

HB 257 – AS INTRODUCED

2015 SESSION

15-0368
06/03

HOUSE BILL **257**

AN ACT relative to amending municipal charters.

SPONSORS: Rep. P. Long, Hills 10

COMMITTEE: Municipal and County Government

ANALYSIS

This bill provides that, in a municipality with biennial elections, a vote to establish or amend a charter may be placed on the ballot at the next state biennial election if it occurs before the next municipal election.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to amending municipal charters.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Adoption of Municipal Charter. Amend RSA 49-B:3 to read as follows:

2 49-B:3 Procedures for Submitting Question of Establishing Charter Commission to Voters.

3 I. In any municipality not operating under a charter governed by RSA 49-C or RSA 49-D, the
4 municipal officers may determine that adoption of a municipal charter is necessary and, by order,
5 submit the question of establishment of a charter commission to the voters as provided in this
6 section; or

7 II. On the written petition of 25 or more registered voters or 2 percent of the registered
8 voters in the municipality, whichever is less, but in no event fewer than 10 registered voters, the
9 municipal officers shall, by order, submit the question of establishment of a charter commission to
10 the voters as provided in this section. The petition shall read substantially as follows: "Each of the
11 undersigned voters requests the municipal officers to submit to the voters, at the next municipal
12 election, the question of establishment of a charter commission to draft a municipal charter." The
13 petition shall be submitted to the municipal officers by the date indicated below:

14 (a) For a town with its annual meeting in March, on or before December 15 of the
15 preceding year.

16 (b) For a town with its annual meeting in April, on or before January 15 of the same
17 year.

18 (c) For a town with its annual meeting in May, on or before February 15 of the same
19 year.

20 (d) For any other municipality, at least 90 days before the regular municipal election on
21 which the question is proposed to be submitted. In the case of a municipality with biennial elections,
22 if the petition is submitted during a year in which there are no municipal elections, [~~a special
23 election shall be held at least 90 days after submission~~] **at least 90 days before the next regular
24 state general election on which the question is proposed to be submitted.**

25 III. Upon receipt of a petition under paragraph II, the municipal officers shall by order
26 submit the question for establishment of a charter commission to the voters at the next regular
27 municipal election. In the case of an order adopted under paragraph I, the municipal officers shall
28 by order submit the question of establishment of the commission to the voters at the next regular
29 municipal election that is held not less than 60 days after the date of the order. In the case of
30 municipalities with biennial elections, [~~the question shall be submitted at either the next regular
31 municipal election or at a special municipal election that is held not less than 60 days after the date~~]

1 ~~of the order]~~ *the municipal officers may order the question of establishment of the*
2 *commission to be placed on the municipal ballot at the next regular municipal election or*
3 *on the state ballot at the next state biennial general election, whichever occurs earlier, so*
4 *long as such election is held at least 60 days after the order. If the next regular municipal*
5 *or state general election is less than 60 days after the order, the question of establishment*
6 *of the commission shall be submitted at the following municipal or state general election;*
7 *provided, however, that no such question shall be submitted at a state biennial election if*
8 *there is a national presidential election at the same time. Notwithstanding the foregoing*
9 *provisions, the municipal officers may submit the question to the voters at a special*
10 *municipal election that is held at least 60 days after the date of the order. If the question is*
11 *ordered to be placed on the state ballot at the following state general election, the*
12 *municipal officers shall notify the secretary of state of the question to be placed on the*
13 *ballot at least 60 days before the next state general election on which the question is*
14 *proposed to be submitted.*

15 IV. The question to be submitted to the voters shall be in substance as follows:

16 “Shall a charter commission be established for the purpose of establishing a municipal charter?”

17 V. Notwithstanding any other provision of this chapter, for the purposes of establishing a
18 charter commission to amend or adopt a charter relative to official ballot town council under RSA 49-
19 D:3, I-a, official ballot town meeting under RSA 49-D:3, II-a, budgetary official ballot village district
20 meeting under RSA 52:2-a, or budgetary official ballot school district meeting under RSA 197:5-b
21 only, the question of whether to establish a charter commission and the election of charter
22 commission members shall be placed on the same ballot. No other issues shall be addressed by a
23 charter commission established under this paragraph. The question on the establishment of a
24 charter commission to be submitted to the voters shall be in substance as follows:

25 “Shall a charter commission be established for the sole purpose of establishing official ballot voting
26 under the current form of government?”

