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MAYOR



**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

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Legal Opinion 2005-002

To: Mr. Chris Whitson, Chairman  
Charter Revision Committee

Mr. Robert E. Cooper, Jr., Chairman  
Charter Revision Commission

Date: March 10, 2005

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You have requested a legal opinion from the Department of Law on the following question:

**Question**

How many consecutive terms may an individual serve in the office of the Mayor of the Metropolitan Government of Nashville and Davidson County under the terms of the Metropolitan Charter?

**Short Answer**

As there are conflicting sections in the Metropolitan Charter, the question becomes whether there has been a repeal of the Mayor's three-term limit by the later enacted Charter Amendment specifying a two-term limit for all officials. As there was no express repeal in the Amendment, the analysis of whether there was an implied repeal involves multiple steps. This analysis is construed in favor of eligibility of candidates in order to protect the people's right to vote from a field of candidates that has not been unnecessarily limited. The three step analysis that is applied in determining whether there is an implied repeal is as follows:

1. Are the *Metropolitan Charter* §§ 1.07, 5.06, and 5.07 irreconcilable? No. The provisions can be construed so that all have meaning by applying *Metropolitan Charter* § 1.07 to all officials except the Mayor so there is no repeal.

2. Is the earlier provision a specific law while the later enacted law is a general law? Yes. The earlier law applied specifically to the Mayor while the later enacted law has general application to all elected officials so there is no repeal as the earlier law will be treated as an exception to the later law.
3. Was it clearly the intent of the voters to repeal the existing law? No. It is not clear that the intent of the voters was to repeal the three term limit for the Office of the Mayor because the evil that the voters sought to remedy was unlimited terms and the Mayor already had a limited term; there is no extrinsic evidence that the voters knew they were voting to repeal the Mayor's term; and repealing Metropolitan Charter Sections 5.06 and 5.07 that permit a Mayor three terms and an enhanced pension does violence to those sections and the Metropolitan Charter.

The answer to each of the questions results in a conclusion that there has been no repeal by implication<sup>1</sup> of *Metropolitan Charter* §§ 5.06 and 5.07 and, therefore, based on any one of these three analyses, an individual may serve three (3) consecutive terms in the Office of the Mayor of the Metropolitan Government.

### **Background**

#### **Tennessee Constitution, Tennessee Statutes and Metropolitan Charter.**

The Constitution of the State of Tennessee was amended in 1953 to permit consolidated city and county governments. Tenn. Const. Art. XI, § 9. In 1957 the General Assembly adopted the legislation necessary to allow a consolidated government to be created. See T.C.A. §§ 7-1-101 through 7-3-508. The Metropolitan Government was created pursuant to the authority of Tennessee Code Annotated, Title 7. The Metropolitan Charter was approved by an election in June, 1962, and the Metropolitan Government was implemented on April 1, 1963. *Metropolitan Charter* § 20.21.

The enabling state legislation required the Metropolitan Charter to provide:

(14) For the names or titles of the administrative and executive officers of the metropolitan government, their qualifications, compensation, method of selection, tenure, removal, replacement and such other provisions with respect to such officers, not inconsistent with general law, as may be deemed necessary or appropriate for the metropolitan government;

T.C.A. § 7-2-108 (14). The Metropolitan Charter provides that the Mayor is responsible for the conduct of the executive and administrative work of the Metropolitan Government and for the law enforcement within its boundaries. *Metropolitan Charter* §

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<sup>1</sup> "An implication is an inference. A thought or idea not represented by the words used but to be deduced therefrom." *George Cole Motor Co. v. McCanless*, 10 Beeler 625, 174 Tenn. 625, 130 S.W.2d 93 (1939)

5.01. Section 5.06 of the Metropolitan Charter limits the Mayor to three (3) consecutive terms.<sup>2</sup> Section 5.07 of the Charter allows the Mayor a pension (10% of last annual salary) if the Mayor serves two full terms and an increased pension (25% of last annual salary) if the Mayor serves three full terms.<sup>3</sup> These provisions have not been repealed or changed since their approval in June, 1962.

On November 8, 1994, the Metropolitan Charter was amended through an election initiated by petition as provided in Metropolitan Charter Section 19.01(2). (See Petition & Ballot, Attachment A) The amendment added a new provision to the Metropolitan Charter that limited the number of terms for “any elected official authorized or created by the Charter.” *Metropolitan Charter* § 1.07. The provision added to the Charter states:

- A. Effective January 1, 1995, no person shall be eligible to serve in any elected office authorized or created by the Charter of the Metropolitan Government of Nashville and Davidson County if during the previous two (2) terms of that office, the person in question has served more than a single term. Service prior to the passage of this measure shall not count in determining length of service. Judges are exempt from this provision.
- B. ...
- C. ...
- D. If any provision of this petition shall be held unconstitutional, invalid or inapplicable to any persons or circumstances, then it is intended and declared by the people of Davidson County that all other provisions of this petition and their application to all other persons and

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<sup>2</sup> **Sec. 5.06. Limitation on terms of service.**

No mayor elected and qualified for three (3) consecutive four (4) year terms shall be eligible for the succeeding term. *Metropolitan Charter* § 5.06.

<sup>3</sup> **Sec. 5.07. Pension for mayor.**

After the mayor shall have served two (2) full terms, he shall receive an annual pension equivalent to ten (10%) percent of his salary during the last year of his second term, and after he shall have served three (3) full terms (in lieu of the lesser pension) he shall receive an annual pension equivalent to twenty-five (25%) percent of his salary during the last year of his third term. The amount of this pension shall not be increased by subsequent years of service as mayor. The pension herein provided shall be suspended during any subsequent period that the mayor shall be a compensated officer or employee of the metropolitan government and, if accepted, shall be in lieu of any pension which said mayor may be entitled to receive from the metropolitan government by reason of service as an officer or employee of the City of Nashville. Any pension which a person may be entitled to receive from the metropolitan government by reason of services as mayor of the City of Nashville shall also be suspended during the period that such person shall be a compensated officer or employee of the metropolitan government. *Metropolitan Charter* § 5.07.

circumstances shall be severable and shall not be affected by such decision.

The amendment did not expressly repeal either *Metropolitan Charter* § 5.06 (providing three terms for a Mayor) or *Metropolitan Charter* § 5.07 (increased pension benefit for a Mayor serving three terms). The presence in the Metropolitan Charter of the three provisions, two provisions setting a limit on terms that may be served (one applicable to all elected officials authorized or created by the Metropolitan Charter (two terms) and one applicable only to the Mayor (three terms)) and the third provision setting the pension rights of the Mayor, creates an apparent conflict within the Charter.

### Analysis<sup>4</sup>

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<sup>4</sup> For the purposes of this opinion, the holding of the Tennessee Supreme Court in *State ex rel. Maner v. Leech* may be, and will be considered as, controlling. (The opinion as it relates to Metropolitan Government was non-binding dicta in that it is not the point of the opinion that concerned a non-metropolitan government, Knox County.) *State ex rel. Maner v. Leech*, 588 S.W.2d 534, 537 (Tenn. 1979). In that case, the Court held that:

It is evident that, in broad form, our Constitution now provides for three types of county government:

- a. Article VII government wherein the basic units of government are the county executive and the county legislative body.
- b. A consolidated form of government commonly known as Metropolitan or "Metro." See Article XI, Section 9, last paragraph. Any county having such a government is exempt from Article VII government.
- c. . . .

. . . A literal reading of this language produces the conclusion that the Act creates a uniform system of county government to which all counties, except those having metropolitan government, must ultimately convert.

*State ex rel. Maner v. Leech*, 588 S.W.2d at 537, 539 (emphasis added). However, Article VII, Section 1, of the Constitution of Tennessee provides:

§ 1. Counties; elected officers; legislative body; forms of government

The qualified voters of each county shall elect for terms of four years a legislative body, a county executive, a Sheriff, a Trustee, a Register, a County Clerk and an Assessor of Property. Their qualifications and duties shall be prescribed by the General Assembly. Any officer shall be removed for malfeasance or neglect of duty as prescribed by the General Assembly.

The legislative body shall be composed of representatives from districts in the county as drawn by the county legislative body pursuant to statutes enacted by the General Assembly. Districts shall be reapportioned at least every ten years based upon the most recent federal census. The legislative body shall not exceed twenty-five members, and no more than three representatives shall be elected from a district. Any county organized under the consolidated government provisions of Article XI, Section 9, of this Constitution shall be exempt from having a county executive and a county legislative body as described in this paragraph. (emphasis added)

The General Assembly may provide alternate forms of county government including the right to charter and the manner by which a referendum may be called. The new form of government shall replace the existing form if approved by a majority of the voters in the referendum.

Constraints on Right to Seek Office. Each of these Charter provisions raise public policy issues because they place restraints on candidates for public office. The inherent power of the government resides with the people. This power is expressed through voting. By adopting a term limit, the choices of the people are reduced. Courts hold that when there is ambiguity in laws placing any constraints on an individual's right to seek office - thereby reducing the people's choices - the laws should be interpreted in favor of allowing the individuals to seek office. *Crowe v. Ferguson*, 814 S.W.2d at 724-725 (Tenn. 1991) (court disfavors statutory interpretations that unduly restrict the election process and the individual's right to participate as a candidate).<sup>5</sup>

One goal of the election process is to provide the electorate with a field of worthy candidates from whom to choose. Laws regulating the eligibility of candidates should encourage qualification, not restrict it, in order to help achieve that goal. *Williams v. Ragland*, 567 So.2d 63, 66 (La. 1990) (action seeking to disqualify incumbent judicial candidate from re-election dismissed; interpretation of statutes that restrict the right to run for public office should be avoided).

It has been stated that there is a presumption in favor of eligibility of one who has been chosen and elected or appointed, to public office, and that a strong public policy exists in favor of eligibility for public office. Thus, the imposition of restrictions upon the right of a person to hold public office should receive a liberal construction in favor of the people exercising freedom of choice in the selection of their public officers, and statutes

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The last sentence of paragraph two (underlined) is unclear and subject to several interpretation. *The Journal of the Debates of the Constitutional Convention* (1977), Vol. 2, p. 1392. The Attorney General has opined and the Tennessee Supreme Court has held that this sentence exempts the Metropolitan Government from being required to have a county executive and a county legislative body. *State ex rel. Maner v. Leech*, 588 S.W.2d at 537 (see language quoted above); Tenn. Op. Atty. Gen. No. 78-367. Should the Supreme Court revisit this issue and find that these offices are Constitutional offices, then it is possible that, applying the analysis of a 1995 Opinion of the Attorney General, neither the mayor who serves as the chief executive officer of the Metropolitan Government (T.C.A. §7-21-206(d) "All executive powers of the unified government shall be vested in a chief executive officer whose title shall be determined by the charter commission.") nor the members of the Metropolitan Council as the "county legislative body," are subject to term limits. Tenn. Op. Atty. Gen. No. 95-007.

