

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1658

(SENATE AUTHORS: ANDERSON)

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Introduction and first reading
Referred to Local Government Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to local government; providing for towns to adopt home rule charters;

1.3 requiring a report; proposing coding for new law in Minnesota Statutes, chapter

1.4 365.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[365.70] DEFINITIONS RELATING TO TOWNS.**

1.7 The term "town" means any town that has not adopted a home rule charter as provided

1.8 in this chapter. "Home rule charter town" means a town that has adopted a home rule charter.

1.9 In any law enacted after the effective date of this section, "town" when used without further

1.10 description means a town that has not adopted a charter.

1.11 Sec. 2. **[365.71] HOME RULE CHARTERS; TOWNS.**

1.12 Any town in the state may prepare and adopt a town charter as provided in this chapter.

1.13 Sec. 3. **[365.72] CHARTER COMMISSION; TOWNS.**

1.14 Subdivision 1. **Appointment; size of charter commission.** (a) The chief judge of the

1.15 district court of the judicial district in which the town is located shall appoint an initial

1.16 charter commission to frame a charter if:

1.17 (1) the district court deems it to be in the best interest of the town;

1.18 (2) a petition signed by at least ten percent of the registered voters of the town requesting

1.19 the district court to appoint a charter commission is filed with the district court. The petition

1.20 must meet the requirements of the secretary of state, as provided in section 204B.071, and

1.21 any rules adopted to implement that section; or

2.1 (3) a resolution adopted by the town board of supervisors requesting the district court
2.2 to appoint a charter commission is filed with the district court.

2.3 (b) The chief judge of the district court shall appoint at least seven but not more than 15
2.4 registered voters of the town to serve as charter commissioners. If the charter commission
2.5 is appointed pursuant to a petition or resolution, the size of the commission shall be as
2.6 specified in the petition or resolution.

2.7 (c) An adopted town home rule charter may provide for the size of the charter
2.8 commission, which shall be at least seven but not more than 15 members.

2.9 (d) A town board of supervisors, a charter commission, or the petitioners requesting the
2.10 appointment of a charter commission may submit to the court the names of eligible nominees
2.11 which the district court may consider in making appointments to the charter commission.

2.12 Subd. 2. **Ineligible to serve on charter commission.** Except as otherwise provided in
2.13 the charter, no person shall be disqualified from serving on a charter commission by reason
2.14 of holding any other elective or appointive office other than judicial. The charter may provide
2.15 that members of the town board of supervisors cannot serve on the charter commission.

2.16 Subd. 3. **Terms.** (a) Each charter commission member shall serve for a term of six years
2.17 and until the member's successor is appointed and qualified. The district court appointments
2.18 for the initial charter commission shall provide for staggered terms so that approximately
2.19 one-third of the commissioners' terms expire every two years.

2.20 (b) Appointments shall be made by order filed with the court administrator of the district
2.21 court. An appointee who neglects to file with the court administrator within 30 days a written
2.22 acceptance and oath of office shall be deemed to have declined the appointment and the
2.23 place shall be filled as if the appointee had resigned.

2.24 (c) The commission shall submit to the chief judge of the district court, on or before
2.25 December 31 each year, an annual report outlining its activities and accomplishments for
2.26 the preceding calendar year. The commission shall forward a copy of the report to the clerk
2.27 of the town.

2.28 (d) Upon the expiration of each term, the chief judge shall appoint new commission
2.29 members. If the chief judge fails to either appoint new commission members within 30 days
2.30 or provide written notice to the town board within the 30 days that the appointment will be
2.31 made within 60 days, then the town board of supervisors shall appoint new commission
2.32 members.

3.1 Subd. 4. **Vacancies; removal.** (a) Vacancies in the commission shall be filled by
3.2 appointment of the chief judge for the unexpired terms.

3.3 (b) Any member may be removed at any time from office, by written order of the district
3.4 court, the reason for such removal being stated in the order. When any member has failed
3.5 to perform the duties of office and has failed to attend four consecutive meetings without
3.6 being excused by the commission, the secretary of the charter commission shall file a
3.7 certificate with the court setting forth those facts and the district court shall thereupon make
3.8 its order of removal and the chief judge shall fill the vacancy created thereby.