27 2 Revision of Municipal Charter; Final Report. Amend RSA 49-B:4-b, II to read as follows:

28 II. Upon the submission of the final report, the municipal officers shall order the proposed
29 new charter to be submitted to the voters at the next municipal election after the filing of the final
30 report, unless the final report recommends that no charter be adopted, as provided in RSA 49-B:4,
31 VII. In the case of municipalities with biennial elections, the ~~[charter shall be submitted to the voters~~
32 ~~at the next regular municipal election or at a special municipal election so long as such election is~~
33 ~~held at least 45 days after the filing of the final report. If the next regular election is less than 45~~
34 ~~days after the filing of the report, the charter shall be submitted at the following regular election]~~
35 *municipal officers may order the proposed new charter to be placed on the municipal*
36 *ballot at the next regular municipal election or on the state ballot at the next state*
37 *biennial general election, whichever occurs earlier, so long as such election is held at least*

1 *60 days after the order. If the next regular municipal or state general election is less than*
2 *60 days after the order, the proposed new charter shall be submitted at the following*
3 *municipal or state regular general election; provided, however, that no such question shall*
4 *be submitted at a state biennial election if there is a national presidential election at the*
5 *same time. Notwithstanding the foregoing provisions, the municipal officers may submit*
6 *the proposed new charter to the voters at a special municipal election that is held at least*
7 *60 days after the date of the order. If the question is ordered to be placed on the state ballot*
8 *at the following state general election, the municipal officers shall notify the secretary of*
9 *state of the question to be placed on the ballot at least 60 days before the next state general*
10 *election on which the question is proposed to be submitted.*

11 3 Amendment of Municipal Charter; Procedure. Amend the introductory paragraph of RSA 49-
12 B:5, I to read as follows:

13 I. The municipal officers may determine that one or more amendments to the municipal
14 charter are necessary and, by order, provide for notice and hearing on them in the same manner as
15 provided in RSA 49-B:5, V(a). Within 7 days after receiving approval from the secretary of state, the
16 attorney general, and the commissioner of the department of revenue administration under RSA 49-
17 B:4-a, the municipal officers may order the proposed amendment to be placed on a ballot at the next
18 regular municipal election. In the case of municipalities with biennial elections, the municipal
19 officers may order amendments to be placed on the *municipal* ballot at ~~[either the next regular~~
20 ~~municipal election or the next state biennial election, whichever occurs earlier, that occurs not less~~
21 ~~than 60 days after the order]~~ *the next regular municipal election or on the state ballot at the*
22 *next state biennial general election, whichever occurs earlier, so long as such election is*
23 *held at least 60 days after the order. If the next regular municipal or state general election*
24 *is less than 60 days after the order, the amendment shall be submitted at the following*
25 *municipal or state general election; provided, however, that no such question shall be*
26 *submitted at a state biennial election if there is a national presidential election at the*
27 *same time. Notwithstanding the foregoing provisions, the municipal officers may submit*
28 *the question to the voters at a special municipal election that is held at least 60 days after*
29 *the date of the order. If the question is ordered to be placed on the state ballot at the*
30 *following state general election, the municipal officers shall notify the secretary of state of*
31 *the question to be placed on the ballot at least 60 days before the next state general election*
32 *on which the question is proposed to be submitted.*

33 4 Amendment of Municipal Charter; Procedure. Amend RSA 49-B:5, V to read as follows:

34 V.(a) Within 10 days of receipt of a report that a petition is sufficient, the municipal officers
35 shall by order provide for a public hearing on the proposed amendment. The notice of the hearing
36 shall be published in a newspaper having general circulation in the municipality at least 7 days prior
37 to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The

HB 257 – AS INTRODUCED
- Page 4 -

1 hearing shall be conducted by the municipal officers or a committee appointed by them; provided
2 that in the case of an amendment submitted by voter petition, the hearing shall be conducted by the
3 municipal officers. If, as a result of the public hearing, substantive changes are made to the
4 proposed amendment, a second hearing shall be held. Notice of the hearing and the conduct thereof
5 shall be as provided in this section.

6 (b) Within 7 days after the last public hearing, the municipal officers or the committee
7 appointed by them shall file with the municipal clerk a report containing the final draft of the
8 proposed amendment and a written opinion by an attorney admitted to the bar of this state that the
9 proposed amendment is not in conflict with the general laws or the constitution. In the case of a
10 committee report, a copy shall be filed with the municipal officers. Upon such filing, the provisions of
11 RSA 49-B:4-a shall apply in the same manner as for a charter adoption; provided, however, that the
12 municipal officers or the appointed committee shall be substituted for the charter commission for
13 purposes of RSA 49-B:4-a, III.

14 (c) Within 7 days after the approval by the secretary of state, the attorney general, and
15 the commissioner of the department of revenue administration, or within 7 days after the last public
16 hearing in the case of an amendment submitted by voter petition, the municipal officers shall order
17 the proposed amendment to be placed on the ballot at the next regular municipal election. In the
18 case of municipalities with biennial elections, the municipal officers ~~[shall]~~ **may** order the
19 amendments to be placed on the **municipal** ballot at ~~[either]~~ the next regular municipal election or
20 ~~[at a special municipal election that occurs not less than 60 days after the date of the order]~~ **on the**
21 **state ballot at the next state biennial general election, whichever occurs earlier, so long as**
22 **such election is held at least 60 days after the order. If the next regular municipal or state**
23 **general election is less than 60 days after the order, the amendment shall be submitted at**
24 **the following municipal or state general election; provided, however, that no such question**
25 **shall be submitted at a state biennial election if there is a national presidential election at**
26 **the same time. Notwithstanding the foregoing provisions, the municipal officers may**
27 **submit the question to the voters at a special municipal election that is held at least 60**
28 **days after the date of the order. If the question is ordered to be placed on the state ballot at**
29 **the following state general election, the municipal officers shall notify the secretary of**
30 **state of the question to be placed on the ballot at least 60 days before the next state general**
31 **election on which the question is proposed to be submitted.**

32 5 General Provisions for Charter Actions; Submission to Voters. Amend RSA 49-B:6 to read as
33 follows:

34 49-B:6 Submission to Voters.