<sup>5</sup> See also *Jarnagin v. Harris*, 138 Ga.App. 318, 226 S.E.2d 108 (Ga. Ct. App. 1976), citing *Gazan v. Heery*, 183 Ga. 30(4), 187 S.E.2d 371 (statute limiting an individual's right to hold office must be construed to the benefit those seeking office); *Vieira v. Slaughter*, 318 So.2d 490 (Fla. Dist. Ct. App. 1975), citing *Ervin v. Collins*, 85 So.2d 852 (Fla. 1956) (restrictions on the right to hold office should receive a construction in favor of the candidates and the people exercising their freedom of choice in selecting their public officers), and also citing *Hurt v. Naples*, 299 So.2d 17 (Fla. 1974) (discouragement of candidacy for public office should be frowned upon since widening the field of candidates is the rule, not the exception, and it should not be done absent express statutory disqualification).

declaring qualifications are to receive a liberal construction.<sup>6</sup> Or, as sometimes stated, the right to public office, or any constitutional or statutory provision which restricts the right to hold office, must be strictly construed against ineligibility, and statutory and constitutional provisions which tend to limit the candidacy of any person for public office must be construed in favor of the right of the voters to exercise their choice and should be construed strictly and not extended to cases not clearly covered thereby. If there is any doubt or ambiguity in the applicable provisions, such doubt or ambiguity must be resolved in favor of eligibility.<sup>7</sup> A constitutional provision, where the language and context allow, should be construed so as to preserve eligibility.

63C Am. Jur. 2d *Public Officers and Employees* § 53

As expressed by the Supreme Court of Utah:

A principle which is foundational to our system is that the inherent powers of government reside in the people. This is given expression in the right to vote, and thus to choose the public officials who will serve them; and the correlative right of citizens to aspire to public office and serve therein if so chosen. It is generally held that statutes dealing with that subject should receive a liberal construction in favor of assuring the right to exercise freedom of choice in selecting public officials and also the right to aspire to and hold public office.

*Cannon v. Gardner*, 611 P.2d 1207, 1211 (Utah, 1980). Therefore, a court will use an analysis of these Charter provisions that strictly construes them against ineligibility of individuals to seek office and in favor of making individuals eligible to seek office.

The Three Charter Provisions Are Reconcilable. As a threshold matter, the question to be answered is whether the Charter provisions are irreconcilable. *Metropolitan Government of Nashville v. Hillsboro Land Co., Inc.*, 26 McCannless 431, 436, S.W.2d 850, 854 (Tenn. 1968) (Court held that a repeal by implication is indicated only when two statutes

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<sup>6</sup> “The right to be a candidate for public office is a valuable right, and no one should be denied this right unless the Constitution or applicable valid law expressly declares him ineligible. *Ervin v. Collins*, 85 So.2d 852 (Fla.1956); *Hurt v. Naples*, 299 So.2d 17 (Fla.1974). The imposition of restrictions upon the right of a person to hold public office should receive a liberal construction in favor of the people exercising freedom of choice in the selection of their public officers. *Ervin v. Collins*, supra. If there be doubt or ambiguity in the provisions, the doubt or ambiguity must be resolved in favor of eligibility. *Ervin v. Collins*, supra.” *Vieira v. Slaughter*, 318 So.2d 490, 491 (Fla.App. 1975).

<sup>7</sup> “For the purpose of argument only, let it be assumed that said provision is ambiguous. The effect could do no more than cast a doubt on eligibility. If it amounted to this, under every accepted rule of interpretation, the doubt or ambiguity must be resolved in favor of eligibility.” *Ervin v. Collins*, 85 So.2d 852, 855 (Fla. 1956).

are manifestly repugnant or in irreconcilable conflict of substance.); *State v. Hicks*, 55 S.W.3d 515, 523 (Tenn. 2001) (No need for repeal by implication if statutes can be reasonably construed so as to give effect to each.); *Massachusetts Mut. Life Ins. Co. v. Vogue, Inc.*, 54 Tenn.App. 624, 631, 393 S.W.2d 164, 167 (Tenn.App. 1965) (The later enacted law conferring the management powers of Tennessee corporations upon the Board of Directors did not repeal by implication the specialized earlier enacted power of corporate officers to change insurance policies.) A court will not find that an implied repeal was intended unless the earlier and later provisions are irreconcilable. If they are reconcilable, the analysis need go no further.

“A repeal by implication is indicated, therefore, only when two statutes are manifestly repugnant or in irreconcilable conflict of substance; however, such repugnance or conflict will not be found where any fair and reasonable construction will permit the statutes to stand together.” *Metropolitan Government of Nashville v. Hillsboro Land Co., Inc.*, 26 McCanless at 440, 436 S.W.2d 854. In this instance, the three Metropolitan Charter provisions are not irreconcilable because it is possible to give a fair and reasonable construction to the amendment and the earlier enacted provisions that gives each meaning. Following the analysis used by the Court in *Massachusetts Mut. Life Ins. Co. v. Vogue, Inc.*, the earlier enacted law is a specialized law providing a three-term limit for the Mayor and the later enacted law providing two-term limits is to be applied to the other elected officials. With this analysis, both provisions still have meaning.<sup>8</sup> Since they are not irreconcilable, the inquiry need not go further as both provisions can be enforced.<sup>9</sup> As a result, Metropolitan Charter § 5.06 remains applicable to the Office of the Mayor and an individual may serve three consecutive terms in that office.

Earlier Enacted Specific Law As Exception to Later Enacted General Law. The 1994 Charter amendment is a general law in nature in that it purports to apply to all elected officials (except judges) created or authorized by the Charter. *Metropolitan Charter* § 5.06, the earlier enacted law, is a specific law directed only at the term of the Office of the Mayor. In this situation, if the specific law is in conflict with the general law, the specific law is to be treated as an exception to the general law.<sup>10</sup> Both the Tennessee Supreme

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<sup>8</sup> The severability clause found in the amendment, *Metropolitan Charter* § 1.07 (d), while considered standard language for proposed laws, supports the position that it was anticipated that there would be exceptions to the later enacted two-term limit.

<sup>9</sup> See generally, Karen Petroski, Comment, *Rethorizing the Presumption Against Implied Repeals*, 92 Cal. L. Rev. 487, 488 (March, 2004) (“Comment focuses primarily on the problems posed by conflicting statutes of equal generality, that is, on situations in which reconciliation of the statutes, if possible, must occur in some manner other than by construing one statute as providing for an exception to the other.” Fna1.)

<sup>10</sup> “If one of the statutes is more specific than the other, the statutes may be reconciled by construing the more specific statute as an exception to the more general statute, regardless of the temporal relationship between the statutes. The current leading statutory interpretation treatise recognizes both the specific-controls-the-general canon and the later-enacted-statute rule. Norman J. Singer, 1A Statutes and Statutory Construction § 23:9, at 458, § 23:15, at 511-12 (6th ed. 2002); see also William N. Eskridge, Jr. et al., *Legislation and Statutory Interpretation* 274-75 (2000).” Petroski, Note 1.

Court and the Court of Appeals have discussed the principal to be applied in this situation. The Tennessee Supreme Court held:

Repeal by implication is not favored. It is only where the conflict between the earlier and later statutes is completely irreconcilable that the earlier statute can be said to have been repealed by implication. As a corollary of that doctrine it is an established rule that a subsequent statute treating a general subject and not expressly contradicting the terms of an earlier special statute will not be given the effect of repealing the special provisions of the first statute unless absolutely necessary in order to give some meaning to the words of the general statute. *State ex rel. v. Safley*, 172 Tenn. 385, 112 S.W.2d 831; *Grubb et al v. Mayor and Aldermen*, 185 Tenn. 114, 203 S.W.2d 593.

*Massachusetts Mut. Life Ins. Co. v. Vogue, Inc.*, 54 Tenn.App. 624, 631, 393 S.W.2d 164, 167 (Tenn.App. 1965) (emphasis added). The Tennessee Court of Appeals held:

Directly in point is the following from Black on Interpretation of Laws, 116:

“As a corollary from the doctrine that implied repeals are not favored, it has come to be an established rule in the construction of statutes that a subsequent act, treating a subject in general terms and not expressly contradicting the provisions of a prior special statute, is not to be considered as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.”

So, in Sedgwick on the Construction of Statutory and Constitutional Law, the author observes, on page 98, with respect to this rule:

“The reason and philosophy of the rule is, that when the mind of the legislator has been turned to the details of a subject, and he has acted upon it, a subsequent statute in general terms or treating the subject in a general manner, and not expressly contradicting the original act, shall not be considered as intended to affect the more particular or positive previous provisions, unless it is absolutely necessary to give the latter act such a construction, in order that its words shall have any meaning at all.”

And, Mr. Justice Brewer, in his opinion in *Rodgers v. United States*, 185 U.S. 83, 22 S.Ct. 582, 584, 46 L.Ed. 816, quotes with approval the following from *Crane v. Reeder*, 22 Mich. 322, 334, which has application to the instant case:

"Where there are two acts or provisions, one of which is special and particular, and certainly includes the matter in question, and the other general, which, if standing alone, would include the same matter and thus



conflict with the special act or provision, the special must be taken as intended to constitute an exception to the general act or provision, especially when such general and special acts or provisions are contemporaneous, as the legislature is not to be presumed to have intended a conflict."

*State ex rel. v. Safley*, 8 Beeler 385, 112 S.W.2d 831, 833 (Tenn. 1938) (emphasis added).<sup>11</sup>

It is the opinion of the Department of Law that, even if a court decided that the Charter provisions are irreconcilable, this rule alone requires that the earlier enacted law that is specific prevail over the later enacted general law. Under this analysis, too, Metropolitan Charter § 5.06 remains applicable to the Office of the Mayor and an individual may serve three consecutive terms in that office.

Intent of the Voter. If a court finds that the Charter provisions are irreconcilable and that both provisions are general rather than one being specific and the other general, it will then proceed to the final analysis – the intent of the voters. As repeals by implication are strongly disfavored, the court will adopt a presumption that there was no repeal by implication. When the law under scrutiny has been adopted by the voter,<sup>12</sup> as both the Metropolitan Charter and the Charter Amendment were, the primary intent to be determined is not the intent of the drafters of the amendment<sup>13</sup> but, rather, the intent

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<sup>11</sup> See also, *McDaniel v. Physicians Mut. Ins. Co.*, 621 S.W.2d 391 (Tenn. 1981) wherein the Supreme Court held:

It is a well settled principle of statutory construction that:

"(i)t is the duty of the Court in construing statutes to avoid a construction which will place one statute in conflict with another, and the Court should resolve any possible conflict between the statutes in favor of each other, whenever possible, so as to provide a harmonious operation of the laws."

In addition, "any statute, not repealing directly or by implication any previous law, is cumulative to such law," and "repeals by implication are not favored ...."

