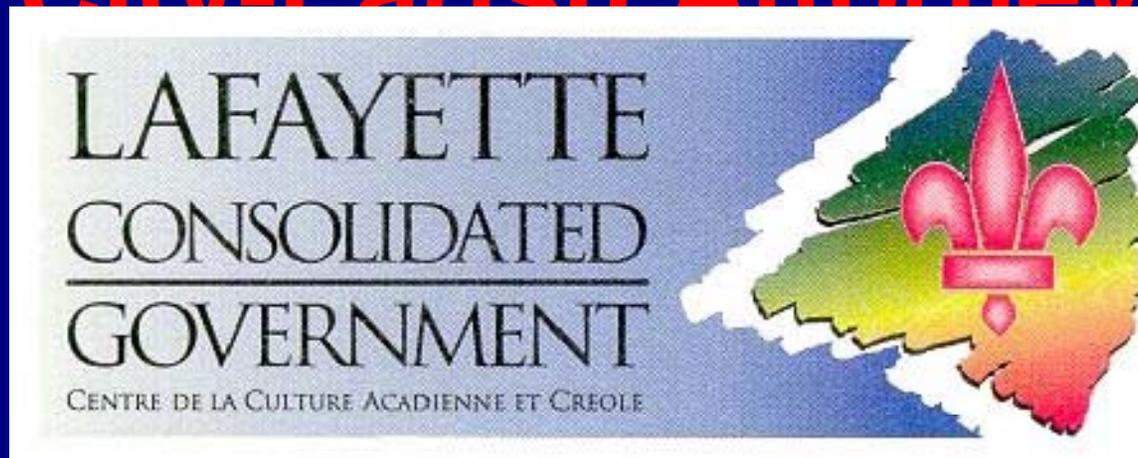


January 25, 2010

**Presented by Patrick S.
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History of LCG Charter

- **La. R.S. 33:1395A provides:**
 - Any parish or municipality may draft, adopt, or amend a home rule charter. The method to be used is the charter commission, which can either be appointed by the governing body or elected by the people.
- **The Home Rule Charter was developed and prepared by a Charter Commission authorized by La. R.S. 33:1391.**
- **The Charter was adopted in 1994 and became effective in June 1996.**

History of LCG Charter

- **La. R.S. 18:1294 [made applicable by La. R.S. 18:1300A(1)]:**
 - ❖ For sixty days after promulgation of the results of an election held under this Chapter . . . , any person in interest may contest the legality of the election, . . . for any cause. After that time no one shall have any cause or right of action to contest the regularity, formality, or legality of the election, . . . , for any cause whatsoever. If the validity of any election, . . . is not raised within the sixty days, . . . , the legality thereof, . . . shall be conclusively presumed to be valid, and no court shall have authority to inquire into such matters.
- **A suit was filed to challenge the validity or adoption of the Charter.**
- **The suit was dismissed as having been filed too late.**
- **Thus, whatever might be viewed as its defects or faults, the Charter is not subject to attack.**

History of Prior Amendments to LCG Charter

- The Charter has never been amended.
- However, there have been several administrative reorganizations pursuant to Section 4-17 of the Charter, concerning “Administrative Reorganizations.”
- Section 4-17 permits the City-Parish President to propose, and the Council to consider proposals, relative to:
 - “the creation, change, alteration, consolidation or abolition of City-Parish departments, offices and agencies and/or the reallocation of the functions, powers, duties and responsibilities of such departments, offices or agencies, including those provided for in this charter.”
- As stated, this provision has been invoked on numerous occasions since 1996. A few examples:
 - ❖ 1996 -- Duties of Animal Control transferred to LPD.
 - ❖ 1996 -- Maintenance of Inventory property transferred to Finance Dept.
 - ❖ 1998 -- Traffic Engineering transferred from PW to new department.
 - ❖ 1998 -- Duties of utility billing and collection transferred to LUS.
 - ❖ 2004 -- Office of Telecommunications created within LUS.
 - ❖ 2009 -- Office of Criminal Justice Support Services abolished.

Amendment to Charter

- **La. R.S. 33:1395A provides:**

The method and frequency of amending the charter may be *provided in said charter* and the charter may provide a procedure by which the local governing authority or resident of the municipality or parish may propose changes in the charter. Notwithstanding the provisions of R.S. 33:1395(A), in addition, any parish or municipality may amend an existing home rule charter either by amendments proposed by the charter commission or by amendments proposed by the governing body.

- **Section 7-03 of the Charter provides the procedure for amendments to the Charter.**

Section 7-03 of Charter by Council Action

A. Proposals to amend or repeal this charter may be made by a two-thirds vote of the authorized membership of the council . . .

*** * ***

C. Proposals to amend or repeal this charter shall be submitted for ratification to the qualified electors of the City-Parish government at an election already authorized for other purposes or at a special election called by the council. The results shall be determined by a majority vote of the electors voting on any particular proposal.

D. Proposals by the council . . . may be submitted to the voters at the same election and voters may, at their option, accept or reject any or all such proposals. Should conflicting proposals be approved at the same election, the one receiving the greater number of affirmative votes shall prevail to the extent of such conflict.

