of this section; provided that the sports team participates in the National Football League, National Basketball Association, National Hockey League, Major League Soccer, or Major League Baseball.”

VII. Section 19.01 of Article 19 of the Charter of The Metropolitan Government of Nashville and Davidson County shall be amended by adding the following provision as a new paragraph at the end thereof:

"In the event of conflict between this section and section 19.04, to the extent such section is codified in the Metropolitan Charter, this section shall prevail."

VIII. To the extent any portion or provision of this amendment is declared to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion or provision shall be severed and shall not affect the validity of the remaining provisions of this amendment.

FOR THE BALLOT

Amendment No. ____

This amendment provides that the Metropolitan Government’s exercise of power pertaining to government-owned property, and the Council’s authority to set property tax levies, are subject to a public referendum only as required by state law, and that any automatic reversion of the property tax levy shall be as specifically authorized by state law. This amendment defines “benefits” for elected officials as health insurance provided for elected officials taking office after September 1, 2023. This amendment ~~would provide~~ provides that if there is a conflict between the Council’s authority to enact ordinances under Section 3.05 and any provision of Article 18 of the Charter (other than the rezoning of property), Section 3.05 will prevail. This amendment adds a definition for “professional sports team” to mean an entity operating a sports team that commences operations within Metropolitan Nashville and Davidson County after the effective date of this amendment and participates in the National Football League, National Basketball Association, National Hockey League, Major League Soccer, or Major League Baseball. This amendment retains the Charter’s existing processes and requirements for the recall of elected officials and amendments to the Charter, to prevail over any provisions in

Sections 15.07, 15.08, or 19.04 to the contrary.

Analysis

This resolution, as amended, proposes an amendment to the Metro Charter to be voted upon at a special election on June 14, 2021. The purpose of this amendment is to provide an alternative to the Charter amendments submitted to the Metro Clerk by petition in March 2021. If enough signatures are verified and the petition language can lawfully go on the ballot, those amendments submitted by petition will be on the ballot at a special election to be held on June 14.

The petition provides for six separate Charter amendments summarized as follows:

1. Property tax rates would revert to the Fiscal Year 2019-2020 tax rate, and any increase of the rate by more than 3% from one fiscal year to the next would require a voter referendum.
2. Recall petitions for board of education members, councilmembers, Vice Mayor, and Mayor filed after January 1, 2021 would be subject to new, less restrictive requirements. The Charter currently provides that such officials are subject to a recall election if a petition submitted by 15% of the registered voters in the district for district elected officials, or 15% of the voters in the county for countywide elected officials, is submitted to the Clerk. The recently submitted Charter amendment petition would lower this threshold to 10% of those voting in the preceding Metro general election, and would prevent the name of the elected official who is the subject of the recall effort from appearing on the ballot. Rather, such official would only be eligible to qualify as a write-in candidate.
3. "Benefits at taxpayer expense" for elected officials would be prohibited.
4. "Voter-sponsored" Charter amendments approved after January 1, 2021 could only be modified by another voter-sponsored petition.
5. No Metro property could be conveyed without 31 Council votes, and a referendum would be required for all property transfers valued over \$5 million and for all leases in excess of 20 years.
6. If a professional sports team stopped playing games for 24 months, all facilities "and related ancillary development" would "revert to public property" and all related contracts would be terminated.

Some of these provisions potentially violate the Tennessee Constitution, state statutes, and general common law principles. For example, state law provides that the county legislative body has the exclusive responsibility for setting the tax levy and there is no provision in state law authorizing a limitation to the taxing authority of the Metropolitan Council. Further, it is unclear how a Charter provision could negate the provisions of an otherwise valid contract with a professional sports team entered into prior to the Charter amendment becoming effective.

The Charter amendment included in this resolution addresses the above concerns and provides an alternative to the six amendments submitted by petition, as follows:

- The exercise of power pertaining to government-owned property, and the Council's authority to set property tax levies, are subject to a public referendum only as required by state law, and that any automatic reversion of the property tax levy shall be as specifically authorized by state law.
- The amendment defines "benefits" for elected officials as health insurance provided for elected officials taking office after September 1, 2023.
- This amendment provides that if there is a conflict between the Council's authority to enact ordinances

under Section 3.05 (legislative authority) and any provision of Article 18 of the Charter (other than the rezoning of property), Section 3.05 will prevail. The petition Charter amendment would add language to Article 18 pertaining to public property.

- This amendment adds a definition for “professional sports team” to mean an entity operating a sports team that commences operations within Metropolitan Nashville and Davidson County after the effective date of this amendment and participates in the National Football League, National Basketball Association, National Hockey League, Major League Soccer, or Major League Baseball.
- This amendment retains the Charter’s existing processes and requirements for the recall of elected officials and amendments to the Charter, which would prevail over any provisions in Sections 15.07, 15.08, or 19.04 to the contrary.

The resolution includes language specifically conditioning its effectiveness upon the Charter amendments submitted by petition being on the ballot. If for some reason they are ineligible to go on the ballot, then this resolution would be null and void, and would not trigger a special election.

This resolution has been approved, as amended, by the Charter Revision Commission.