*McDaniel v. Physicians Mut. Ins. Co.*, 621 S.W.2d at 394. (Internal citations omitted)

<sup>12</sup> The majority of the cases dealing with interpretation of written laws are cases in which the court is interpreting traditional legislation, that is, legislation adopted by Congress, a state legislature, or the legislative body of a local government. The focus of the courts for traditional legislation is to apply the laws as the legislative body intended and relies on the words of the statute and the legislative intent as that may be determined from the legislative history, the political context, and the problem the statute was intended to remedy. Elizabeth A. McNellie, Note, *The Use of Extrinsic Aids in the Interpretation of Popularly Enacted Legislation*, 89 Colum. L. Rev. 157, 158-9 (1989). The courts use the same analysis in interpreting legislation enacted through an initiative of the voters. Jane S. Schacter, *The Pursuit of Popular Intent: Interpretive Dilemmas in Direct Democracy*, 105 Yale L.J. 107, 109 (1995). Initiatives or referenda by voters can either be for legislation or for adoption or amendment of a constitution or a charter. *Id.* at 113-114.

<sup>13</sup> "The words represent the most meticulously drafted evidence of intent and are what was actually voted into law. However, like more traditional bills, these initiatives are written in language most conducive to passage. Accordingly, the enactment may be full of expedient silences on issues that could not or would not receive support if addressed. This often results in an unclear statement that the courts must interpret." McNellie, *supra*, at 173-74.

of the voters.<sup>14</sup> *Southern Ry. Co. v. Fowler*, 497 S.W.2d 891 (Tenn. 1973). A court will use the same analysis for the Metropolitan Charter as is used for the Tennessee Constitution because the Metropolitan Charter is the organic law<sup>15</sup> of the Metropolitan Government, was adopted by referendum, was amended by initiative,<sup>16</sup> and is to the Metropolitan Government what the Tennessee Constitution is to the State of Tennessee. *State ex rel. Lewis v. Bowman*, 814 S.W.2d 369, 373 (Tenn. App. 1991); 2A *McQuillin Mun. Corp.* § 9.03 (3rd ed.).

An individual legislator's remarks concerning a constitutional amendment are 'of less materiality than in that of an ordinary bill or resolution.' *Maxwell v. Dow*, 176 U.S. 581, 20 S.Ct. 448, 44 L.Ed. 597 (1899).

This is true because there is an important distinction between a legislative enactment which is an end product in and of itself and a legislative enactment which is but an initial step in a constitutional amendatory process. As stated above, in the former situation, legislative intent is a controlling factor in determining the meaning and effect of statutes, and principles of statutory construction have evolved as aids in determining legislative intent. However, in the latter situation where a statute is enacted as the initial step in amending the constitution through the constitutional convention process, the statute has no operative effect until approved by the people. Consequently, it is the people, not the legislature, who call the convention, and their intent and not the intent of the legislature is that which this Court must look to if it becomes necessary to ascertain the intent

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<sup>14</sup> Most cases on "repeal by implication" relate to whether a later enacted statute (rather than a provision of a Charter or Constitution) has repealed an earlier enacted statute. While the courts may consider several issues in order to determine whether such repeal has occurred, the intent of the legislature is the primary consideration. *Bennett v. State*, 10 Tenn. 472 (1830); *English v. Farrar*, 10 McCanless 188, 197-199, 332 S.W.2d 215, 219-220 (Tenn. 1960)(1957 Private Act expressly amending the 1947 Private Act "as amended" was sufficient evidence of legislative intent to repeal the intervening 1953 Private Act). A court analyzing voter adopted Charter provisions will be primarily concerned with the intent of the voters. *McCulley v. State* (State Report Title: *The Judges' Cases*) 102 Tenn. 509, 53 S.W. 134, 136 (1899).

<sup>15</sup> The body of laws (as in a constitution) that define and establish a government. *Black's Law Dictionary* (8th ed. 2004) "organic law".

"Unless additional powers are conferred by statute or by the state constitution, a municipal corporation created by charter derives all its powers from the charter under which it acts as a body corporate and politic. Charters have been called bills of right, a name originating in the medieval period when they were obtained from the feudal lords and barons by diplomacy, purchase or other means. And municipal charters are sometimes mentioned as constitutions, that is, fundamental or organic laws of municipal corporations." *McQuillin's Municipal Corp.*, § 9.03, "Nature, Purpose and Scope of Charter." (footnotes omitted)

<sup>16</sup> See *Metropolitan Charter* § 19.01.

An "initiative" results when sponsors of a proposed measure secure the required number of signatures and the majority of the voters approve the law. A "referendum" results when the law requires that a law be submitted by the "legislative" body to the voters before it is finally approved. See Schacter, *supra*, at Note 22-23.

of anyone. *Illustration Design Gp. v. McCanless*, 224 Tenn. 284, 454 S.W.2d 115 (1970); *Cummings v. Beeler*, 189 Tenn. 151, 223 S.W.2d 913 (1949).

*Southern Ry. Co. v. Fowler*, 497 S.W.2d at 895.

In order for the amendment, Metropolitan Charter § 1.07, to replace *Metropolitan Charter* § 5.06 (Mayor's three-term limit) a court would need to find that the voters intended to repeal both Metropolitan Charter §§ 5.06 & 5.07 even though the language in the amendment did not provide for or indicate that it would cause a repeal. As discussed above, repeal by implication of an earlier law by a later law is not favored by the courts. *Fletcher v. State*, 951 S.W.2d 378, 382 (Tenn. 1997).<sup>17</sup> When the court finds that there has been repeal by implication, the statute enacted later in time prevails over the earlier enacted statute. *Steinhouse v. Neal*, 723 S.W.2d 625, 627 (Tenn. 1987) (Court held that the legislative intent, as expressed in the wording of the legislation itself was to establish a "uniform period" of ten (10) days in which any such appeal may be perfected in any county in Tennessee and, therefore, the later enacted statute repealed the earlier because that was clearly what the legislature intended. This was so because they used the term "uniform period" in the later enacted legislation.)

The Tennessee Supreme Court has described the method by which the meaning of provisions of the Constitution will be analyzed in *Cleveland Surgery Center, L.P. v. Bradley County Memorial Hospital*, 30 S.W.3d 278 (Tenn. 2000).<sup>18 19</sup> The court will note the

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<sup>17</sup> Repeal by implication is strongly disfavored. (cite) It must be evident that the repeal was intended. There is a presumption against repeal. When the acts are in conflict, the act which is more specifically directed to the matter prevails as an exception to the general act. *Roby v. Board of Trustees of Employees' Retirement System of City of New Orleans*, 650 So.2d 811 (La.App. 4 Cir.,1995).

<sup>18</sup> When construing a constitutional provision, this Court must "give effect to the intent of the people who adopt [ed] a constitutional provision." *Gaskin v. Collins*, 661 S.W.2d 865, 867 (Tenn.1983) (internal quotations omitted); see also *State v. Martin*, 940 S.W.2d 567, 570 (Tenn.1997) ("It has long been held in this state that provisions of the constitution are to be given effect according to the drafters' intention in light of the entire document."). These intentions are reflected in the terms of the constitutional provision, and unless the context requires otherwise, terms in a constitution must be given their " 'ordinary and inherent meaning.' " *Gaskin*, 661 S.W.2d at 867 (quoting *State v. Phillips*, 159 Tenn. 546, 21 S.W.2d 4 (1929)). To accomplish that end, courts must construe constitutional provisions "reasonably in light of the practices and usages that were well-known when the provision was passed." *Martin v. Beer Bd.*, 908 S.W.2d 941, 947 (Tenn.Ct.App.1995); *State ex rel. Witcher v. Bilbrey*, 878 S.W.2d 567, 573 (Tenn.Ct.App.1994) (citing *Ashe v. Leech*, 653 S.W.2d 398, 401 (Tenn.1983); *Peay v. Nolan*, 157 Tenn. 222, 230, 7 S.W.2d 815, 817 (1928)). As the Court of Appeals has recognized,

Articulating constitutional principles, like any other interpretative exercise, may be aided by referring to external sources. A state constitution does not exist in isolation but rather is a unique historical document. While the text must always be the primary guide to the purpose of a constitutional provision, we should approach the text in a principled way that takes into account the history, structure, and underlying values of the document. Accordingly, Tennessee's courts have relied upon historical documents, constitutional convention proceedings, the proposed

circumstances surrounding the adoption of the law and may look at historical documents to ascertain those circumstances. Therefore, a court will use extrinsic or external factors and sources to help determine the intent of the voters.<sup>20</sup> Extrinsic factors that a court will examine to determine the intent of the voters will include the problem that was sought to be remedied, the political context in which the legislation was enacted, and the popular understanding of the words that were used.<sup>21</sup> Taking all these authorities together, a

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constitution of the State of Franklin, other similar state and federal constitutional provisions, and decisions from other jurisdictions construing similar provisions.

*Martin*, 908 S.W.2d at 947 (internal footnotes omitted).

*Cleveland Surgery Center, L.P. v. Bradley County Memorial Hospital*, 30 S.W.3d 281-2.

<sup>19</sup> In Tennessee, the way in which this traditional statutory analysis is handled was summarized recently by the Tennessee Court of Appeals for the Middle Section in an as-yet unreported case:

The issues raised in this appeal involve the interpretation of state statutes and local ordinances. The primary rule of statutory construction is "to ascertain and give effect to the intention and purpose of the legislature." *LensCrafters, Inc. v. Sundquist*, 33 S.W.3d 772, 777 (Tenn.2000); *Carson Creek Vacation Resorts, Inc. v. Department of Revenue*, 865 S.W.2d 1, 2 (Tenn.1993); *McGee v. Best*, 106 S.W.3d 48, 64 (Tenn.Ct.App.2002). To determine legislative intent, one must look to the natural and ordinary meaning of the language used in the statute itself. We must examine any provision within the context of the entire statute and in light of its over-arching purpose and the goals it serves. *State v. Flemming*, 19 S.W.3d 195, 197 (Tenn.2000); *Cohen v. Cohen*, 937 S.W.2d 823, 828 (Tenn.1996); *T.R. Mills Contractors, Inc. v. WRH Enterprises, LLC*, 93 S.W.3d 861, 867 (Tenn.Ct.App.2002). The statute should be read "without any forced or subtle construction which would extend or limit its meaning." *National Gas Distributors, Inc. v. State*, 804 S.W.2d 66, 67 (Tenn.1991). As our Supreme Court has said, "[w]e must seek a reasonable construction in light of the purposes, objectives, and spirit of the statute based on good sound reasoning." *Scott v. Ashland Healthcare Center, Inc.*, 49 S.W.3d 281, 286 (Tenn.2001), citing *State v. Turner*, 913 S.W.2d 158, 160 (Tenn.1995).

Courts are also instructed to "give effect to every word, phrase, clause and sentence of the act in order to carry out the legislative intent." *Tidwell v. Collins*, 522 S.W.2d 674, 676-77 (Tenn.1975). *In re Estate of Dobbins*, 987 S.W.2d 30, 34 (Tenn.Ct.App.1998). Courts must presume that the General Assembly selected these words deliberately, *Tenn. Manufactured Housing Ass'n. v. Metropolitan Gov't.*, 798 S.W.2d 254, 257 (Tenn.App.1990), and that the use of these words conveys some intent and carries meaning and purpose. *Tennessee Growers, Inc. v. King*, 682 S.W.2d 203, 205 (Tenn.1984). *Clark v. Crow*, 37 S.W.3d 919, 922 (Tenn.Ct.App.2000).