E. Upon passage or rejection of a proposal by the voters, at least one (1) year shall lapse before the same issue can again be submitted to the voters.

Council Procedure

- As noted, the Council can only “propose” amendments to the Charter by ordinance.
- Not less than six (6) votes are necessary to adopt the ordinance.
- An adopted ordinance is not subject to the veto power of the city-parish president.
- Normal delays for introduction and adoption of an ordinance apply.
- At the same time as final adoption, the Council must adopt a resolution calling for an election.
- If the proposed amendment pertains to the right to vote, the ordinance must be submitted to the Department of Justice for pre-clearance.
 - ❖ Pre-clearance may take up to 120 days.
 - ❖ Pre-clearance also necessary for the election, even if the proposition does not pertain to the right to vote.
- The resolution calling for the election must be advertised for four weeks.

Calling of Election

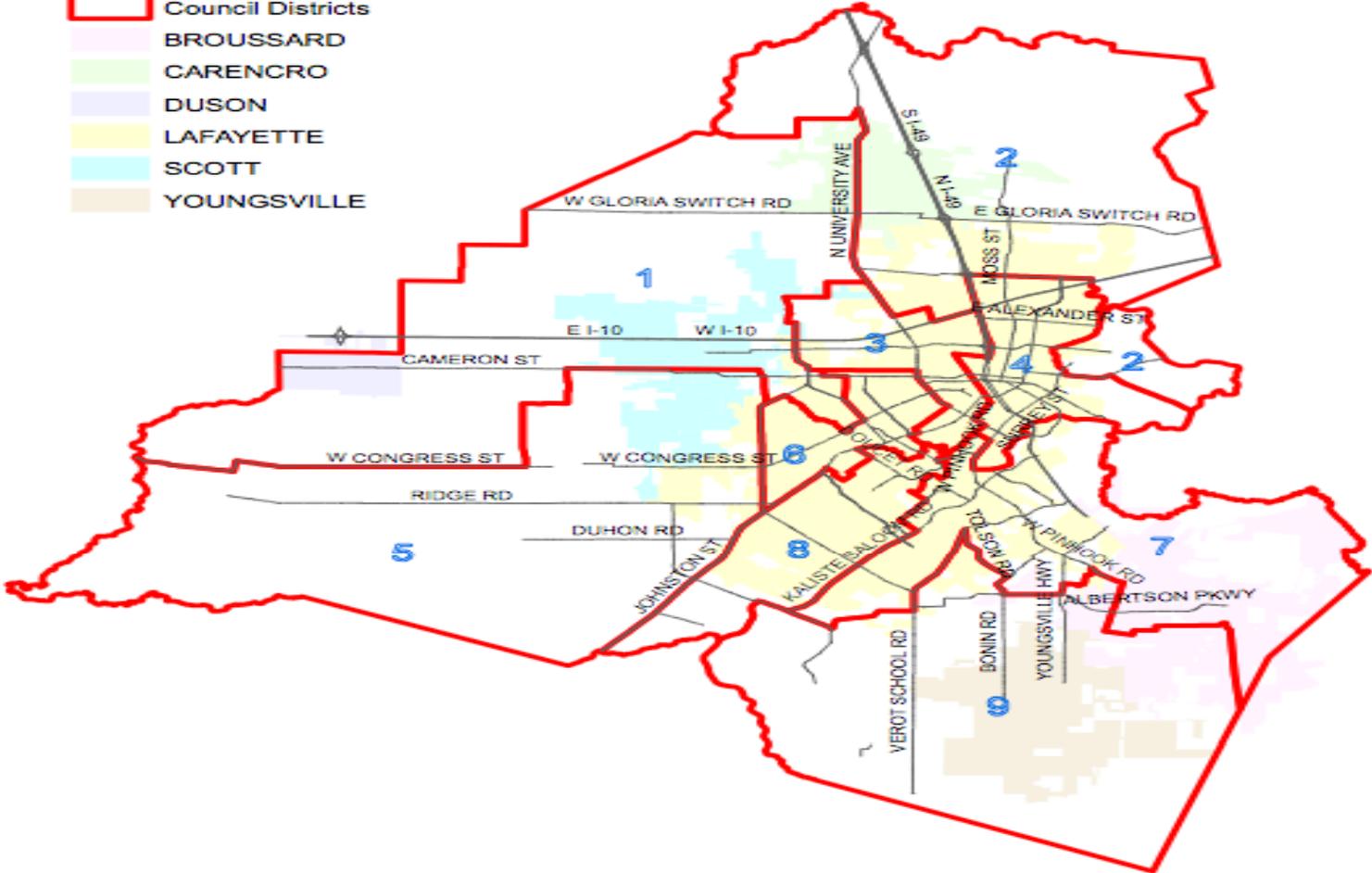
- The package of ordinance and other materials must be submitted to the State Bond Commission.
- After the State Bond Commission approves, the pre-clearance from DOJ for the election is sought.
- After pre-clearance is obtained, the package of ordinance and other materials must be submitted to the Secretary of State.
- The Secretary of State must approve the wording of the proposition.
- The election takes place on the date specified (subject to pre-clearance by DOJ).
 - ❖ November 2, 2010.

