



City of Santa Fe, New Mexico

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Alan Webber, Mayor

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Mike Harris, District 4
JoAnne Vigil Coppler, District 4

To: Yolanda Y. Vigil, City Clerk
From: Erin K. McSherry, City Attorney *EM*
Re: Opinion on Proposed Charter Amendments
Date: October 10, 2018

Section 10.2 of the Santa Fe City Charter requires the City Attorney to "review and render and publish a public opinion as to the legality and form of any proposed charter amendment before it is submitted to voters." Pursuant to that requirement, I prepared the below opinion regarding the City of Santa Fe's Ballot Question, to be presented to the voters in the November 6, 2018 General Election.

PROPOSED AMENDMENTS

The ballot question would change several sections of its charter. In particular, the proposed changes would

- amend Article IV to set the date of City's elections by ordinance rather than in the Charter;
- amend Article V, VI, and VII to set the date that elected public officials take office by ordinance rather than in the Charter; and
- Amend Article XI to provide that current officials' terms may be changed by ordinance if adjusted pursuant to the Local Election Act.

ANALYSIS

Because the City is presenting the amendments for a vote according to the process established by law and because the amendment is consistent with law, my opinion is that the amendment is legal and its form is proper. As required by law, the Governing Body properly reviewed and adopted the ballot question before presenting it to the voters. The amendment is legal because it amends the law governing the date on which municipal officers are elected and date on which officers commence their terms, from governance by Charter to governance by ordinance. Governing the elections of municipal officers is within the City's home rule authority, described in the New Mexico Constitution and the City of Santa Fe Charter.

Specifically, the Santa Fe City adopted its Charter pursuant to the provisions of Article X, Section 6 of the New Mexico Constitution and pursuant to the New Mexico Municipal Charter Act. *See* SFCC § 1.02. Article X of the Constitution provides that registered qualified electors of a municipality may amend their charter in the manner provided by law and that a municipality with a charter may exercise all legislative powers and perform all functions not expressly denied by general law or charter. The City's Charter simply describes that amendment is accomplished "as provided by law" SFCC § 10.02. The New Mexico Municipal Charter Act, NMSA 1978, Sections 3-15-1 to -16, provides that a city's charter may provide for any system or form of government that may be deemed expedient and beneficial to the people of the municipality, including the manner of appointment or election of its officers . . ." *See* Section 3-15-7. Further, the Act provides that "[t]he charter of any municipality adopted under the provisions of Article 10, Section 6 of the constitution of New Mexico . . . or under the provisions of the Municipal Charter Act may be amended or repealed either by a proposal submitted by the governing body of the municipality to the qualified electors . . ." Section 3-15-16.