*B.F. Nashville Inc. v. City of Franklin*, 2005 WL 127082 (Tenn.Ct.App., Middle Section, Filed Jan. 21, 2005)

<sup>20</sup> As this amendment adopting *Metropolitan Charter* § 1.07 was initiated by the petition process and not through a resolution of the Metropolitan Council, there are no minutes of the Metropolitan Council or the Charter Revision Commission to help determine the way in which the conflict should be resolved.

<sup>21</sup> An earlier Tennessee Supreme Court case, *Prescott v. Duncan*, 18 Cates 106, 148 S.W. 229, 233 (Tenn. 1912), explained in some detail the factors to be considered.

It will be useful in this connection to state some familiar rules for the construction of state Constitutions which have been recognized by this court throughout the history of the state. The Legislature has all legislative power not prohibited by the Constitution of the United States or the Constitution of this state either expressly or by necessary and fair implication. *Jackson v. Nimmo*, 3 Lea, 599.

court called upon to resolve the conflict in the Metropolitan Charter will give the terms in the amendment their ordinary and inherent meaning unless the context as evidenced by extrinsic factors requires otherwise; analyze the amendment in light of the entire Charter; construe the amendment reasonably in light of the practices and usages that were well-

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State Constitutions are adopted as a whole, and a clause which, standing by itself, might seem of doubtful import may yet be made plain by comparison with other clauses or portions of the same instrument, therefore it is a proper rule of construction that the whole is to be examined with a view to arriving at the true intent of each part. Cooley's Constitutional Limitations, 71.

The object of construction, as applied to a written Constitution, is to give effect to the intent of the people in adopting it, and this intent is to be found in the instrument itself. It is to be presumed that language has been employed with sufficient precision to convey the meaning intended, and, unless examination demonstrates that the presumption does not hold good in the particular case, nothing will remain except to enforce it. *Id.* 69. . . .

Another rule of general application often referred to in our cases is that stated by Judge Cooley, as follows:

"It is also a very reasonable rule that a state Constitution shall be understood and construed in the light and by the assistance of the common law, and with the fact in view that its rules are still left in force. By that we do not mean that the common law is to control the Constitution, or that the latter is to be warped and perverted in its meaning in order that no inroads, or as few as possible, may be made in the system of common-law rules, but only that for its definitions we are to draw from that great fountain, and that, in judging what it means, we are to keep in mind that it is not the beginning of law for the state, but that it assumes the existence of a well-understood system which is still to remain in force and be administered, but under such limitations and restrictions as that instrument imposes. It is a maxim with the courts that statutes in derogation of the common law shall be construed strictly--a maxim which we fear is sometimes perverted to the overthrow of the legislative intent--but there can seldom be either propriety or safety in applying this maxim to Constitutions. When these instruments assume to make any change in the common law, the change designed is generally a radical one, but as they do not go minutely into particulars, as do statutes, it will sometimes be easy to defeat a provision if courts are at liberty to say that they will presume against any intention to alter the common law further than is expressly declared. A reasonable construction is what such an instrument demands and should receive, and the real question is what the people meant, and not how meaningless their words can be made by the application of arbitrary rules."

We have set out the foregoing text in full for the reason that the complainants' case is practically built upon it, and there seems to have been some misapprehension of its scope and application.

From the foregoing generally accepted rules of construction, it is manifest that the Legislature may take from the county court all power not conferred upon it by the Constitution expressly or by necessary implication. Powers conferred, as well as restraints upon inherent power, may be supported by such implications as are necessary to give effect to the intent of the people in conferring the one or setting the bounds of restraint upon the other. But, in drawing implications of the people's intent in using the words under consideration, the courts must not only look to every part of the Constitution, but it must be borne in mind that the words themselves were used in a prospective sense and were selected with care and consideration to be expected from the body of distinguished men who framed the instrument

No implication of intention with respect to one part of the instrument can be justified which does violence to a plainly expressed intention to be found in another part.

known when the provision was passed; take into account the history, structure, and underlying values of the amendment;<sup>22</sup> and give effect to the intent of the people who adopted the amendment.

Unless the court finds that it was the intention of the voters to enact a new law in place of the old law, the court will not find that there has been a repeal. 73 Am. Jur. 2d, *Statutes* § 280 (2004).<sup>23</sup> In this instance, the court would need to find that the voters intended to replace both sections, *Metropolitan Charter* § 5.06 and parts of *Metropolitan Charter* § 5.07, with *Metropolitan Charter* § 1.07 in order to find there has been repeal by implication.

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<sup>22</sup> Mr. Cooley, in his work on *Constitutional Limitations* (2d Ed., p. 65), says:

“When the inquiry is directed to ascertaining the mischief designed to be remedied or the purpose sought to be accomplished by a particular provision, it may be proper to examine the proceedings of the convention which framed the instrument. Where the proceedings clearly point out the purpose of the provision, the aid will be valuable and satisfactory; but, where the question is one of abstract meaning, it will be difficult to derive from this source much reliable assistance in interpretations. Every member of such a convention acts upon such motives and reasons as influence him personally, and the motions and debates do not necessarily indicate the purpose of a majority of the convention in adopting a particular clause. It is quite possible for a clause to appear so clear and unambiguous to the members of the convention as to require neither discussion nor illustration, and the few remarks made concerning it in the convention might have a plain tendency to lead directly away from the meaning in the minds of the majority. It is equally possible for a part of the members to accept a clause in one sense, and a part in another. And, even if we were certain we had attained the meaning of the convention, it is by no means to be allowed a controlling force, especially if that meaning appears not to be the one which the words would most naturally and obviously convey; for, as the constitution does not derive its force from the convention which framed, but from the people who ratified, it, the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but, rather, that they have accepted them in the sense most obvious to the common understanding, and ratified the instrument on the belief that that was the sense designed to be conveyed.”

These proceedings (the journal) are less conclusive of the proper construction of the instrument than are legislative proceedings of the proper construction of a statute, since in the latter case it is the intent of the legislature we seek, while in the former we are endeavoring to arrive at the intent of the people through the discussions and deliberations of their representatives. We have an illustration of this in the adoption by the convention of 1870 of that clause which provides, viz.: “No corporation shall be created or its powers increased or diminished by special laws,” etc. The journal of the convention shows that an amendment to limit the provisions of this section to private corporations and exclude municipal corporations was rejected. Yet this court held that, looking to the scope and purpose of the entire section, private corporations were alone contemplated, and the clause did not apply to municipal corporations. *State v. Wilson*, 12 Lea, 259.

*McCulley v. State* (*State Report Title: The Judges' Cases*) 102 Tenn. 509, 53 S.W. 134, 136 (Tenn. 1899). (emphasis added)

<sup>23</sup> The question as to whether a new act works an implied repeal of an existing statute is one of legislative intention in the enactment of the alleged repealing act. In this regard, one statute will not repeal another by implication unless it appears from the terms and provisions of the later act that it was the intention of the legislature to enact a new law in place of the old. 73 Am. Jur. 2d, *Statutes* § 280 (2004).

*The Evil the Voters Sought to Remedy.* To determine the intent of the voters, one factor that a court will consider is the underlying problem that the voters were trying to solve. *Still v. First Tennessee Bank, N.A.*, 900 S.W.2d 282 (Tenn. 1995); *First Nat. Bank v. Howard*, 148 Tenn. 188, 253 S.W. 961,962 (Tenn. 1923)<sup>24</sup> Paraphrasing the language from *First Nat. Bank v. Howard* to reflect the focus on the voter's intent, the court will be guided as follows:

The object of interpretation and construction of a statute is to find and adopt the purpose of the [voters], and give force to their intention. This is accomplished by a view of the entire [amendment], and of other [Charter provisions] in *pari materia*. Beside which the existing state of the law, the contemporaneous circumstances, the facts which induced the new law, and the evil sought to be remedied must be considered. (See exact quote in footnote 24.)

Based on the language used in the petition and the language placed on the ballot (see below), the voters decided to adopt the new law because they wanted term limits. The voters' apparent intent was to remedy the evil of officials in office without term limits. The remedy was to embed in the Charter the imposition of term limits on all elected officials of the Metropolitan Government.

Should Article 1 of the Metropolitan Charter be amended to limit the person holding any elected office authorized or created by the Metropolitan Charter to two consecutive terms?

(Official State General Election Ballot, Nov. 6, 1994)

Located in Article 5 of the Charter, the term limit for the Mayor was the only term limit in the Charter at the time of the petition and initiative. Neither the petition nor the ballot stated or indicated in any way that Article 5 would be amended. Each stated only that Article 1 of the Charter was being amended. The petition did not state nor indicate in any way that it was repealing the three-term limit for the Mayor. There was nothing in the petition and there was nothing on the ballot to inform the voter that the Mayor already had a three-term limit, that the petition was intended to change that to a two-term limit, and that as a result the pension provision for the Mayor would be reduced.

As the petition and ballot did not explain this, there is no way to know whether a voter knew or considered that the Mayor already had a term limit. A survey of the media coverage from August through the November, 1994, election has revealed that virtually all

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<sup>24</sup> "The object of interpretation and construction of a statute is to find and adopt the purpose of the lawmakers, and give force to their intention. This is accomplished by a view of the entire statute, and of other statutes in *pari materia*. Beside which the existing state of the law, the contemporaneous circumstances, the facts which induced the new law, and the evil sought to be remedied must be considered." *First Nat. Bank v. Howard*, 253 S.W. at 962

the coverage related to term limits for the Metropolitan Council.<sup>25</sup> It is not clear that the voters knew about the two existing provisions of the Charter that would conflict with the amendment. It follows that the intent of the voters to repeal those provisions is not clear.<sup>26</sup> The intent that is clear is that the Mayor is to be subject to a term limit. Based on the lack of intent to repeal coupled with the fulfillment of the underlying objective of having a limited number of terms, it is likely that a court will conclude that the intent of the voters to impose a term limit was met through the existing *Metropolitan Charter* § 5.06 and that there is no need to repeal by implication other provisions of the Charter to achieve the goal that was sought.

*Metropolitan Charter as a Whole.* The courts will try to give meaning to the Charter as a whole and try not to do “violence” to any one provision. “No implication of intention with respect to one part of the instrument can be justified which does violence to a plainly expressed intention to be found in another part.” *Prescott v. Duncan*, 148 S.W. at 233; *see also State v. Martin*, 940 S.W.2d 567, 570 (Tenn.1997) The courts will not imply, in the absence of clear intent, that a plainly expressed intention that a Mayor may serve three terms and be entitled to an increased pension in the event of serving three terms, has been repealed. Striking the provision allowing a Mayor to serve three terms with the opportunity to a substantially increased pension does violence to those provisions.