3.9 Subd. 5. **Rules.** The charter commission, within 30 days after the initial appointment of
3.10 the commission, shall make rules, including quorum requirements, with reference to its
3.11 operations and procedures.

3.12 Subd. 6. **Commission meetings.** The charter commission shall meet at least once during
3.13 each calendar year and, upon presentation of a petition signed by at least ten percent of the
3.14 registered voters of the town, as shown by the returns of the last general election, or upon
3.15 a resolution approved by a majority of the town board of supervisors requesting the
3.16 commission to convene, the commission shall meet to consider the proposals set forth in
3.17 the petition or resolution.

3.18 Subd. 7. **Discharge.** (a) A charter commission in a town that has not adopted a charter
3.19 may be discharged as follows:

3.20 (1) if the charter commission determines that a charter is not necessary or desirable, the
3.21 commission may be discharged by a vote of three-fourths of its members; or

3.22 (2) if a petition requesting a referendum to discharge the charter commission, signed by
3.23 at least five percent of the registered voters of the town, is filed with the town clerk, an
3.24 election must be held on the issue at a general election or a special election pursuant to
3.25 section 205.10. If a majority of the votes cast support the referendum, the charter commission
3.26 is discharged.

3.27 (b) Another commission may not be formed sooner than one year from the date of
3.28 discharge.

3.29 Sec. 4. **[365.73] TOWN CHARTER COMMISSION EXPENSES.**

3.30 The members of a town charter commission shall receive no compensation. The
3.31 commission may employ an attorney and other personnel to assist in framing the charter
3.32 and any amendment or revision to it. At the direction of the commission, the town shall pay
3.33 reasonable compensation for persons employed or retained and pay the costs of printing the

charter or any amendment or revision to it. The town board of supervisors may authorize additional charter commission expenses as it deems necessary; however, the amount of reasonable and necessary expenses must not exceed \$1,500 in any one year. Other statutory and charter provisions requiring budgeting of, or limiting, expenditures do not apply to charter commission expenses. The electors at the annual town meeting may authorize a levy in excess of any levy limitations to pay the expenses unless the charter adopted by the voters gives this authority to the town board of supervisors.

Sec. 5. **[365.74] CHARTER ELECTION IN A TOWN.**

Subdivision 1. **Report.** As soon as practicable after the appointment of the charter commission, the charter commission shall deliver to the town clerk either (1) its report determining that a home rule charter for the town is not necessary or desirable, or (2) the draft of a proposed charter. In either case, the report must be signed by at least a majority of its members.

Subd. 2. **Recommendation for a charter.** The draft charter must specify the town name and its boundaries. The draft charter must provide the organization of the town board from among the options provided in statute.

Subd. 3. **Boundary adjustments.** Chapter 414, relating to municipal boundary adjustments, applies to a home rule charter town the same as it applies to other towns unless the charter specifies that part or all of the chapter does not apply to the town.

Subd. 4. **Timing.** Upon delivery of the draft charter, the town board of supervisors shall submit the charter to the voters at a general or special election held on a date authorized by section 205.10, subdivision 3a.

Subd. 5. **Election notice; publication.** The charter commission shall publish notice of the election on the charter once a week for two successive weeks in the official newspaper of the town, or if there be none, in a legal newspaper of general circulation in the town. The charter commission may also publish the notice in any other legal newspaper published in the town. The notice must contain the complete charter.

Subd. 6. **Ballot form.** The ballot question must read:

"Shall the proposed new charter be adopted?"

Yes

No "

If any part of the proposed charter is submitted in the alternative, the ballot must be printed as to permit the voter to indicate a preference among the alternatives.

Subd. 7. **Rejection; later proposals.** If the charter is rejected the charter commission may propose others from time to time until one is adopted.

Sec. 6. [365.75] ADOPTION; NOTICE, EFFECTIVE DATE.

