

BGR Report

October 2002

Jefferson Parish Charter Amendments November 5, 2002 Ballot

On November 5, 2002, Jefferson Parish voters will be asked to approve four propositions that together offer eight amendments to the existing parish home rule charter. The propositions bear directly on term limits and council structure, among other issues.

The Jefferson Parish Council appointed citizens to a Charter Advisory Board (CAB) to make suggestions for changing the charter. The board discussed the issues contained in these propositions in a series of nearly two dozen meetings. Some of the proposed amendments emanated from the board, but the Parish Council altered the suggested amendments and generated its own, notably Proposition 4, which would skirt voter-approved term limits.

In this report, the Bureau of Governmental Research provides a brief analysis of the four ballot propositions. BGR's positions follow the analysis.

THE PROPOSED CHARTER AMENDMENTS

Proposition 1

Proposition 1 would extend a new power to the parish president: the power to veto individual appropriation items, a power popularly known as the line item veto. The president would be

required to justify any veto in writing. A two-thirds majority of the council could override any veto.

Proposition 1 would give Jefferson Parish's president veto power on a par with the power of his peers in home rule parishes across the state. In Louisiana, 16 of the 22 parishes with home rule charters employ the line item veto. Two of those 16 (Ascension and Orleans Parishes) go a step further, giving the executive the power to reduce appropriation items. Of the six home rule parishes that do not specifically provide for line item vetoes, two make it irrelevant by giving the parish president full power to craft appropriation ordinances.

Currently, the Jefferson Parish president holds only the broad-stroke power to veto an entire budget ordinance. The individual appropriation item veto would give him a more precise tool for purging unnecessary expenses from an ordinance and give him more power in the legislative process. The line item veto language was suggested by the CAB.

The line item veto power is designed to encourage greater economy and accountability in the government budgeting process. By placing ultimate authority in the hands of the executive, the line item veto provides another level of oversight to eliminate waste and pet projects in

budget proposals by the legislative branch. It invests more responsibility for fiscal control in the individual accountable to the whole public (i.e., the executive). Under this arrangement, virtually every buck stops with the parish president. There is, however, one potential problem: The line item veto can incorporate the executive into the pork-negotiating process.

Proposition 2

This charter amendment would, if approved by voters, reduce the number of council districts from six to five and increase the number of parish-wide council seats from one to two. At-large representatives would run for one of two positions (distinguished as Division A and Division B chairs) chosen in separate votes by the entire electorate.

If Proposition 2 passes, the charter amendment will not go into effect unless the U.S. Justice Department approves the amendment and the district plan prepared pursuant to it. Under the Voting Rights Act of 1965, any change with respect to voting in a covered jurisdiction (including redistricting) cannot be legally enforced until the jurisdiction obtains preclearance from the Justice Department. Preclearance requires proof that the proposed change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group. Every parish in Louisiana is a covered jurisdiction.

Jefferson currently contains one district with an African-American majority. According to the 2000 census, 22.9% of the Jefferson Parish population is African-American, compared to 17.6% in 1990. The growth in the African-American population does not in and of itself guarantee that a redistricting plan acceptable to the Justice Department can be crafted. This would depend on other factors, such as the geographical distribution of African-American residents.

There is some uncertainty as to the effect on the October 2003 council elections if Proposition 2 passes. Several factors could potentially forestall the implementation of the new districts, including delays by the current Parish Council in approving boundaries, complications arising from Justice Department review, and lawsuits from various political interests challenging the boundaries. If such delays were to continue too far into 2003, they could create political confusion.

The tension between the choice of district and at-large representation reflects a tension often found in democratic government. On the one hand, citizens want representatives to act as statesmen in considering the good of the whole when casting their votes. On the other hand, citizens want as their representative someone who is close to them.

Proposition 3

This proposition contains five proposed changes to the charter. All purport to clarify language and procedures. However, one of the proposed changes—the provision ending the lifetime reelection ban on council members who have served two terms—has serious ramifications for the parish's political future. The CAB recommended all of the provisions, although the Parish Council altered some of them.

The first provision is to correct a typographical discrepancy between the section of the charter pertaining to term limits for Council members and the section of the charter pertaining to term limits for the Parish President. The charter currently prevents a parish president who has served at least one and one-half terms from running for the succeeding *term*. At the same time, it prevents district council members and the at-large member from running for succeeding *terms*. In effect, after two terms, council members are banned for life from running again for a

district seat, although district council members can run for the at-large seat and vice versa.