### Conclusion

First, the provisions of the Metropolitan Charter can be construed so that all have meaning by applying *Metropolitan Charter* § 5.06 to the Office of the Mayor as a specialized matter and *Metropolitan Charter* § 1.07 to all officials except the Office of the

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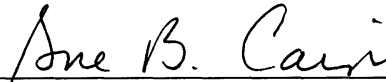
<sup>25</sup> For the largest general circulation newspaper, The Tennessean, the reports found on the initiative did not discuss the reduced term for the Mayor until after the election. (Attachment B) Two of the articles found in The Nashville Banner mentioned the Mayor, Vice-Mayor, and Council as being affected but later articles from November only referred to the Vice-Mayor and Council members. None were found that mentioned that the Mayor already had a term limit that would be reduced. (Attachment C) Three articles from The Nashville Scene were found that mentioned the election but none of the three mentioned that the Mayor’s term was involved. (The Nashville Scene articles found were from Sept. 29, Oct. 27, and Nov. 3, 1994.) The 3 local television stations, Channels 2, 4 and 5, were contacted and they reported that they no longer have transcripts or tapes available of the coverage of this 1994 election.

<sup>26</sup> Even where the language of a section is clear, if the context as it appeared to the voter leads to the conclusion that the voter intended another meaning, the Supreme Court in Tennessee has applied that other, intended meaning. In a case interpreting a Constitutional provision that stated “(n)o corporation shall be created, or its powers increased or diminished by special laws,” the Supreme Court held that the provision was only applicable to private corporations and not to public corporations, notwithstanding that the Constitutional Convention specifically voted down changing the section to cover only private corporations. “Whatever may have been the motive of this action, we are constrained to hold that the section itself, as adopted by the people, only applies to private corporations.” *State v. Wilson*, 80 Tenn. 246 (1883). Therefore, a court could determine that in the context of all the facts, the voters intended a term limit for the Mayor but did not affirmatively intend to change the Mayor’s term limit provided in *Metropolitan Charter* § 5.06.



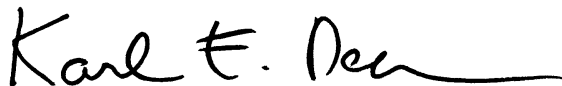
Mayor. Therefore, all provisions are reconcilable. Second, the earlier law was a specific law applicable to the Office of the Mayor while the later law was a law of general application, applicable to all other elected officials. Therefore, the earlier law will be treated as an exception to the later law. Third, it is not clear that the intent of the voters was to repeal the three term limit for the Office of the Mayor because the evil that the voters sought to remedy was unlimited terms and the Mayor already had a limited term; there is no extrinsic evidence that the voters knew they were voting to repeal the Mayor's term; and repealing Sections 5.06 and 5.07 that permit a Mayor three terms and an enhanced pension does violence to those sections and the Metropolitan Charter. For each of these reasons, there has been no repeal by implication of *Metropolitan Charter* § 5.06 and portions of *Metropolitan Charter* § 5.07 and, therefore, an individual may serve three (3) consecutive terms in the Office of the Mayor of the Metropolitan Government.

THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY



Sue B. Cain, Deputy Director

APPROVED BY:



KARL F. DEAN

Director of Law

cc: The Honorable Bill Purcell, Mayor  
The Honorable Howard Gentry Jr., Vice-Mayor

**Charter Revision Commission  
Members:**

Mr. Kemper Harlan Dodson III  
Judge Randy Kennedy  
Mr. Michael E. Moore  
Mr. Kent Syverud  
Ms. Nancy A. Vincent  
Ms. Mariah A. Wooten

**Council- Charter Revision  
Committee Members**

Mr. David Briley  
Mr. Sam Coleman  
Mr. Randy Foster  
Mr. Mike Jameson  
Ms. Amanda McClendon  
Mr. Jim Shulman  
Mr. John Summers

ATTACHMENT A

**Term Limits Petition**

The undersigned residents and qualified voters of Davidson County, do hereby propose the following amendment to the Metropolitan Charter to be voted on by the people at the November 8, 1994 election.

Article I of the Charter of the Metropolitan Government of Nashville and Davidson County is hereby amended by adding the following new section:

**Section 1.07 Term Limits**

- A. Effective January 1, 1994, no person shall be eligible to serve in any elected office authorized or created by the Charter of the Metropolitan Government of Nashville and Davidson County if during the previous 2 terms of that office, the person in question has served more than a single term. Service prior to the passage of this measure shall not count in determining length of service. Judges are exempt from this provision.
- B. In January prior to each state legislative session until such a time that it can be certified that the legislative term limits described in this clause have been enacted, the clerk shall write all state legislators whose districts include any part of Davidson County stating that the people of Davidson County desire an opportunity to vote on legislative term limits. The people of Davidson County respectfully request that a proposed constitutional amendment limit each Representative to six years (three terms) in the Tennessee House of Representatives and eight years (two terms) in the Tennessee Senate. The people of Davidson County also instruct all state legislators representing any part of Davidson County to pass this proposed constitutional amendment and place it on the general election ballot.
- C. In January of each year until such a time that it can be certified that the term limits described in this clause have been enacted, the clerk shall write all U. S. Representatives whose districts include any part of Davidson County's limits and both federal Senators residing that the people of this municipality support term limits for the U. S. Congress. The people of Davidson County respectfully request that a proposed federal constitutional amendment limit each Representative to six years (three terms) in the United States House of Representatives and twelve years (two terms) in the United States Senate. The people of Davidson County also instruct their federal delegation to pass a constitutional amendment imposing these limits and submit it to the states for ratification.
- D. If any provision of this petition shall be held unconstitutional, invalid or inapplicable to any persons or circumstances, then it is amended and declared by the people of Davidson County that all other provisions of this petition and their application to all other persons and circumstances shall be severable and shall not be affected by such decision.

Enter your signature and address exactly as entered on your voter registration.

Signature	Printed Name	Address	Zip
<i>M. Bob C. et al.</i>	M. Bob C. et al.		

**OFFICIAL STATE GENERAL ELECTION**

DAVIDSON COUNTY

TENNESSEE

NOVEMBER 8, 1994

**INSTRUCTIONS TO VOTER**

1. TO VOTE YOU MUST BLACKEN THE OVAL (●) COMPLETELY.
2. USE ONLY THE PENCIL PROVIDED.
3. TO WRITE-IN a name, you must blacken the oval (●) to the left of the line provided.
4. DO NOT CROSS OUT - If you change your mind, exchange your ballot for a new one.

**GOVERNOR  
VOTE FOR ONE (1)**

- PHIL BREDESEN**  
DEMOCRATIC NOMINEE
- DON SUNDQUIST**  
REPUBLICAN NOMINEE
- STEPHANIE E. HOLT**  
INDEPENDENT CANDIDATE
- CHARLIE MOFFETT**  
INDEPENDENT CANDIDATE
- WILL SMITH**  
INDEPENDENT CANDIDATE
- \_\_\_\_\_  
(WRITE-IN)

**UNITED STATES SENATE  
(FULL TERM)  
VOTE FOR ONE (1)**

- JIM SASSER**  
DEMOCRATIC NOMINEE
- BILL FRIST**  
REPUBLICAN NOMINEE
- JOHN JAY HOOKER**  
INDEPENDENT CANDIDATE
- CHARLES F. JOHNSON**  
INDEPENDENT CANDIDATE
- PHILIP L. KIENLEN**  
INDEPENDENT CANDIDATE
- \_\_\_\_\_  
(WRITE-IN)

**UNITED STATES SENATE  
(UNEXPIRED TERM)  
VOTE FOR ONE (1)**

- JIM COOPER**  
DEMOCRATIC NOMINEE
- FRED THOMPSON**  
REPUBLICAN NOMINEE
- CHARLES N. HANCOCK**  
INDEPENDENT CANDIDATE
- HOBART R. LUMPKIN**  
INDEPENDENT CANDIDATE
- \_\_\_\_\_

**PUBLIC SERVICE COMMISSIONER  
WESTERN DIVISION  
VOTE FOR ONE (1)**

- SARA KYLE**  
DEMOCRATIC NOMINEE
- TOM WATSON**  
REPUBLICAN NOMINEE
- MARY T. SHELBY**  
INDEPENDENT CANDIDATE
- \_\_\_\_\_  
(WRITE-IN)

**UNITED STATES  
HOUSE OF REPRESENTATIVES  
5TH CONGRESSIONAL DISTRICT  
VOTE FOR ONE (1)**

- BOB CLEMENT**  
DEMOCRATIC NOMINEE
- JOHN OSBORNE**  
REPUBLICAN NOMINEE
- LLOYD BOTWAY**  
INDEPENDENT CANDIDATE
- CHUCK LOKEY**  
INDEPENDENT CANDIDATE
- \_\_\_\_\_  
(WRITE-IN)

**TENNESSEE HOUSE OF  
REPRESENTATIVES - DISTRICT 52  
VOTE FOR ONE (1)**

- BILL PURCELL**  
DEMOCRATIC NOMINEE
- RONALD (RON) P. COLES**  
REPUBLICAN NOMINEE
- \_\_\_\_\_

**PROPOSED METROPOLITAN  
CHARTER AMENDMENTS**

**DO YOU FAVOR PROPOSED  
AMENDMENT NO 1**

Should Article 1 of the Metropolitan Charter be amended to limit the person holding any elected office authorized or created by the Metropolitan Charter to two consecutive terms? Should the Metropolitan Clerk write letters each year to all members of the Tennessee General Assembly and all members of the United States Congress endorsing amendments to the Tennessee and United States Constitutions that limit representatives to three terms and senators to two terms?

YES

NO

**DO YOU FAVOR PROPOSED  
AMENDMENT NO 2**

This amendment would require that when a vacancy occurs in the office of vice mayor, district council member or council member-at-large, such office would remain vacant until the next general election is held, therefor removing the necessity for the calling of special elections to fill such vacancy.

YES

NO

**DO YOU FAVOR PROPOSED  
AMENDMENT NO 3**

This amendment changes the term of the member of council elected by the council to the metropolitan planning commission from a four (4) year to a two (2) year term.

YES

NO

**DO YOU FAVOR PROPOSED  
AMENDMENT NO 4**

This amendment changes the term of the member of council elected by the council to the traffic and parking commission from a one (1) year to a two (2) year term.

YES

NO

**OFFICIAL BALLOT**

DAVIDSON COUNTY TENNESSEE

8/11/94

TENNESSEAN

# Reducing council up to Nashvillians

By **MARK IPPOLITO**

Staff Writer

When it comes to the Metro Council, does size count or is less more?

Nashvillians can express their opinions next month on whether the 40-member council should be reduced.

The Metro Charter Revision Commission set a public hearing for Aug. 24 yesterday after listening to two council members who want to shrink the council and make other changes.

"The focus is on the size of the council and not the work that we do, the issues that we tackle," Councilman Charles Tygard said.