If 51 percent of the votes cast on the proposition are in favor of the proposed charter, it shall be considered adopted; and, if any provisions thereof are submitted in the alternative, those ratified by a majority of the votes cast thereon shall prevail. If the charter is adopted, the town clerk shall file with the secretary of state and in the town clerk's office a copy of the charter accompanied by a certificate attesting to the accuracy of the copy and giving the date of the election and the vote by which the charter was adopted and record a certified copy with the county recorder of the county in which the town lies. The charter shall take effect 30 days after the election, or at such other time as is fixed in the charter, and shall then supersede all other charter provisions relating to the town. Thereupon the courts shall take judicial notice of the new charter and, upon the election of officers thereunder, the officials of the former corporation shall deliver to them the records, money and other public property in their control.

Sec. 7. [365.76] AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the town. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the town clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or framework of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The

commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 2. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 3. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the town, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of)
) ss.
County of)

..... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed

(Signature of Circulator)

Subscribed and sworn to before me

this day of

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 4. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument.

7.1 Within ten days after such petition is transmitted to the town board of supervisors, the town
7.2 clerk shall determine whether each paper of the petition is properly attested and whether
7.3 the petition is signed by a sufficient number of voters. The clerk shall declare any petition
7.4 paper entirely invalid which is not attested by the circulator thereof as required in this
7.5 section. Upon completing an examination of the petition, the clerk shall certify the result
7.6 of the examination to the town board of supervisors. If the clerk shall certify that the petition
7.7 is insufficient the clerk shall set forth in a certificate the particulars in which it is defective
7.8 and shall at once notify the committee of the petitioners of the findings. A petition may be
7.9 amended at any time within ten days after the making of a certificate of insufficiency by
7.10 the clerk, by filing a supplementary petition upon additional papers signed and filed as
7.11 provided in case of an original petition. The clerk shall within five days after such amendment
7.12 is filed, make examination of the amended petition, and if the certificate shall show the
7.13 petition still to be insufficient, the clerk shall file it in the clerk's office and notify the
7.14 committee of the petitioners of the findings and no further action shall be had on such
7.15 insufficient petition. The finding of the insufficiency of a petition shall not prejudice the
7.16 filing of a new petition for the same purpose.

7.17 Subd. 5. **Election.** Amendments shall be submitted to the qualified voters at a general
7.18 or special election and published as in the case of the original charter. The form of the ballot
7.19 shall be fixed by the governing body. The statement of the question on the ballot shall be
7.20 sufficient to identify the amendment clearly and to distinguish the question from every other
7.21 question on the ballot at the same time. If 51 percent of the votes cast on any amendment
7.22 are in favor of its adoption, copies of the amendment and certificates shall be filed, as in
7.23 the case of the original charter and the amendment shall take effect in 30 days from the date
7.24 of the election or at such other time as is fixed in the amendment.

7.25 Subd. 6. **Amendments proposed by council.** The town board of supervisors of any
7.26 town having a home rule charter may propose charter amendments to the voters by ordinance.
7.27 Any ordinance proposing such an amendment shall be submitted to the charter commission.
7.28 Within 60 days thereafter, the charter commission shall review the proposed amendment
7.29 but before the expiration of such period the commission may extend the time for review for
7.30 an additional 90 days by filing with the town clerk its resolution determining that an
7.31 additional time for review is needed. After reviewing the proposed amendment, the charter
7.32 commission shall approve or reject the proposed amendment or suggest a substitute
7.33 amendment. The commission shall promptly notify the town board of the action taken. On
7.34 notification of the charter commission's action, the town board may submit to the people,
7.35 in the same manner as provided in subdivision 4, the amendment originally proposed by it

8.1 or the substitute amendment proposed by the charter commission. The amendment shall
8.2 become effective only when approved by the voters as provided in subdivision 4. If so
8.3 approved it shall be filed in the same manner as other amendments. Nothing in this
8.4 subdivision precludes the charter commission from proposing charter amendments in the
8.5 manner provided by subdivision 1.

