

CRC Recommendation Regarding Article V, Section 6 (City Attorney)

Recommendation: City Council appoints the City Attorney.

Proposed Charter Revision:

§ 6. - CITY ATTORNEY.

There shall be a department of law, the head of which shall be the city attorney, who shall be appointed by the city council. The city attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five (5) years immediately preceding his or her appointment. The city attorney shall be the legal advisor of, and attorney for, all of the officers and departments of the city, and the city attorney shall represent the city in all litigation and legal proceedings, and the representation shall comply with the Texas Disciplinary Rules of Professional Conduct. The city attorney shall draft, approve, or file written legal objections to, every ordinance before it is acted upon by the council, and the city attorney shall pass upon all documents, contracts and legal instruments in which the city may have an interest.

There shall be such assistant city attorneys as may be authorized by the council, who shall be authorized to act for and on behalf of the city attorney.

Policy Reasons: The City of Austin is an outlier in terms of how its city attorney is appointed. According to the most recent Texas Municipal League survey in 2010, most Texas home-rule cities (73%) authorize their council to appoint the city attorney directly. The CRC is recommending this charter revision to ensure accountability of the city attorney's office to the city council.

Estimated Fiscal Impact: None

Impact on existing city laws, rules, practices, and procedures: Other than the amendment of Article V, Section 6 of the City Charter, the appointment of the City Attorney by City Council will likely have an impact on existing City laws, rules, practices and procedures. Due to time and resource constraints, the full extent of this impact cannot be accurately assessed by the CRC.

Proposed Ballot Language:

Shall the City Charter be amended to provide that the City Council appoint the City Attorney?