Tygard wants to reduce the council to 18 members because, he said, the public perceives it as too large.

He cited Jacksonville, Fla., which has a city-county government like Nashville, a similar population, and just 19 council members.

Councilman Ludy Wallace said he would prefer a medium-sized council of 25 members.

"I think some of the numbers that have been proposed, smaller

than this, are too drastic," Wallace told the commission.

Council members proposed several other changes. Each would require amendments to the Metro charter, enacted when the city and county merged 31 years ago. The proposed changes include:

- Eliminating the five at-large council seats.

At-large council members are elected countywide, unlike district seats. Because it is difficult for a minority candidate to win a countywide race, critics say the at-large seats were created to keep blacks out of power.

- Limiting council members to three terms.

If the public response is favorable, the council may vote to put the proposed changes on the November ballot.

"I proposed when I helped write the charter, the first one, a 21-member council," Charter Revision Commission Chairman Cecil Branstetter said. But after years of watching the council in action, he said, he would recommend keeping it at 40 members. ■

8/25/94

# Council accessible, backers say

## Opinions heard on downsizing panel

By MARK IPPOLITO

Staff Writer

Having more council members than other cities allows Nashvillians more direct contact with their elected officials, defenders of the 10-member Metro Council said yesterday.

"If you make an effort, you can get to know your councilman and discuss the issues and make an impact on Metro Government," said community activist John Rumble.

He was among more than 30

citizens who crowded into a committee room at the Metro Courthouse to express opinions on proposals to reduce the council size and make other changes.

The Metro Charter Revision Commission called the public hearing to review 18 proposed changes to the Metro Charter. The commission set a followup hearing for Sept. 7.

Some council members attending the hearing said a smaller council would have a harder time returning phone calls and responding to constituents.

Other proposals included:

- Limiting terms.
- Prohibiting council members

from holding more than one elected office at a time.

- Eliminating at-large seats.

The changes would require a public vote.

One proposal, limiting council members to two terms, will appear on the November ballot. The council will consider the others next month for inclusion on the same ballot.

Charter Revision Commission members said they were leaning against the proposed amendments.

"I don't think we're going to improve the charter one hell of a lot, quite frankly," said commission Chairman Cecil Branstetter, one of the charter's originators. ■

September 26, 1994

# Voters should decide size of the council

**M**ETRO voters will get a chance to vote on a new term length for the council member on the planning and parking commissions.

They'll get to vote on ending special elections for council members.

They'll even get to vote on term limits for council members.

What they won't get to vote on is a smaller council. Metro Council turned those amendments to the charter down flat. That's a mistake the council should truly regret.

Of all the many proposals to amend the charter this year, decreasing the size of the Metro Council was the most deserving of public debate and a general vote. Instead of debate over a substantive change in managing the council, however, the public will get only the most superficial fiddling in city government to consider in the November election.

No council member wants to lose a job, but given a choice between term limits, a measure put on the ballot by a petition drive, and a smaller council, council members should have endorsed the latter. The idea has been around since Metro government was approved in Nashville. The only justification for the 40-member council at the time of ratification was the political expediency of combining a county court and a city council. To get support for combining city and county governments, charter officials chose a large council.

Some 30 years after the fact is a good time to reconsider. As the city faces increasingly difficult issues about schools and public safety, voters ought to have a chance to determine if the council isn't too cumbersome. A decrease in size could make for more efficiency.

And it's not as if there were only one proposal. Two different council size ad-

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## Council failed to put good amendments on the ballot

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justments were proposed. One, sponsored by Councilman Charles Tygard, would have created an 18-member council. The other would have cut the council size to 25 and eliminated at-large positions.

The council's dismissal of both proposals looks especially self-serving. Tygard served notice last fall he intended to introduce an amendment on council size. The Metro Council had a chance in June to put the measure on the ballot and put it off until this week in order to study the idea more closely. The Metro Charter Commission voted earlier this month not to recommend a change in the size because it needed more time to study the impact of the proposals on the charter.

It doesn't add up. There has been plenty of time to study the amendment on council size, and voters should have been allowed to vote on it.

The term limits amendment that will appear on the ballot was put there by petition, not by the council. It offers only a cosmetic change and a potentially dangerous one at that. The possibility that Nashville could lose good council members under term limits is something to fear. Yet, the measure undoubtedly reflects public dissatisfaction.

Trimming the council size might have cost Metro some good members, too. But it also promised to bring the kind of efficiency that limiting terms can't guarantee. The amendments were certainly a good counter for voters faced with a term limits proposal. Too bad the council didn't let them have that chance. ■

## Bad charter amendment

THE first of four proposed Metro charter amendments on the November 8 ballot is not only unnecessary for city government, it is insulting to Metro voters.

The referendum would amend the Metro Charter to limit "any elected office authorized or created by the Metropolitan Charter to two consecutive terms."

Currently, the Metro mayor is limited to three consecutive four-year terms, but the terms of council members and other court officers are not limited.

The amendment would force a turnover where no force is needed. Since the creation of Metro, the voters of this city have done a fine job of creating turnover themselves at the voting booth.

Each Metro council election, about one-fourth of the council members are replaced, either by resignation or by defeat. Of the 40 members now serving the council, 11 are serving their first term. Six of those 11 defeated incumbents.

Most people who support term limits do so because they believe that the power of incumbency is so strong that challengers never have a chance. That is a valid argument on the congressional level, but it is no argument at all for the Metro Council. Council members have no staff, and no perks such as franking to help promote them between elections. They do receive a small allowance for office expenses, but most council members pay out of their own pockets to stay in touch with voters.

And unlike members of Congress, Metro Council members don't get fat-campaign contributions from special interest groups that hope to keep them in office.

But the proposed amendment gets worse. It requires the Metro Clerk to "write letters each year to all members of the Tennessee General Assembly and all members of the United States Congress endorsing amendments to the Tennessee and United States Constitutions that limit representatives to three terms and senators to two terms."

If Metro voters want to contact the legislature and the Congress to urge support of term limits, that is certainly their business. But this referendum would actually put this absurd requirement into the Metro Charter.

The other three proposed charter amendments make some sense. The second one says that any vacancy in the council would go unfilled until the next election.



Given the cycle of elections in Metro, the longest that any seat would stay vacant is about 18 months. That amendment would save Metro taxpayers money without leaving any citizens unrepresented for a prolonged period of time.

Amendment three would reduce the term of the council member elected by the council to serve on the Planning Commission from four years to two years. Amendment four would expand the term of the council member who is elected to serve on the Traffic and Parking Commission from one year to two years.

For the most part, the council is authorized to set up its committee structure in any way it sees fit. Because the charter says that a council member shall sit on the Planning Commission and the Traffic and Parking Commission, adjustments in those terms require a charter amendment.

Whether the council member serves one year, or two, or four should really be determined by the council, which added these two referenda to the ballot. Voters should have no problem approving them.

This city's voters have proved repeatedly their understanding of the importance of the Metro Charter. They have refused to clutter it up with unnecessary amendments. They have demonstrated remarkable wisdom in adopting amendments that would benefit the city.

Amendments two, three and four — though not the most significant ones ever put before the voters — make sense for Metro. But the radical term-limit amendment makes no sense at all. It deserves to be defeated. ■

### Editorial policy

THE editorial board of *The Tennesseean* includes Sandra Roberts, managing editor/opinion; Mike Morrow and Eilen Dahnke, editorial writers; Sandy Campbell, cartoonist; Terry Quillen, op-ed page editor; and Dwight Lewis, columnist.

11/1/94

November 3, 1994

# Term limits could end era of council old-timers

By **MARK IPPOLITO**

*Staff Writer*

If voters approve term limits for Metro Council members this election, Nashville won't have guys like Tandy Wilson or Mansfield Douglas to kick around much longer.

Wilson, 71, and Douglas, 64, are members of the Metro Council's 30-year club. So are Vice Mayor David Scobey, 72, and Councilman Buster Boguskie, 71, who say they won't run again regardless of whether voters impose term limits on them.

All four are original members of the Metro Council, which formed when Nashville and Davidson County merged in 1963. All four have won re-election every four years since.

A question on the ballot in Davidson County asks voters whether they want to limit Metro Council members to two terms of four years each. If the rule passes, for better or worse, there may not be a next generation of council old-timers.

"I don't really know what these term-limit people are trying to accomplish," said Wilson, who actually has a few years on the other members of the 30-year club. He won election to the old Nashville City Council in

1961, two years before Metro was formed.

"I have never accepted a campaign contribution from anybody," Wilson said, "and I've never spent more than \$250 on any election."

For his first campaign, he made fliers on a copy machine and started knocking on doors. He hasn't changed his style, and voters have been putting him back in office ever since.

The 33rd District councilman says he's improved with age.

"When I first went up there I was literally scared to death ... To really learn what's going on, it takes a while."

Wilson said he's worked with some dedicated long-termers, with Douglas chief among them.

When Douglas was a younger man, he delivered newspapers in a neighborhood with a shortage of decent housing. It made him want to do something to help, he said, so he ran for council.

"When I first got in the council, a fellow knocked on my door looking for employment. ... He looked at me. There was just

◆ Turn to PAGE 2B, Column 1



# Term limits could put end to era of council old-timers

FROM PAGE 1B

something desperate about his expression."

After the man said his wife just had a baby and they couldn't afford to pay their bills, Douglas said he made a phone call and got the man a job as a school custodian.

While many '90s politicians would be less candid about such favors, the 17th District councilman uses the story as an example of why he keeps running.

"We feel like if we're not there, there's not going to be anybody there to try for the people that really need it."

If the ballot measure passes, all current members of council — including Wilson and Douglas — would be allowed to run one more time. Then, in 1999, all current members would be forced out and no new member could last more than eight years.

The measure is part of a national term-limit movement that began in 1990. A local petition, backed by Ross Perot's United We Stand, put the question on the ballot in David-



DOUGLAS WILSON.

son County.

Many voters see it as a way to keep politicians from becoming too entrenched in the system.

"They get dug in," explains early voter W.E. Bingham of the West End area.

Early voters questioned by *The Tennessean* yesterday outside the polls at Woodbine Cumberland Presbyterian Church had mixed feelings about term limits. More said they were for limits than said they were against limits. A few were undecided.

But almost all had one thing in common: They didn't know the names of their Metro Council representatives. ■

## On the ballot

Below the term-limit question on ballots in Davidson County, voters will find three other questions about how to run their Metro Council.

They questions are:

● Should empty seats in the Metro Council be left vacant until the next general election? The system now requires special elections when council members leave office before their terms expire. If the change is approved, an at-large council member would be assigned to represent a district that loses its council member in the interim. Councilman Ludy Wallace called for the change to save taxpayers the cost of holding special elections.

● Should the Metro Council assign one of its members to the Metro Planning Commission for two years instead of four years?

● Should the Metro Council assign one of its member to the Traffic and Parking Commission for two years instead of one year?

