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May 20, 2008

Opinion No. 08-113

Petition to Amend Knox County Charter

QUESTIONS

1. Whether the provisions of Section 2.09 of the Knox County Charter would be applicable to a petition proposing several changes to the Charter.

2. Whether a separate petition for each proposed change would be required.

OPINIONS

1. The provisions of Section 2.09(A)(2) would not apply to a petition to amend the Charter, but would only apply to the legislative action of the County Commission, *i.e.*, ordinances, emergency ordinances and resolutions adopted by the Commission.

2. No.

ANALYSIS

Section 2.09(A)(2) of the Knox County Charter states:

> No ordinance, emergency ordinance or resolution shall become effective which embraces more than one (1) subject, the subject to be expressed in its caption.

You have indicated that certain efforts are being made in Knox County to make changes to the Charter and that a petition listing several proposed changes to the Charter is about to be circulated. You have asked whether such a petition would be valid in light of the above-quoted provisions of Section 2.09 of the Charter.

Section 2.09(A)(2) of the Knox County Charter is found within Article II of the Charter, which governs the Legislative branch of the county government. Section 2.01 provides that the "legislative power of the County is vested in the Commission of Knox County" and that the "legislative power of the County includes all lawful authority to adopt ordinances, emergency

ordinances and resolutions governing the operation of government or regulating the conduct and affairs of the residents of the County." This section further provides that the "Commission may adopt any ordinance, emergency ordinance or resolution which is not in conflict with the Constitution or general laws of the State of Tennessee or this Charter." Section 2.09(A)(1) of the Charter states that the "Commission shall exercise its legislative authority by resolution, ordinance, or emergency ordinance as hereinafter set forth." Finally, the terms "resolution," "ordinance," and "emergency ordinance" are specifically defined in Section 8.03 of the Charter as follows:

> B. The words "emergency ordinance" shall mean *any local legislation* with regard to any subject within the definition of "ordinance" as provided in Section 8.03D, of this Charter, *adopted by the Commission* in accordance with the formalities as set forth in this Charter and in all applicable laws of the State of Tennessee.
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> D. The word "ordinance" when used in connection with *any action taken by the Commission, shall mean any local legislation adopted by that body* which is adopted according to the formalities as set forth in this Chapter and in all applicable laws of the State of Tennessee and is of a permanent nature in its effect, whether in a governmental or proprietary nature, and shall include, but not be limited to, any action which would have required Private Acts of the Tennessee General Assembly with constitutional ratification in the absence of this Charter
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> G. The word "resolution" shall mean *any measure adopted by the Commission* which is not either an ordinance or emergency ordinance, requiring a majority vote for passage, relating to subject matter of either a special or temporary nature, and shall specifically include, but not be limited to, the issuance of bonds, notes, other evidence of indebtedness and all matters relating thereto of the County. (Emphasis added).

Based upon the plain language of these provisions of the Knox County Charter, the provisions of Section 2.09(A)(2) would not apply to a petition to amend the Charter, but would only apply to the legislative action of the County Commission, *i.e.*, ordinances, emergency ordinances and resolutions adopted by the Commission.

You have also asked whether there would have to be separate petition for each proposed change with respect to amendments to the County Charter. Charter amendments are governed by Section 8.05 of the Knox County Charter and Tenn. Code Ann. § 2-5-151. Section 8.05C of the Knox County Charter provides:

> Voters of the County may frame and propose amendments to this Charter by a petition addressed to the Commission, which

> petition shall contain the information required by Section 8.05B for ordinances proposing amendments, and no other matter except as hereinafter provided in this Section 8.05C. Any petition proposing a Charter amendment must be filed with the County Clerk and must be signed by qualified voters of the County equal in number to at least fifteen percent (15%) of the persons who voted in the last gubernatorial election in Knox County. The County Clerk shall immediately deliver said petition to the County Election Commission. When the County Election Commission determines that such petitions are legally sufficient, it shall submit the same to the voters of the County in accordance with Section 8.05E.

The information required by Section 8.05B is a statement that the Charter amendment set out in the petition is proposed for submission to the voters of the County and the full text of the proposed Charter amendment. This requirement is consistent with the provisions of Tenn. Code Ann. § 2-5-151(b) which requires that the petition contain the full text of the question posed for submission to the voters.

As neither of these provisions contains any restriction on the number of changes that can be contained in a proposed amendment, it would not be necessary to have a separate petition for each proposed change to the Knox County Charter. We would note, however, that Tenn. Code Ann. § 2-5-208, which governs the form of ballots, provides as follows:

> (l) On ballots in a referendum election held by a local government, any question submitted to the vote of the people shall be printed followed by the words "Yes" and "No", so that the voter can vote a preference by making a cross mark (X) opposite the proper word. Any question submitted to the people shall be worded in such a manner that a "yes" vote would indicate support for the measure and a "no" vote would indicate opposition.

Pursuant to this provision, if the question on a petition contains more than one proposed change to the Knox County Charter, the voters would only be able to vote in favor of or against all of the proposed changes contained in that question.

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Requested by:

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