Reapportionment of Council Districts

Council Districts

Legend

- LCG.Major_Streets
- ▭ Council Districts
- ▭ BROUSSARD
- ▭ CARENCRO
- ▭ DUSON
- ▭ LAFAYETTE
- ▭ SCOTT
- ▭ YOUNGSVILLE



Reapportionment

- **Section 2-02 of Charter:**

Following official publication of the federal census by the United States Bureau of the Census and at least six (6) months prior to the next election for council members following publication of the census, the council by ordinance shall, if necessary, alter, change or rearrange council district boundaries so as to provide for population equality among the districts as near as reasonably practicable. To the extent possible council districts shall be compact and be composed of contiguous territory.

§ 2-02 Provides 37 Days to Comply

Assuming Census Data Published Not Later than March 15, 2011

March 2011						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15 Expected publication of 2010 Census Data	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April 2011						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22 Six Months Prior to Election	23
24	25	26	27	28	29	30

The Challenge

- The Council election is October 22, 2011.
- Six months prior to the election is April 22, 2011.
- It is anticipated that the results of the Federal Census would be published in mid-March 2011.
- Thus, the current Charter provision would afford about 37 days -- from March 15 to April 22 -- within which to:
 - ❖ Analyze the Census data by demographer;
 - ❖ Develop a plan of redistricting;
 - ❖ Hold necessary public hearings;
 - ❖ Study and consider any public comments;
 - ❖ Introduce an ordinance;
 - ❖ Two week layover; and
 - ❖ Adopt the ordinance.
- This is virtually impossible.
- Thus, an amendment to Section 2-02 of Charter is appropriate.

Proposed Amendment

- In order to remove the virtually impossible timeline imposed by Section 2-02, the following language might be considered -- blue being existing language; red language being added:

Except as provided in the last sentence of this section, following official publication of the federal census by the United States Bureau of the Census and at least six (6) months prior to the next election for council members following publication of the census, the council by ordinance shall, if necessary, alter, change or rearrange council district boundaries so as to provide for population equality among the districts as near as reasonably practicable. To the extent possible council districts shall be compact and be composed of contiguous territory. Notwithstanding the foregoing, should an election for council members fall within the same calendar year as the official publication of the federal census by the United States Bureau of the Census, such election shall be held in accordance with Section 2-01 of this Charter and other applicable laws, utilizing the then existing council district boundaries, and compliance with the requirements of this section and other applicable laws will be accomplished as soon as practicable.

Effect of Amendment

- **If this amendment to Section 2-02 is approved by Council, and is pre-cleared by DOJ, and is approved by the people, then:**
 - ❖ **Every 20 years (when a Council election coincides with the year after a Federal census), the election can go forward as scheduled, based upon the existing district boundaries.**
 - ❖ **The amended section would allow reapportionment to proceed in due course, but would not apply until the next election.**
- **Even if pre-cleared, an election based upon existing district boundaries can still be challenged based upon “malapportionment.”**
 - ❖ **“Malapportionment” has reference to electoral districts that vary greatly in population.**

Voting Rights Act of 1965

- **President Johnson signed the Voting Rights Act of 1965 into law on August 6, 1965.**
- **Section 2 of the Act, which closely followed the language of the 15th amendment, applied a nationwide prohibition against the denial or abridgment of the right to vote on the literacy tests on a nationwide basis.**
- **Among its other provisions, the Act contained special enforcement provisions targeted at those areas of the country where Congress believed the potential for discrimination to be the greatest.**
- **Under Section 5 of the Act, jurisdictions covered by these special provisions could not implement any change affecting voting until the Attorney General determined that the change did not have a discriminatory purpose and would not have a discriminatory effect.**
 - ❖ **Louisiana is a jurisdiction under Section 5 which requires pre-clearance.**

Pre-clearance by Department of Justice

- Under Section 5 of the Voting Rights Act, any change with respect to voting in a covered jurisdiction -- or any political subdivision within it -- cannot legally be enforced unless and until the jurisdiction first makes a submission to the Attorney General.
- This requires proof that the proposed voting change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group.
- If the jurisdiction is unable to prove the absence of such discrimination, the Attorney General objects to the change, and it remains legally unenforceable.
- This process is called “pre-clearance.”

Election Cannot be Held Until Plan is Pre-cleared

- **In a series of Attorney General Opinions, the Louisiana AG has opined that the Secretary of State may decline to accept qualifying papers for candidates seeking to qualify for an elected office, and accordingly may decline to prepare the ballot for such election, unless and until DOJ has pre-cleared the reapportioned districts.**
 - ❖ **AG Opinion Nos. 91-442, -442(A), and -442(B), issued August 12, August 22, and August 29, 1991.**

Public Funds May Not Be Used to Support or Oppose a Proposition

- **No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated to a candidate or political organization.**
- **This provision shall not prohibit the use of public funds for dissemination of factual information relative to a proposition appearing on an election ballot.**

❖ **La. R.S. 18:1465A.**