# COUNTY STATE GENERAL ELECTION - NOV. 8, 1994

REPUBLICAN NOMINEES	INDEPENDENT CANDIDATES
ON SUNDQUIST <input type="checkbox"/>	STEPHANIE E. HOLT <input type="checkbox"/>
	CHARLIE MOFFETT
	WILL SMITH
BILL FRIST <input type="checkbox"/>	JOHN JAY HOOKER <input type="checkbox"/>
	CHARLES F. JOHNSON
	PHILIP L. KIENLEN
RED THOMPSON <input type="checkbox"/>	CHARLES N. HANCOCK <input type="checkbox"/>
	HOBART R. LUMPKIN
	TERRY L. LYTLE
	KERRY MARTIN
	CHARLES M. MOORE
	DON SCHNELLER
	JON WALLS
TOM WATSON <input type="checkbox"/>	MARY T. SHELBY <input type="checkbox"/>
JOHN OSBORNE <input type="checkbox"/>	LLOYD BOTWAY <input type="checkbox"/>
	CHUCK LOKEY

11/4/94

PROPOSED METROPOLITAN CHARTER AMENDMENTS
<p><b>SUMMARY OF PROPOSED CHARTER AMENDMENT #1</b></p> <p>This would amend Article 1 of the Metropolitan Charter to limit the person holding any elected office authorized or created by the Charter to two consecutive terms. Those officials in office on the effective date of the amendment, January 1, 1995, if reelected for the 1995-1999 term, would not be permitted to run for another term in 1999 under this amendment.</p> <p>This amendment would require the Metropolitan Clerk, each year, to write to state legislators representing Davidson County, requesting they support an amendment to the Tennessee Constitution imposing term limits on members of the Tennessee General Assembly. This letter would endorse a three term limit for each representative and a two term limit for each senator in the Tennessee General Assembly.</p> <p>This amendment would require the Metropolitan Clerk, each year, to write to members of the United States Congress representing Davidson County, requesting they support an amendment to the United States Constitution imposing term limits on members of the United States Congress. This letter would endorse a three term limit for each representative and a two term limit for each senator in the United States Congress.</p>
<p><b>AMENDMENT #1</b></p> <p>Should Article 1 of the Metropolitan Charter be amended to limit the person holding any elected office authorized or created by the Metropolitan Charter to two consecutive terms? Should the Metropolitan Clerk write letters each year to all members of the Tennessee General Assembly and all members of the United States Congress endorsing amendments to the Tennessee and United States Constitutions that limit representatives to three terms and senators to two terms?</p>
<p>YES .....&gt; <input type="checkbox"/></p> <p>NO .....&gt; <input type="checkbox"/></p>
<p><b>AMENDMENT #2</b></p> <p><b>VACANCY PROVISIONS</b></p> <p>This amendment would require that when a vacancy occurs in the office of vice mayor, district council member or council member-at-large, such office would remain vacant until the next general election is held, therefore removing the necessity for the calling of special elections to fill such vacancy.</p>
<p>YES .....&gt; <input type="checkbox"/></p> <p>NO .....&gt; <input type="checkbox"/></p>

**PTA**  
 Run expect to raise \$ for program

Granbery Elementary School is holding a Turkey Trot to raise \$200,000 for the school. The PTA Teacher Association is sponsoring the Nov. 8 a "turkey trot" around Park track to help earn money for local programs and teaching resources.

"Funds raised by the PTA provide extra not covered by the Metro school board budget and certainly help Granbery a great place to raise," said Grant Robert Sadler.

"Our goal of \$200,000 extra such as coming leading-edge technology support instruction and the tools with which creative talents."

Children participating in the Trot are encouraged to bring personal sponsors at each lap they complete scheduled for 9:30 that day. Organize

Lots Else We  
 Route 1, Lynnville, Tenn., maker, died yesterday at Regional Hospital. Services tomorrow, Carr & Home, Columbia, Tenn. Husband, Willie L. son, Terrell Ann daughters, Ann Elise Sus Lovell, Lynnville; two great-grandchildren, Sarah Jean and Clay St. Gleason, maker, died Tuesday afternoon 2 p.m. today. Survivors: daughter, Pegram; sons, Todd ley, both of Gleason; three great-grandchildren, Grace Bone Bl Elm St., Lyman, Tenn., died Saturday, an automobile accident a.m. tomorrow. Hu Funeral Home, Wavivors: sons, James Shannon Bramlett, daughter, Mona I mother, Alma Bone er, John Bone, Tenn.; sister, Norma Waverly; five grand Earl Burgess, 1 St., Tullahoma, Tenn. Fly Manufacturing Tenn., died Wednesday Hospital, Nashville, gery. Services 1 p.m. rna Funeral Home daughter, Joan Fi sons, Thomas Burg

A.D. Jones Jr., D-Bluff City  
With 14 of 14 precincts reporting

4,447 36 % Richard Springs, R-Louis  
With 32 of 32 precincts reporting

With 15 of 15 precincts reporting



**METRO RESULTS**

# Nashvillians vote to drop long-timers

By **MARK IPPOLITO**  
Staff Writer

Term-limit advocates around the nation have issued a war cry to throw the geezers out.

And Nashville became a minor victory in their battle yesterday.

Voters here overwhelmingly approved a measure limiting elected Metro officials to two terms of four years each. Voters approved the measure 3-to-1.

The term limit rule stands to change the face of the Metro Council, which historically has been a mix of newcomers and old-timers. Vice Mayor David Scobey, 72, and Councilmen Buster Boguskie, 71, Mansfield Douglas, 64, and Tandy Wilson, 71, have been on council since it formed in 1963.

"It means you're going to have a lot of inexperienced people up there on a regular basis," Wilson said.

All current council members are allowed to run one more time before being forced out.

Metro Legal Director Jim Murphy said the provision would not apply to Nashville mayors,

who already are limited to three terms. However, he said, his interpretation may be challenged.

In other parts of the country eight states were considering term limits for the representatives they send to Congress. Since 1990, 17 states have approved term limits.

National polls suggest 80% of Americans favor term limits for members of Congress.

Tennessee had no statewide term-limit question on the ballot.

Term-limit advocates say career politicians become so entrenched in the system they lose touch with their communities. But opponents argue limits rob voters of choice.

"If I think a guy is doing a good job, I don't care if he runs 10 times," Boguskie said. "I don't say boot him out because he's been there too long."

The anti-incumbent mood, here and around the country, translated into term-limit support.

"I think there's a good ol' boy system going on," said voter Susan McCulston of Ingleswood.

Passage also requires Metro officials to send letters advocating term limits to the state legisla-

## Satellites elect city commissioners

Voters in two Davidson county satellite cities elected commissioners in races yesterday.

In Forest Hills, Anne Roos and John Lovell won two open commission seats. Roos received 1,325 votes, while Lovell received 1,324.

In Belle Meade, Mary Hill Pirile and Scott Fillebrown won two open commission seats over opponent Elizabeth Craig Proctor. Pirile received 1,129 votes, Fillebrown received 1,129 and Proctor received 807.

ture and to Congress each year.

Three other questions on the ballot in Nashville were approved by the same margin. They make the following changes:

● When Metro Council members leave office early, their seats be left empty until the next general election rather than filled in special elections as vacancies occur.

● The Metro Council will assign one of its members to the Metro Planning Commission for two years instead of four years?

● The Metro Council will assign one of its members to the Traffic and Parking Commission for two years instead of one year? ■

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11/9/94

ATTACHMENT C: The Nashville Banner

# Time short for council to mul charter changes

By Rob Moritz  
Banner Staff Writer

"Time is of the essence" if 13 proposed Metro Charter amendments have a chance of making the Nov. 1 ballot, the chairman of the Charter Revision Commission says.

The first step is a public hearing to be held at 4:30 p.m. Aug. 24, Cecil Branstetter told commission members at a Wednesday meeting.

The commission must hold a public hearing and then make recommendations on each of the 13 amendments so the council can vote on them at its Sept. 8 meeting. Amendments receiving council approval will be on the Nov. 1 ballot.

One proposed amendment to the Metro Charter — a two-term limit for Metro Council members — is expected to be on the ballot through a petition drive by Ross Perot's United We Stand America and Term Limits of Tennessee.

Councilman Charlie Tygard has proposed a three-term limit for council members.

Along with the three-term limit for council members, other proposed charter amendments to be discussed at the Aug. 24 public hearing would:

- Cut the number of district council members from 35 to 18.

- Eliminate the five at-large

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council seats.

- Reducing the council to 25. That amendment also asks that the at-large positions be eliminated.

- Allow the Metro Council to redraw councilmanic districts without a special referendum election.

- Combine the Metro Board of Health and the Metro hospital board.

- Have the position of vice mayor elected by the council and not the voters.

- Require elections for vacated council seats be held on the next scheduled election, rather than calling special elections.

- Make all directors of Metro departments non-civil service positions.

- Prohibit council members from holding other elected offices while serving on the Metro Council.

- Require Metro departments to get council approval if they want to shuffle money within their departmental budgets.

- Set a three-term limit for vice mayor.

- Cut the term council members serve on the Metro Planning Commission from four years to two years.

# Term limits group petitions to bring issue up for vote

By Krista Goad  
Senior Political Writer

Tennessee Term Limits, a newly-formed statewide organization aimed at limiting terms of local officials, today filed a petition with the Metro Clerk's office that once again puts the issue before the Metro Council.

Alan Lindsay, working locally with Councilman Charlie Tygard, today filed a petition containing more than 18,000 signatures. The petition, which would go into effect Jan. 1, 1995, calls for limiting local officials to two consecutive terms.

The petition will go before the Metro Council for approval. The council can vote to put the issue on the November ballot, or it can vote against it. It would then go to the ballot by petition. Last year, Tygard unsuccessfully put the issue before the council, and Lindsay says an approval this time also is

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unlikely.

"When it comes to limiting their own terms, elected officials quite often are obstinate about this and are unwilling to even submit it to the voters," Lindsay said.

If voters approve the measure, anyone elected to a Metro office after the first of the year could serve no more than two consecutive terms. The Metro Clerk also would be responsible for mailings at the beginning of each year to Davidson County members of the state House and Senate and to Davidson County delegates in Washington encouraging the passage of term limits on both levels.

"This is an incremental change," Lindsay said. "This isn't some revolutionary chop-all-their-

heads-off-today. Our purpose is to change the way elections take place. We want to try to get away from this seniority system of government and open it up to responsible citizens who would be willing to take a year or two off from a successful job to serve the public."

The number of signatures required to put an issue on the ballot is 10 percent of the number of those who voted in the last general election. About 90,000 cast their ballots here in the August election, putting the number of signatures necessary at 9,321.

Similar efforts are underway in Knoxville, Chattanooga and Memphis. Tennessee Term Limits already has filed its petition in Knoxville — where the group began last May — and is still gathering signatures in Memphis. The issue will go before the council in Chattanooga in October, Lindsay said.

