

The State of Texas  
House of Representatives

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**OPINION COMMITTEE**



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**Joseph C. Pickett**  
El Paso · District 79

August 2, 2012

FILE # ML-47114-12  
I.D. # 47114

The Honorable Greg Abbott  
Attorney General of Texas  
209 W. 14th Street  
Austin, TX 78701

**RQ-1077-GA**

Dear General Abbott:

As chair of the House Committee on Defense & Veterans' Affairs, I respectfully request a formal opinion from you on the following issues:

- (1) Does Chapter 1318 (S.B. 100), Acts of the 82nd Legislature, Regular Session, 2011, authorize a home-rule city to change the terms of its officers from three years to four years without a charter amendment?
- (2) Does Chapter 1318 (S.B. 100), Acts of the 82nd Legislature, Regular Session, 2011, authorize the City of Socorro to hold an election for one-half of its governing body in November 2013 and the other half in November 2014, or would the city instead be required to hold elections in 2012 and 2013?

These questions arise in implementing Chapter 1381 (S.B. 100), Acts of the 82nd Legislature, Regular Session, 2011, the state legislation enacted to carry out the federal Military and Overseas Voter Act of 2009. Changes in law made by Chapter 1381 include a provision that a county elections administrator is not required to enter into a contract to furnish election services for an election held by a political subdivision on the May uniform election date in an even-numbered year. Chapter 1318 further authorizes the governing body of certain political subdivisions that hold a general election for officers on a date other than the November uniform election date to, not later than December 31, change the date on which they hold their general election for officers to the November uniform election date. Finally, Section 52, Chapter 1318, provides:

- SECTION 52. (a) This section applies only to a political subdivision that elects the members of its governing body to a term that consists of an odd number of years.
- (b) Not later than December 31, 2012, the governing body of the political subdivision may adopt a resolution changing the length of the terms of its members to an even number of years. The resolution must specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for members of the governing body that occurs after January 1, 2013, and a member who serves on that date shall serve the remainder of that term.
- (c) This section expires January 1, 2020.

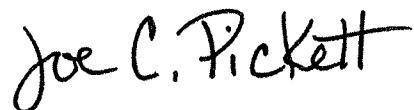
In accordance with these provisions of Chapter 1318, on December 12, 2011, the City of Socorro by resolution (see attachment) changed the terms of its officers to four-year terms, and changed the election dates for these officers from May to November with the first election occurring in November 2013. The City of Socorro explicitly provides by charter for three-year terms, with one-half of the members of its governing body being elected in one year, and the other half being elected the following year. See Sec. 3.01(B), Socorro City Charter. Under the election schedule contemplated by the city charter, two council members and the mayor would have been elected in May 2012. See Sec. 3.01(C), Socorro City Charter.

Section 11(a), Article XI, Texas Constitution, requires a home-rule city, such as the City of Socorro, to amend its charter when lengthening the terms of its officers beyond two years. Amending a city charter requires the approval of a majority of the qualified voters of the city voting at an election on the proposed charter amendment. See Section 5(a), Article XI, Texas Constitution; Section 9.005, Local Government Code. Section 11(a), Article XI, Texas Constitution, also provides that the terms of municipal officers may not exceed four years.

Therefore, the question arises whether, following the enactment of Chapter 1318, Section 11(a), Article XI, Texas Constitution, requires a home-rule city to amend its charter if, having previously provided three-year terms in its charter, the city seeks to further lengthen the terms to four years. Furthermore, again considering the enactment of Chapter 1318, does Section 11(a), Article XI, prohibit four-and-a-half-year terms during the period of transitioning to another election date?

Thank you in advance for your consideration of this matter. Please do not hesitate to contact me if you need any additional information regarding this request.

Sincerely,



Representative Joseph Pickett  
Chair, House Committee on Defense &  
Veterans' Affairs

Attachment