S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

June 12, 2006

Opinion No. 06-100

Adoption of Metropolitan Government

QUESTIONS

1. May a citizens' group formulate a charter for a metropolitan government and petition for a citizens' referendum to adopt a metropolitan government under the charter if the charter meets all statutory requirements?

2. May a metropolitan government charter require a "city manager" form of government within the metropolitan structure?

OPINIONS

1. No. A metropolitan government must be adopted under Tenn. Code Ann. §§ 7-1-101, *et seq.*, or, as applicable, under Tenn. Code Ann. 7-21-101, *et seq.* Under each of these statutes, a metropolitan charter must be developed by a commission formed by the governing bodies of the county and principal city in accordance with the statute.

2. A metropolitan charter must conform with the requirements of Tenn. Code Ann. § 7-2-108 or Tenn. Code Ann. § 7-21-206, depending on which statutory scheme applies. A charter under either of these statutes could provide for a city manager, so long as it conforms with the other requirements of the statute. Whether other features of such a form would be appropriate for a metropolitan charter would depend on the particular feature and the statutory requirements of the metropolitan system.

ANALYSIS

1. Adoption of Metropolitan Charter

The first question is whether a citizens' group may formulate a charter for a metropolitan form of government and petition for a citizens' referendum to adopt the metropolitan government based on the charter if the charter meets all statutory requirements. Article XI, Section 9, of the Tennessee Constitution provides in relevant part:

The General Assembly may provide for the consolidation of any or all of the

> governmental and corporate functions now or hereafter vested in municipal corporations with the governmental and corporate functions now or hereafter vested in such counties in which such municipal corporations are located; provided, such consolidations shall not become effective until submitted to the qualified voters residing within the municipal corporation and in the county outside thereof, and approved by a majority of those voting within the municipal corporation and by a majority of those voting in the county outside the municipal corporation.

Adoption of a metropolitan form of government, therefore, must comply with the governing statutes. Two different statutory schemes govern adoption of a metropolitan form of government. The first statutory scheme appears at Tenn. Code Ann. §§ 7-1-101, *et seq.* Under Tenn. Code Ann. § 7-2-101, the first step in a consolidation is the creation of a metropolitan government charter commission. This commission is created through the governing bodies of the county and the principal city within the county. The charter commission then prepares the proposed charter and submits it to the county election commission for a referendum under Tenn. Code Ann. § 7-2-106. The second statutory scheme appears at Tenn. Code Ann. §§ 7-21-101, *et seq.* This statutory scheme applies only to consolidation of a county whose voters have adopted a charter county government with one or more of the cities within that county's boundaries. Under Tenn. Code Ann. § 7-21-201, the first step in a unified government is the creation of a charter commission through the action of the legislative bodies of the county and principal city. The commission prepares the proposed charter and submits it to the governing bodies of the county and principal city. Tenn. Code Ann. § 7-21-204. The county election commission is responsible for placing a question whether to ratify or reject the proposed charter on the ballot in a referendum election under Tenn. Code Ann. § 7-21-205. Under each of these statutes, therefore, a metropolitan charter must be developed by a commission formed by the governing bodies of the county and principal city in accordance with the statute.

2. "City Manager" Form of Government

The second question is whether a metropolitan government charter may require a "city manager" form of government within the metropolitan structure. State law currently provides for two different city charters, the city manager-commission charter, Tenn. Code Ann. §§ 6-18-101, *et seq.*, and the modified city manager-council charter, Tenn. Code Ann. §§ 6-30-101, *et seq.* Rather than incorporating either of these charters into a metropolitan charter, the commission should examine each provision of either charter to make sure that it conforms with the statutory requirements for a metropolitan charter and include them with appropriate adjustments. For example, a metropolitan charter under Tenn. Code Ann. §§ 7-2-101, *et seq.*, must provide for the creation of a metropolitan government vested with all the powers that cities and counties may exercise in Tennessee. Tenn. Code Ann. § 7-2-108(a)(1). The charter must provide for a metropolitan council to serve as the legislative body of the metropolitan government, qualification of council members, and for the assignment of administrative and executive functions to officers of the metropolitan government. Tenn. Code Ann. § 7-2-108(a)(11)-(14). The charter, therefore, could provide for a city manager, so long as it conforms with the other requirements of the statute.

Under Tenn. Code Ann. § 7-21-206, a charter adopted under Tenn. Code Ann. §§ 7-21-101, *et seq.*, must provide for a chief executive officer and a legislative body with no less than nine nor more than nineteen members. Tenn. Code Ann. § 7-21-206(d)-(e). The charter may also include city or county officers or duties to be carried forward into the unified government. Tenn. Code Ann. § 7-21-206(h)-(i). The charter, therefore, could provide for a city manager, so long as it conforms with the other requirements of the statute.

PAUL G. SUMMERS
Attorney General

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Jim Tracy
State Senator
309 War Memorial Building
Nashville, TN 37243