8.6 Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission,
8.7 the town board of supervisors may enact a charter amendment by ordinance. Within one
8.8 month of receiving a recommendation to amend the charter by ordinance, the town must
8.9 publish notice of a public hearing on the proposal and the notice must contain the text of
8.10 the proposed amendment. The town board of supervisors must hold the public hearing on
8.11 the proposed charter amendment at least two weeks but not more than one month after the
8.12 notice is published. Within one month of the public hearing, the town board must vote on
8.13 the proposed charter amendment ordinance. An ordinance amending a town charter is
8.14 enacted if it receives an affirmative vote of all members of the town board and is published
8.15 as in the case of other ordinances. An ordinance amending a charter shall not become
8.16 effective until 90 days after passage and publication or at such later date as is fixed in the
8.17 ordinance. Within 60 days after passage and publication of such an ordinance, a petition
8.18 requesting a referendum on the ordinance may be filed with the town clerk. The petition
8.19 must be signed by registered voters equal in number to at least five percent of the registered
8.20 voters in the town, or 2,000, whichever is less. If the requisite petition is filed within the
8.21 prescribed period, the ordinance shall not become effective until it is approved by the voters
8.22 as in the case of charter amendments submitted by the charter commission, the town board,
8.23 or by petition of the voters, except that the town board may submit the ordinance at any
8.24 general or special election held at least 60 days after submission of the petition, or it may
8.25 reconsider its action in adopting the ordinance. As far as practicable the requirements of
8.26 subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending
8.27 a charter, and to the filing of such ordinance when approved by the voters.

8.28 **Sec. 8. [365.77] SUCCESSION; SUBSISTING RIGHTS.**

8.29 A town organized under a home rule charter is the legal successor of the town previously
8.30 organized under statute. The charter and any amendment to the charter does not prejudice
8.31 any right, lien, or demand against the town, or affect any pending action or proceeding to
8.32 enforce an action. All rights, penalties, forfeitures accrued or accruing to the town before
8.33 the charter became effective, all property vested with the town or held in trust for the town,
8.34 all taxes and assessments levied on the town's behalf, and all the town's privileges and
8.35 immunities not inconsistent with the new charter, shall pass to its successor. All ordinances,

9.1 resolutions, and bylaws in force at the adoption of the new charter that do not conflict with
9.2 the charter's provisions continue in force until amended or repealed.

9.3 **Sec. 9. [365.78] RECALL AND REMOVAL OF OFFICERS; ORDINANCES.**

9.4 A home rule charter may provide for the recall of any elective town officer and for
9.5 removal of the officer by vote of the electors of the town. The charter may also provide for
9.6 submitting ordinances to the town board by petition of the electors of the town and for the
9.7 repeal of ordinances in like manner. The charter may also provide that no ordinance passed
9.8 by the town board, except an emergency ordinance, shall take effect within a certain time
9.9 after its passage, and that if, during such time, a petition be made by a certain percentage
9.10 of the electors of the town protesting against the passage of such ordinance until the same
9.11 be voted on at an election held for such purpose, and then such ordinance to take effect or
9.12 not as determined by such vote.

9.13 **Sec. 10. [365.79] NEW OR REVISED CHARTER.**

9.14 Any town having a home rule charter may submit and adopt a new or revised charter in
9.15 the manner provided by law for the original adoption of such home rule charter.

9.16 **Sec. 11. [365.80] HOME RULE CHARTER TOWN MAY REVERT TO TOWN;**
9.17 **PROCESS; TRANSITION.**

9.18 Any town having a home rule charter may abandon the charter and become a town under
9.19 general law. A proposal to abandon the charter shall be presented, adopted, and become
9.20 effective in the same manner as a charter amendment, and all statutory provisions relating
9.21 to home rule charter amendments shall apply to a proposal to abandon a charter. Such
9.22 proposal shall include a schedule containing all necessary provisions for transition to a town
9.23 form of government, including such provisions with reference to terms of incumbent officers
9.24 as are deemed appropriate to place the home rule charter town on the regular town election
9.25 schedule as soon as practicable. The proposal may provide in effect for continuance of
9.26 specified provisions of the home rule charter for an interim period.

9.27 **Sec. 12. [365.81] SAVINGS CLAUSE.**

9.28 If a town charter is silent on a matter that is addressed for towns in general law, and
9.29 general law does not prohibit a town charter from addressing the matter or expressly provide
9.30 that a town charter prevails over general law on the matter, then the town may apply the
9.31 general law on the matter.