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JUN 19 2018

OPINION COMMITTEE



FILE # ML-48380-18
I.D. # 48380

ELECTIONS COMMITTEE

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RQ-0237-KP

May 17, 2018

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

Dear General Paxton,

As Chairman of the House Committee on Elections, I respectfully ask you to offer your opinion on the interpretation of the Texas Constitution and the Texas Election Code as they apply to elections held by municipalities to amend their city charters.

The Texas Constitution, Art XI §5 stipulates that "no city charter shall be altered, amended or repealed oftener than every two years."

The Texas Election Code, Sec. 41.001 sets forth uniform election dates as follows:

- (a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:
- (1) the first Saturday in May in an odd-numbered year;
 - (2) the first Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county; or
 - (3) the first Tuesday after the first Monday in November.

These provisions have caused some confusion amongst cities as uniform election dates do not occur exactly two years (730 days) apart.

For example, assume a charter amendment election is conducted on May 5, 2018, a uniform election date under Election Code 41.001. The Constitution provides that a charter amendment election may not occur "oftener" than every two years. If a year consists of twelve months, a charter amendment election could next occur on May 2, 2020. However, if a year consists of 365 days, the two year period consist of a total of 730 days. Between May 5, 2018 and May 2, 2020, there were only 727 days. Therefore a charter amendment election would not comply with the Constitutional mandate.

This unintended result prevents individual citizens from exercising their franchise related to municipal governance, delaying charter amendments until a subsequent general election date under a strict interpretation of the Constitution.

Is it your opinion that the intent of this provision be strictly interpreted to mean that 730 days must pass in between charter elections, or that a uniform election date in the twenty fourth month after a previous election is acceptable?

I appreciate your assistance in this matter. Please contact me if I can answer any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jodie Laubenberg". The signature is written in black ink and is positioned below the word "Sincerely,".

Jodie Laubenberg
Chair, House Committee on Elections

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SEP 27 2018



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September 26, 2018

FILE # RQ-0237-KP
I.D. # 48447

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

Dear General Paxton,

I recently requested an opinion on whether the Texas Constitution prohibits a city from amending its charter on the uniform election date in the twenty-fourth month after a previous charter amendment if that election date is not a full two calendar years from the previous amendment election (RQ-0237-KP.)

It has come to my attention that there is a question as to when the election results are official. Is it the day the election is held or the day the election is canvassed? The interpretation of this has caused much confusion.

I ask that you would please consider this issue as you are determining your opinion. Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script that reads "Jodie Laubenberg".

Jodie Laubenberg
Chair, House Committee on Elections