
OLR Bill Analysis

sHB 5494

AN ACT CONCERNING REFERENDA ON REVISIONS TO MUNICIPAL CHARTERS AND HOME RULE ORDINANCES.

SUMMARY

This bill establishes requirements for ballot designations (i.e., questions) for proposed changes to municipal charters and home rule ordinances that must be submitted to a municipality's voters at an election (whether required by the statutes or a special act, charter, or ordinance).

Additionally, the bill establishes procedures (1) for a town's electors to contest these ballot designations by petitioning the secretary of the state to review them for compliance with the bill's requirements and (2) for the secretary to review them and make these determinations. If the secretary determines a designation is non-compliant, the bill prohibits its use, and the municipality must restart the charter or home rule ordinance revision process. However, the bill allows municipalities to appeal the secretary's determination.

The bill specifies that nothing in its provisions prevents any person, organization, or municipality from seeking other legal remedies. However, no court may stay a ballot designation or referendum unless (1) imposed as part of the municipality's appeal or (2) it makes a finding of extraordinary circumstances.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2024

BALLOT DESIGNATION REQUIREMENTS

Question Format and Explanation

Under the bill, as under existing law for referendum questions, the

ballot designation for a proposed charter or home rule ordinance amendment must be “Shall (insert question, in a form requiring a “Yes” or “No” response, followed by a question mark).” If the designation as presented does not adequately explain the proposed change or changes, the bill requires the town clerk to prepare a precise and fair explanation that does not advocate for or against the amendment. The bill requires that both the designation and the explanation use simple, precise, clear, unambiguous, and plain language.

Existing law allows municipalities, generally by vote of their legislative bodies, to authorize similar explanatory texts or other printed materials for referendum questions. For regional school district referenda, only the regional board of education can authorize explanatory text.

Proposed Amendments on Multiple Subjects

Under the bill, for proposed charter or home rule ordinance amendments addressing multiple distinct subjects, each subject must appear and be described separately on the ballot. However, for proposed changes across multiple charter or ordinance provisions, changes relating to a single subject may be submitted in one question.

Summaries of Favorable and Opposing Arguments

The bill allows municipalities to prepare, print, and disseminate concise summaries of arguments in favor of, and opposed to, the proposed charter or home rule ordinance amendment, and requires these summaries to comply with existing law’s requirements for summaries for referendum questions.

Specifically, this existing law authorizes municipalities, by ordinance, to provide for concise summaries of favorable and opposing arguments for approved local proposals or questions at a referendum for which explanatory texts are prepared. The ordinance must provide for the establishment or designation of a committee, whose members must represent various viewpoints, to prepare the summaries.

To the extent practicable, the committee must provide an opportunity

for public comment on the prepared summaries. The summaries must be approved by the municipality's legislative body, or any other municipal body designated by the ordinance, and be posted and distributed in the same way as explanatory texts. Each summary must contain language clearly stating that the printing of the summary does not constitute an endorsement by, or represent the official position of, the municipality.

PETITION PROCESS

Deadline for Submitting Petition to Contest a Ballot Designation

By law, proposed charter or home rule ordinance amendments must be prepared for the ballot by the municipality's appointing authority (i.e., the body authorized to appoint the charter or home rule ordinance revision committee). Under the bill, within 30 days after the ballot designation is prepared by the appointing authority (or other municipal official required to do so under the municipality's special act, charter, or ordinance), town electors may submit a petition to the secretary of the state and the town clerk to contest that the designation violates the bill's provisions. (It is unclear when the 30-day timeline starts as the existing law on preparing the ballot designation does not prescribe a specific time that the designation is considered prepared.)

Required Signatures and Contents

The petition must be signed by at least 1% of the municipality's electors as determined by the most recent registry list. Each elector who signs the petition must include his or her printed name, address, and birth date on the petition.

The petition must contain the:

1. contested designation or designations;
2. grounds for contesting each designation; and
3. name, mailing address, email address, and phone number of the person or organization to receive notice regarding the petition (i.e., listed party).

This information must (1) appear identically on each page of the petition and (2) be provided to the appointing authority or municipal official and the municipality's registrars of voters at the same time the petition is presented to the town clerk and secretary of the state.

Petition Circulator

Each petition page may be circulated by only one circulator which, under penalty of false statement, must certify on the page (or its reverse) (1) his or her name and address, (2) the number of signatures on the page, (3) an acknowledgment that each elector signed the page in his or her presence, and (4) that he or she knows the elector or the elector satisfactorily identified themselves to the circulator. Each page must also be acknowledged by a(n) (1) judge or family support magistrate, (2) court clerk or deputy clerk, (3) town clerk, (4) notary public, (5) justice of the peace, or (6) attorney admitted to the state bar.

Action by the Town Clerk

Within five days after the petition is presented to the town clerk, the clerk must provide the following to the listed party: (1) a copy of the petition; (2) notice of the dates the petition was presented to the clerk and when it was returned to the party; and (3) the town's clerk's determination as to whether the petition complies with the bill's requirements and, if applicable, the notice described below about the petition's deficiencies. The clerk must also notify the municipality's registrar of voters of this information.

If the town clerk determines the petition complies, he or she must approve the petition, attach a certificate of compliance, and promptly deliver or send (by certified mail) the petition to the secretary of the state. If the town clerk determines that the petition does not comply, he or she must notify the listed party of the petition's deficiencies, how to address them, and the date by when the parties must address the deficiencies.

REVIEW PROCESS

Approving the Original or an Alternate Ballot Designation

When the secretary receives the certified petition, she must notify the

listed party and the town's registrars of voters of its receipt. The secretary must then review the petition to determine whether the contested designation or designations comply with the bill's provisions.

The secretary may consult with the listed party and the affected municipality's officials and recommend an alternate ballot designation that would comply with the bill. The municipality's appointing authority or other official may approve this alternate designation within the existing timeframe required for submitting local referendum questions to the secretary of the state (i.e., generally at least 45 days before the election, unless the statutes allow for it to be submitted within this 45-day period). (It is unclear whether the bill authorizes the alternate designation to be submitted within the 45-day period.)

Under the bill, if the secretary determines the designation (or alternate designation timely filed by the appointing authority or other municipal official) complies with the bill's requirements, the designation must appear on the ballot and be submitted to the municipality's electors.

Rejecting a Ballot Designation

The secretary must reject the designation if she determines it does not comply. Additionally, the designation may not appear on the ballot, and the municipality must initiate a new action to amend its charter or home rule ordinance according to the statutory process for doing so.

If multiple designations for the same ballot are submitted for review and the secretary rejects one or more of them, the bill allows the appointing authority or other municipal official to withdraw one or more of the approved designations within the timeframe for submitting local referendum questions to the secretary of the state. Any withdrawn designation cannot appear on the ballot.

APPEAL

A municipality may appeal the secretary's rejection of its ballot designation to the Superior Court for the judicial district it is located in. The appeal must be privileged for trial assignment.

Both the secretary and the listed party must be named appellate defendants. The bill specifies that for purposes of these appeals, a listed party that is an organization shall have capacity to be sued and to defend the lawsuit. (The legal effect of this provision is unclear.)

Process for the appeal must be served on the listed party at the address provided in the petition. If it is a P.O. box, unless court rules say otherwise, the process (1) must be served by certified mail with return receipt requested and (2) is considered a valid service of process.

On the day set for the appeal hearing, the court must, without delay, conduct the hearing and render a decision. The court may order any proper remedy, including altering the designation or modifying when the designation will appear on the ballot.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 16 Nay 3 (03/26/2024)