35 **I.** The method of voting at municipal elections when a question relating to **establishing** a
36 **charter commission, a** charter revision, a charter adoption, or a charter amendment is involved
37 shall be in the manner prescribed for municipal elections. In a town, the question shall appear on

1 the ballot before any other questions except the election of officers. In a city, the question shall
2 appear in the order determined by the city clerk.

3 ***II. The method of voting at state elections when a question relating to establishing***
4 ***a charter commission, a charter revision, a charter adoption, or a charter amendment is***
5 ***involved shall be in the manner prescribed for state elections. The question shall appear***
6 ***on the state ballot in the order determined by the secretary of state.***

7 [~~II~~] **III.** In the case of a charter revision or a charter adoption the question to be submitted to
8 the voters shall include a summary prepared by the charter commission which explains both the
9 current form of government used by the municipality and the changes in that form of government
10 which will occur if the charter revision or charter is approved by the voters. The question to be
11 submitted to the voters shall be in substance as follows:

12 “Shall the municipality approve the (charter revision) (charter) recommended by the charter
13 commission?”

14 [~~III~~] **IV.**(a) Subject to subparagraph (b), in the case of one or more charter amendments, each
15 amendment shall be voted upon separately and the question to be submitted to the voters on each
16 amendment shall be in substance as follows:

17 “Shall the municipality approve the charter amendment reprinted (summarized) below?” Each
18 such question shall be followed by the text or a summary of the amendment.

19 (b) Alternatively, at the discretion of the charter commission, 2 or more amendments
20 may be listed and voted upon together. In such case, the question shall be in substance as follows:

21 “Shall the municipality approve the charter amendments reprinted (summarized) below?” The
22 question shall be followed by the text or summary of each of the amendments that are being voted
23 upon together.

24 [~~IV~~] **V.**(a) In the case of a charter revision or charter adoption, at least 2 weeks prior to the date
25 of the election the municipal officers shall cause the final report of the charter commission to be
26 printed, shall make copies available to the voters in the clerk’s office, and shall post the report in the
27 same manner that proposed ordinances are posted.

28 (b) In the case of one or more charter amendments, at least 2 weeks prior to the date of
29 the election, the municipal officers shall cause the proposed amendment and any summary thereof to
30 be printed, shall make copies available to the voters in the clerk’s office, and shall post the
31 amendment and any summary thereof in the same manner that proposed ordinances are posted.

32 [~~V~~] **VI.** If at least 3/5 of the ballots cast on any question under paragraph I favor
33 acceptance, the new charter or the charter revision shall become effective as provided in
34 subparagraph (a). If a majority of the ballots cast on any question under paragraph [~~IV~~] **IV** favor
35 acceptance, the charter amendment shall become effective as provided in subparagraph (b).

36 (a) Charter revisions, new charters, or repeals of charters adopted by the voters shall
37 become effective immediately for the purpose of conducting necessary elections; otherwise charter

HB 257 – AS INTRODUCED
- Page 6 -

1 revisions, new charters, and repeals of charters shall become effective on the first day of the next
2 succeeding municipal year or as specified in any transition provisions of the charter.

3 (b) Charter amendments adopted by the voters shall become effective on the first day of
4 the next succeeding municipal year or on a date determined by the municipal officers, whichever
5 occurs first.

6 6 New Section; General Provisions; Recount. Amend RSA 49-B by inserting after section 6 the
7 following new section:

8 49-B:6-a Recount.

9 I. The method of recounts for a question relating to establishing a charter commission, a
10 charter revision, a charter adoption, or a charter amendment voted upon at municipal elections shall
11 be in the manner prescribed for municipal elections.

12 II. The method of recounts for a question relating to establishing a charter commission, a
13 charter revision, a charter adoption, or a charter amendment voted upon at state general elections
14 shall be in the same manner as that provided for local questions in RSA 660:13 through RSA 660:15.

15 7 Applicability.

16 I. Processes for adopting, revising, or amending a municipal charter that have commenced
17 prior to the effective date of this act, either by order of the municipal officers or by the submission of
18 a petition, shall be governed by the provisions of RSA 49-B as in effect prior to the effective date of
19 this act and shall continue to apply until the conclusion of that process.

20 II. If the question is ordered to be placed on the state ballot at the following state general
21 election, the municipal officers shall notify the secretary of state of the question to be placed on the
22 ballot at least 75 days before the next state general election on which the question is proposed to be
23 submitted.

24 8 Effective Date. This act shall take effect 60 days after its passage.