

February 12, 2004
OPINION NUMBER 04-0026

Honorable Sam Jones
Mayor, City of Franklin
P. O. Box 567
Franklin, Louisiana 70538

Dear Mayor Jones:

We are writing an opinion to answer your question regarding a proposed Home Rule Charter for the City of Franklin. Your letter states that "it is the council's understanding that no changes can be made to the charter which has an effective date of August 1, 2004" and that the "next available date for an election is April 17, 2004, and they feel that the city will have to bear all costs of that election which the city cannot afford." Thus, you state that the council would like an opinion as to whether the effective date on the proposed charter submitted to council could be changed to a later date and the referendum be called at the November election?

"The calling of an election on a proposed charter once it has been completed by the charter commission is mandatory. The governing authority of the municipality or parish to which the proposed charter is submitted shall call an election to adopt or reject the charter on the next date allowed under the provisions of R.S. 18:402 for a primary or general election, special election, or bond, tax, or other election but not earlier than sixty days after its publication." LSA-R.S. 33:1395.2 (emphasis added).

We are of the opinion that this law is clear and unambiguous and thus, must be applied as written. La.C.C. art. 9. Therefore, the calling of the election at the next date allowed by law, namely April 17, 2004, was in compliance with the law and we see no available means of changing this action by the council. Additionally, as stated in our opinion to the City of Franklin in 2002, the governing authority may not make any changes to the proposed charter, as LSA-R.S. 33:1395.1 provides in part that "the proposed charter shall not be altered or changed in any way by the governing authority of the municipality." .Atty.Gen.Op.No. 02-0302; 2002 WL 31239765 (La.A.G.). Clearly, trying to change the effective date of the charter would be prohibited by this law.

Trusting that this opinion has answered your question sufficiently, we remain

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

ANGIE ROGERS LAPLACE
Assistant Attorney General

CHF/ARL;mjb

Syllabus

#04-0026

71-1-A MUNICIPALITIES - City Parish Charter
71-1-B MUNICIPALITIES - Home Rule Charter

The law mandates an election on a proposed charter at the next available date under the Election Code, which is at least 60 days after the publication of the proposed charter. Also, no changes may be made to the proposed charter by the governing authority, which would include changing the effective date of the charter, if adopted.

Honorable Sam Jones
Mayor, City of Franklin
P.O. Box 567
Franklin, Louisiana 70538

Date Received:
Date Released: February 12, 2004

ANGIE ROGERS LAPLACE
Assistant Attorney General