

August 17, 2005
OPINION NO. 05-0051

Honorable Leroy J. Sullivan, Sr.
Mayor, City of Donaldsonville
P. O. Box 470
Donaldsonville, LA 70346

Dear Mayor Sullivan:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Specifically, you ask if a Civil Service System created by the new home rule charter of the City of Donaldsonville can be abolished? The answer is "yes".

According to *La. R.S. 33:1395.4*, the method and frequency of amending a charter shall be provided in the charter itself. This statute requires that the changes in the charter be approved by a majority of the electors in the City of Donaldsonville. This is also required by *Article 6, Section 5, of the Louisiana Constitution of 1974* which states:

(C) Adoption; Amendment; Repeal. A home rule charter shall be adopted, amended, or repealed when approved by a majority of the electors voting thereon at an election held for that purpose.

As previously referenced in provisions of the Louisiana Constitution and *La. R.S. 33:1395.4*, Article VII of the Charter of the City of Donaldsonville provides for amending or repealing the charter. This article is as follows:

ARTICLE VII. AMENDING OR REPEALING THE CHARTER

Sec. 7- 01. Amending or Repealing the Charter.

- A. Proposals to amend or repeal this charter may be made by a four-fifths vote of the authorized membership of the Council or by petition signed by not less than twenty (20) percent of the total number of registered voters of the City. A petition shall contain the full text of the proposed amendment, amendments, or repeal of the charter. The procedures and time limits for filing such a petition shall be the same as for an initiative ordinance as provided in Paragraphs (1), (2) and (3) of Initiative and Referendum.

B. Within thirty (30) days after a petition shall have been certified as sufficient and correct by the Council, the Council shall cause the amendment, amendments, or repeal provisions being proposed to be published in the official journal of the City government.

C. Proposals to amend or repeal this charter shall be submitted for ratification to the qualified electors of the City at an election already authorized for other purposes which occurs at least thirty (30) days after publication of the proposed amendment or repeal. The results shall be determined by a majority vote of the electors voting on any particular proposal.

D. Proposals by the Council and by petition 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 an amendment proposal by the voters, at least one (1) year shall lapse before the same issue can again be submitted to the voters.

F. Except as provided in the section on "Severability", no proposal to amend this charter shall be submitted during the first year of operations under this charter. No proposal to repeal this charter shall be submitted during the first three (3) years of operations under this charter. No amendment or repeal shall shorten the term for which any incumbent official was elected or reduce the salary of the office for that term.

G. Proposals to amend or repeal this charter shall not be submitted more than every two (2) years.

It should be noted that according to the charter, proposals for amendments may be made by a four-fifths vote of the council or by a petition signed by not less than twenty percent (20%) of the total number of registered voters of the city. The proposal is then submitted for ratification to qualified electors of the city with results determined by a majority vote of the electors; however, according to Section 7 - 01 (F), no proposal to amend the charter shall be submitted during the first year of operations under the new charter.

In summary, it is the opinion of this office that constitutional, statutory and local charter provisions allow for the amendment of the home rule charter of the City

of Donaldsonville to abolish the Civil Service System, but a proposal to amend the charter and abolish Civil Service cannot be submitted until the new charter has been in operation for at least a year.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL

CCF,Jr.:FJP:sc

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La. R.S. 33:1395.4

La. Constitution of 1974, Article 6, Section 5

Constitutional, statutory and local charter provisions allow for the amendment of the home rule charter of the city of Donaldsonville.

Honorable Leroy J. Sullivan, Sr.
Mayor, City of Donaldsonville
P. O. Box 470
Donaldsonville, LA 70346

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FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL

