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DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

March 26, 2019
OPINION 19-0033

Honorable Bob Hensgens
State Senator – District 26
123 N. State Street
Abbeville, Louisiana 70501

Dear Senator Hensgens:

71-1-A – MUNICIPALITIES – City Parish Charter

L.a. Const. art. VI, § 5

The mandatory provisions of the amended Lafayette City-Parish Charter with respect to the first election of members cannot be altered, amended or revised by ordinance

You have requested an opinion from this office concerning elections to be held for membership on the City of Lafayette and Lafayette Parish Councils under an amendment to the Home Rule Charter for the Lafayette City-Parish Consolidated Government (“amended Charter”). Specifically, you ask about the validity of a proposed ordinance designed by the Lafayette City-Parish Council to cure deficiencies in certain council district descriptions set out in the amended Charter for purposes of holding the first election of City and Parish council members.

We understand from your request that there was a recent election to amend the Home Rule Charter for the Lafayette City-Parish Consolidated Government. The charter amendment was ratified by the voters on December 8, 2018 and promulgated by the Council on December 18, 2018. The amended Charter sets forth the descriptions and boundaries of the Lafayette Parish Council districts and the City of Lafayette Council districts.

After ratification of the charter amendment, it was discovered that some existing precincts were inadvertently omitted from the charter amendment. Under the amended Charter, voters within the omitted precincts will not be permitted to vote in any elections called for by the City Council, Parish Council, and/or consolidated City/Parish government.

The Lafayette Parish Council districts and the City of Lafayette Council districts are established in the amended Charter by reference to existing precincts within the City of Lafayette and Lafayette Parish.¹ You have advised that the Lafayette City-Parish Council proposes to rectify the omission of these precincts by adopting Ordinance No. O-042-2019 (“Ordinance”). The proposed ordinance adds the omitted precincts, and voters residing in those precincts, back to these districts by amending the district descriptions set forth in Section 8-01 of the amended Charter. The validity of this Ordinance is the subject of your request.

¹ Article VIII. Transitional Provisions, Section 8-01. Council Districts. See also Footnote 23 to Section 8-01.

In response to your request, we note that pursuant to Section 8-12 of the amended Charter, the amendments, "that are necessary to carry out the election of City Council positions and Parish Council positions" become effective upon promulgation, which occurred on December 18, 2018.

Section 8-01 of the amended Charter provides:

Council districts for the election of the first City Council members and Parish Council members for the elections authorized by Section 8-13(D) of this charter shall be as follows, and shall remain as follows until changed by reapportionment:

[City and Parish Districts are then described in Section 8-01 by precinct]

Section 8-13(D) of the amended Charter provides that "the first election for City Council members and Parish Council members whose positions are established by the amendments to this charter shall be held at the same time as the primary and general elections for the election of governor in 2019." Thus, the amended Charter provides that the election of City and Parish council members **shall** be held concurrently with the gubernatorial election in 2019 and **shall** be held in those districts established and described in Section 8-01 of the amended Charter.

The mandatory provisions of the amended Charter with respect to the first election of members cannot be altered, amended or revised by ordinance. Louisiana Constitution Article VI, § 5(C) provides that "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." Consistent therewith, the Lafayette City-Parish charter, as amended, provides in Section 7-03 that the charter may be amended by submission for ratification of the qualified electors of the City-Parish Government. A charter amendment must be approved by a majority vote of the electors of the City of Lafayette and a majority vote of the electors of the Parish of Lafayette. Otherwise, there is nothing in the law or in the charter document that would allow the Council acting alone to amend the charter.

Accordingly, any changes in district boundaries for purposes of the first election of council members under the amended Charter may be made only by further amendment to the Charter. Such changes cannot be made by ordinance of the governing body.

We trust that the foregoing adequately responds to your request. However, if you need anything further with regard to the request, please do not hesitate to contact this office.

Yours very truly,

JEFF LANDRY
ATTORNEY GENERAL

By:

A handwritten signature in black ink, appearing to read "Carey T. Jones", is written over a horizontal line.

Carey T. Jones
Assistant Attorney General

CTJ