By deleting the letter s, this amendment would remove the lifetime ban on council members. Enshrouding this provision in the simple phrase typographical error is somewhat misleading, because its effects extend far beyond changing a single word.

The second provision is to correct a typographical error regarding appropriations by emergency ordinance. The amendment would correct an erroneous cross-reference in Section 2.07(F) of the charter.

The third provision would change the name of the Zoning Appeals Board to the Board of Zoning Adjustments. It would also drop existing language that prohibits the Council from compensating members of its other appointed advisory boards. Currently, only members of the Planning Advisory Board and Zoning Appeals Board may receive compensation.

The CAB suggested the zoning board name change to make it consistent with the name used for similar bodies in other jurisdictions in Louisiana. It did not propose deletion of the phrase that prohibits compensation for members of council-appointed advisory boards.

The fourth provision of Proposition 3 would clarify the authority of the Parish President to establish advisory boards and commissions. In effect, the amendment would remove the requirement that the president appoint a general advisory board with specific membership and simply give him permission to appoint advisory boards of his choosing. A provision that members receive no compensation would replace one that allowed for a per diem allowance as determined by the parish president. This new restriction on the president contrasts with the third provision,

which eliminated a similar restriction on the Parish Council.

The fifth provision of Proposition 3 would elucidate and supplement the procedure for amending or repealing the charter by petition. The proposed amendment would clarify the procedure for collecting signatures and certifying petitions. It would add a requirement for the publication of the proposed charter amendment or repeal provisions in the official journal. It would also address the treatment of conflicting amendments, specifying that the amendment that garnered more votes would void the other.

One potential shortcoming is vagueness as to when a proposal must be submitted to the voters. The provision states only that the proposal must be submitted to voters at an election already authorized for other purposes or a special election which occurs at least thirty (30) days after publication of the proposed amendment or repeal. It does not specify that the proposal must be submitted at the next of such elections or within any specific time period. Under the current charter provision, the council must call an election between 60 and 120 days after certification of a petition.

Proposition 4

The fourth ballot proposition establishes a procedure to circumvent the two-term limit for council members and the parish president. The amendment would allow an incumbent Council member in his second or in any successive term to present a petition to waive the term limitation and appear on the ballot as long as he has gathered the signatures of 20% of the voters in the area he represents. It would provide an incumbent parish president with the same right to seek a waiver of the term limitation.

Term limits were the subject of much discussion at the CAB's 22 meetings, but there seemed to be

little support for ending the two-term limit. The Parish Council proposed Proposition 4.

The proposed charter language seems open to confusion. Must a petition drive to waive the term limitation be renewed for every term succeeding the second? Or does that language imply that a petition for waiver clears the way for an unlimited number of terms? The interpretation could be a matter for the courts.

Also problematic is the fact that attention generated by a petition drive could give the incumbent an additional political advantage over challengers. Having gained the assent of a significant portion of voters in advance of an election, the incumbent's reelection campaign can gain momentum, take on an air of inevitability, and make would-be candidates loath to mount a challenge.

The advantages and disadvantages of term limits have been debated before: in 1994 when Jefferson Parish voters chose term limits by an overwhelming majority and again during the public hearings before the CAB. New Orleans voters have retained the two-term limit for their mayor in four elections and in 1991 imposed term limits on their council members.

The arguments for and against term limits are well known. Opponents of term limits argue that an elected official with the potential to remain in office could be more inclined to opt for long-term solutions rather than quick fixes. They maintain that voters should be able to choose a candidate they might prefer regardless of whether he has already served a prescribed number of years.

On the other hand, term limits can encourage officeholders to make tough decisions that they might avoid if they were seeking reelection. More significantly, term limits can take the steam out of political machines and encourage new people to come forward with fresh ideas.

BGR Positions:

Proposition 1:

FOR The power to veto a particular line item would provide additional oversight in the appropriation process. The line-item veto would give the Jefferson Parish president veto power more in line with that of other home rule parish executives.

Proposition 2

NO POSITION

Proposition 3

AGAINST Some of the provisions in this proposition are substantive changes and should be considered individually.

Proposition 4

AGAINST Proposition 4 would undermine the effectiveness of term limits.

