

## **City charter amendment, elector approval required**

**Number:** AGO 79-80

**Date:** January 16, 1998

**Subject:**

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MUNICIPALITIES—CHARTER AMENDMENT MUST BE SUBMITTED TO ELECTORS FOR APPROVAL AT GENERAL OR SPECIAL ELECTION

To: Jeanette Blackmon, Mayor, Lake Wales

Prepared by: Percy W. Mallison, Jr., Assistant Attorney General

QUESTION:

May the City Commission of Lake Wales amend the city charter without submitting the amendment to the electors of the city for their approval?

SUMMARY:

The Lake Wales City Commission may not unilaterally amend the municipal charter but may only propose an amendment which must be submitted to the municipal electors for their approval at a referendum held for that purpose.

Your question is answered in the negative.

I am advised that the present Lake Wales City Charter was adopted by the city commission on April 6, 1976, and approved by the municipal electors in a referendum held on May 4, 1976. Section 5.03 of the city charter provides:

"The commission shall appoint an officer of the city who shall have the title of city clerk, and who shall serve during the pleasure of the commission. The city clerk shall serve under the supervision of the city manager and shall give notice of commission meetings to its members and to the public, keep the minutes of its proceedings, and perform such other duties as are assigned to him by this charter or by the commission, or by the city manager."

In your letter you ask whether the city commission, without seeking the approval of the electors, may amend that section of the existing city charter set out above by placing the city clerk solely under the supervision of the city commission.

Subsection (1) of s. 166.031, F. S., provides the method for amending municipal charters. According to that subsection, the governing body of the municipality, by ordinance, or the electors of the municipality, by petition signed by 10 percent of the registered electors, may propose an amendment to any section or all of the municipal charter with the exception of that

part setting out the municipal boundaries. The municipal governing body is directed to place the proposed amendment on the ballot at the next general election or at a special election called for that purpose. Section 166.031(2) provides that, if the proposed amendment receives the favorable vote of a majority of the municipal electors voting in the referendum, the governing body shall incorporate the amendment into the charter and file a copy of the revised charter with the Department of State, at which time the revised charter shall become effective. Section 166.031(3) provides that a municipality may amend its charter as described above, even if the charter itself provides otherwise.

I therefore conclude that the Lake Wales City Commission may not unilaterally amend the municipal charter but may only propose an amendment which must be submitted to the municipal electors for their approval at a referendum held for that purpose.