JEFFERSON PARISH CHARTER AMENDMENTS

PROPOSITION 1

SUMMARY: THE FOLLOWING PROPOSITION WOULD AMEND THE JEFFERSON PARISH CHARTER, EFFECTIVE UPON APPROVAL BY THE ELECTORATE, TO ESTABLISH THE AUTHORITY AND PROCEDURE FOR THE PARISH PRESIDENT TO VETO INDIVIDUAL APPROPRIATION ITEMS IN BUDGET ORDINANCES.

Shall Sections 2.07 (D)(2) and 2.07 (D)(3) of the Jefferson Parish Charter be amended as stated in Sections 1 and 2 of Jefferson Parish Ordinance No. 21621, as amended, adopted on July 17, 2002?

PROPOSITION 2

SUMMARY: THE FOLLOWING PROPOSITION WOULD AMEND THE JEFFERSON PARISH CHARTER, EFFECTIVE UPON APPROVAL BY THE ELECTORATE, TO DIVIDE JEFFERSON PARISH INTO FIVE COUNCIL DISTRICTS WITH ONE COUNCIL MEMBER ELECTED FROM EACH DISTRICT AND TWO ELECTED AT LARGE PARISH-WIDE, WITH ONE OF THE AT-LARGE MEMBERS TO BE ELECTED BY THE COUNCIL TO SERVE AS COUNCIL CHAIRMAN.

Shall Sections 2.02 (A), 2.03 (A)(1) and 2.06 (A) of the Jefferson Parish Charter be amended as stated in Sections 3, 4 and 5 of Jefferson Parish Ordinance No. 21621, as amended, adopted on July 17, 2002?

PROPOSITION 3

SUMMARY: THE FOLLOWING PROPOSITION WOULD AMEND THE JEFFERSON PARISH CHARTER, EFFECTIVE UPON APPROVAL BY THE ELECTORATE, TO CORRECT A TYPOGRAPHICAL DISCREPANCY BETWEEN THE SECTION OF THE CHARTER PERTAINING TO TERM LIMITS FOR COUNCIL MEMBERS AND THE SECTION OF THE CHARTER PERTAINING TO TERM LIMITS FOR THE PARISH PRESIDENT; TO CORRECT A TYPOGRAPHICAL ERROR REGARDING APPROPRIATIONS BY EMERGENCY ORDINANCE; TO RENAME THE ZONING APPEALS BOARD AS THE BOARD OF ZONING ADJUSTMENTS; TO CLARIFY THE AUTHORITY OF THE PARISH PRESIDENT TO ESTABLISH ADVISORY BOARDS AND COMMISSIONS; AND TO ESTABLISH A PROCEDURE FOR AMENDMENT OF THE CHARTER BY INITIATIVE AND REFERENDUM.

Shall Sections 2.03 (D), 2.07 (F)(1), 4.06, 4.07, and 6.07 of the Jefferson Parish Charter be amended as stated in Sections 6, 7, 8, 9, and 10 of Jefferson Parish Ordinance No. 21621, as amended, adopted on July 17, 2002?

PROPOSITION 4

SUMMARY: THE FOLLOWING PROPOSITION WOULD AMEND THE JEFFERSON PARISH CHARTER, EFFECTIVE UPON APPROVAL BY THE ELECTORATE, TO ESTABLISH A PROCEDURE BY WHICH THE TERM LIMITS FOR AN INCUMBENT ELECTED OFFICIAL OF THE PARISH MAY BE WAIVED BY PETITION.

Shall Section 3.01.5 of the Jefferson Parish charter be amended and shall Section 2.03 (E) be added to the Jefferson Parish Charter as stated in Sections 11 and 12 of Jefferson Parish Ordinance No. 21621, as amended, adopted on July 17, 2002?



Bureau of Governmental Research

225 Baronne St., Ste. 610

New Orleans, LA 70112-1704

BGR Positions:

Proposition 1:

FOR The power to veto a particular line item would provide additional oversight in the appropriation process. The line-item veto would give the Jefferson Parish president veto power more in line with that of other home rule parish executives.

Proposition 2

NO POSITION

Proposition 3

AGAINST Some of the provisions in this proposition are substantive changes and should be considered individually.

Proposition 4

AGAINST Proposition 4 would undermine the effectiveness of term limits.