# Metro Council set to discuss 12 more charter amendments

By Rob Moritz  
Senior Staff Writer

With one proposed Metro Charter amendment already on the November ballot, a public hearing is scheduled for Wednesday to discuss 12 others.

Amendments to be addressed at 4:30 p.m. Metro Courthouse hearing would:

■ Cut the number of district council members from 25 to 18.

■ Eliminate the five at-large council seats.

■ Set a three-term limit for vice mayor.

■ Prohibit council members from holding other elected offices while serving on the Metro Council.

■ Reduce council size 25. That amendment also asks that the at-large positions be eliminated.

■ Allow Metro Council to redraw councilmanic districts without a special referendum election.

■ Combine the Metro Board of

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Health and the Metro hospital board.

■ Have the position of vice mayor elected by the council and not the voters.

■ Require elections for vacated council seats be held on the next scheduled election, rather than calling special elections.

■ Make all directors of Metro departments non-civil service positions.

■ Require Metro departments to get council approval if they want to shuffle money within their departmental budgets.

■ Cut the term council members serve on the Metro Planning Commission from four years to two years.

Councilman Charlie Tygard, who originally proposed six of the amendments, says he'll withdraw one of them.

Tennessee Term Limits, a newly formed statewide organization, filed a petition last week putting a two-term limit for Metro Council members on the Nov. 8 ballot. Tygard had proposed a three-term limit.

"I'll withdraw that Wednesday," he says.

Tennessee Term Limits, which had been working locally with Tygard, filed a petition Friday containing more than 18,000 signatures. Tygard tried last year to get the amendment on the ballot but failed.

If approved by voters, the measure would go into effect on Jan. 1.

Metro Council will discuss the other 12 proposed charter amendments at its Sept. 8 meeting. Amendments receiving council approval — a minimum of 37 votes — will then be placed on the Nov. 8 ballot.

The public is invited to participate in Wednesday's hearing.

## Charter revision unlikely, Metro commission agrees

By Rob Moritz 8/25/94  
Banner Staff Writer

After a public hearing that addressed changing the make-up of the Metro Council, the city's Charter Revision Commission members agreed they probably won't recommend any changes to the Metro Charter.

The commission will wait two weeks before making that recommendation "official."

The next meeting is at 4:30 p.m. Sept. 7.

"Serious consideration must be made to these fundamental changes," Cecil Branstetter, commission chairman, explained.

Some members even suggested hiring a consultant to determine if any of the amendments actually are needed.

The Metro Council will address the amendments at its Sept. 20 meeting.

Amendments receiving council approval — a minimum of 27 votes — will then be placed on the Nov. 8 ballot.

One proposed amendment, filed by a petition, is already on the ballot and sets a two-term limit on the office of mayor, vice mayor and council seats.

A public hearing on the 14 proposals — three of which recently were filed — was held Wednesday with about 40 in attendance.

Amendments receiving the most public comment included:

- Downsizing the council to either 18 or 25 members;

- Eliminating the at-large positions;

- Making all directors of Metro departments non-civil service;

- Having the position of vice mayor elected by the council and not the voters.

## Term-limit initiative not 'plain talk'

### Fuzzy language even confuses plan's backers

By Jeff Wilkinson 9/13/94  
Banner Staff Writer

Billionaire Ross Perot, the unpredictable Texas maverick who bought his way into the 1992 presidential campaign, prides himself on "plain talk."

But a term-limit initiative placed on November's Metro ballot by his United We Stand America political organization is as clear as Texas crude.

"It is not the model of clarity," Metro Legal Director Jim Murphy

says.

The initiative, developed by Tennessians for Term Limits and circulated by the Perot group, would limit Metro elected officials to two four-year terms.

It also includes a "grandfather clause" that exempts terms served prior to Jan. 1, 1995, the date the initiative would take effect if passed.

That seems simple enough on the surface: Two terms equals eight years.

But fuzzy language in the initiative hides the fact that current council members may have to leave office in 1999, only 4½ years from the time the initiative becomes law.

It is worded as follows: "Effective Jan. 1, 1995, no person shall be eligible to serve in any elected office authorized or created by the (Metro Charter) if during the previous two terms of that office, the person in question has served more than a single term."

High?

That means the following to the Metro Legal Department:

- Current council members will serve the remainder of their terms until the August, 1995 election.

- The time they serve from Jan. 1, 1995, until the election is considered a partial term, which counts, according to the wording of the initiative.

- So even if re-elected, the incumbents are gone in August of 1999 — 4½ years from the time the initiative takes effect.

"That appears to be it," Murphy says. "But it's hard to say what this

really does ... because it is somewhat confusing."

Even its proponents are confused.

"By the way it's written out, I would interpret it as them not being eligible to run in 1999," says Robert Nakamoto, acting district coordinator for United We Stand America in Davidson and Robertson counties. "But I guess we would have to get a legal opinion on that."

"That may be a valid interpretation," says Alan Lindsay, director

Please see METRO, page B-3

(Continued next page)

**FROM PAGE B-1** 4/13/94. Cont.

## **Metro:** Even proponents of term limits admit new law confusing

■ Continued from page B-1

of Tennesseans for Term Limits, who developed the petition. "Everyone will be able to finish out their current term and serve another."

"But we don't really care whether that is 1999 or 2003. We'll be happy with either result."

Another major question is whether the limit applies to the Metro Board of Education.

"I think not," Murphy says, because state law "creates" school boards, not Metro. "But there is ambiguity there."

Lindsay, however, says: "We believe it does; we may be wrong. But there is at least as much support for limiting those types of offices as for limiting the terms of council."

All of this spells trouble for the voter, Murphy says.

"It's confusing for us, so it has to be confusing for them," Murphy says. "There are all these issues that are floating around."

### **Tygard favors limits**

Ambiguity aside, councilman Charles Tygard, one of the few Metro council members who support the initiative, says it's a good idea.

"It's not clear, but it is my understanding it had to be that way to meet the legal parameters," says Tygard, who was defeated in this year's Juvenile Court clerk race by incumbent Kenny Norman. "I wish it could have been simpler."

"But I support term limits at all levels of government because it encourages more people to get into government and the good people to run for higher office."

### **Branstetter disagrees**

Not so, says Cecil Branstetter, chairman of the Metro Charter Revision Commission.

The commission voted not to recommend the term limits referendum for approval on the November ballot.

"The referendum rambles, is just about unintelligible and no one is sure just how it will affect other charter amendments," says Branstetter, an author of the original Metro Charter.

He adds that term limits aren't needed because voters already

have the power to get rid of elected officials they don't like.

"We already have term limits, every time there's an election," Branstetter says.

Councilman Ludy Wallace agrees: "Every time we're up for re-election we are subject to the vote of the people."

"Everyone talks about term limits, but I don't think the public is being given enough credit for voting," he adds.

"They elect us as public officials to serve as many terms as they want us to serve. If you're a good elected official and the public likes you, you shouldn't be subject to only two terms."

Wallace also says a two-term limit isn't enough time to be a good councilman.

"It's not enough time, especially with the staff limitations we have and all the work we do," he says.



## Charter committee favors 2 amendments

By Rob Moritz  
Banner Staff Writer

Only two of a dozen or so proposed amendments to the Metro Charter are being recommended by the council's charter revision committee.

No amendments were recommended by the Metro Charter Revision Commission.

The proposed amendments will be considered at Tuesday's council meeting.

Proposals that receive 27 votes from the council will be placed on the Nov. 8 ballot.

The council committee Thursday voted unanimously to recommend amendments:

- Requiring elections for vacated council seats on the next scheduled election, rather than calling special elections.

- Prohibiting council members from simultaneously holding other elected offices.

They narrowly defeated approving an amendment that would reduce the size of the council to 25 and eliminate the at-large seats.

No other proposals were voted on by the committee.

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"We voted on the ones with the most merit," Councilman Tandy Wilson said after the meeting.

Other proposed amendments on Tuesday's council agenda include:

- Classifying directors of Metro departments as non-civil service.

- Allowing the council, not voters, to elect the vice mayor.

- Allowing the council to redraw councilmanic districts without a special referendum election.

- Combining the Metro Board of Health and the Metro hospital board.

- Requiring all Metro employees to live within Davidson County.

- Requiring Metro departments to get council approval to shuffle money within their budgets.

- Cutting the term council members serve on the Metro Planning Commission from four years to two.

- Cutting the term council members serve on the Traffic and Parking Commission from four years to two.

## Voters won't get chance to cut council

By Rob Moritz  
Banner Staff Writer

Four proposed amendments to the Metro Charter will be on the Nov. 8 ballot.

Three of the proposed amendments were approved Tuesday night by the Metro Council. None, however, will deal with cutting the size of the council. Two proposals dealing with the issue were defeated after lengthy debates.

A fourth proposed amendment, which sets two-term limits on the offices of mayor, vice-mayor and council, was filed by petition.

The three proposals approved by the council would, if voters agree,

- Require elections for vacated council seats or vice mayor on the next scheduled election, rather

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than calling special elections.

Councilman Ludy Wallace noted the high cost of special elections, especially when only one vacated seat is on the ballot. The proposal was approved 36-0.

- Change the term of the council member serving on the Planning Commission from four years to two years. Approved 28-4.

- Change the term of the council member serving on the Traffic and Parking Commission from one to two years. Approved 28-4.

Councilman Charlie French said he proposed changing the length of terms on those two commissions because four years is "too long" to be on the Planning Commission

and one year "isn't long enough" to be on the Traffic and Parking Commission.

The council spent more than an hour debating each of the 17 proposed charter amendments.

Amendments cutting the size of the council to 25 and to 18 were both defeated by an 20-8 margin.

"What are we afraid of," Councilman Charlie Tygard, who sponsored the bill to slash the size to 18, said while defending his proposal. "Let's let the people decide and let's put this to rest."

The term limit petition already on the ballot was circulated by Ross Perot's "United We Stand America" organization.

In other action, the council:

- Defeated an ordinance on

third reading that would have changed Metro zoning regulations to allow citizens to lease their billboard sites to the highest bidder once current leases on the billboard sites have expired. The bill needed 27 votes for approval because it wasn't approved by the Metro Planning Commission. The vote was 22-10.

- Deferred two bills concerning the Metro residency requirement until a possible compromise can be worked out. The ordinance on second reading loosens the hardship restrictions for Metro employees to live out of county, but doesn't totally eliminate the residency restriction. A bill on third reading would eliminate the requirement completely.



# Term-limit entry on ballot unclear

Questions surround 2 important points

By Rob Moritz  
Senior Staff Writer

11/4/94

 METRO

Term limits, the rallying cry of upset voters across the country, has become an issue in almost every congressional and senate election — including those in Tennessee.

In fact, eight states have statewide term limit referendums on their ballots this year.

But one of only three places you'll find a term limit referendum on the ballot for local government officials in Tennessee is Nashville. The others are in Shelby County and the city of Knoxville.

The proposed amendment to the 31-year-old Metro charter would limit Metro council members and the vice mayor to two four-year terms.

The somewhat confusing referendum, which was placed on the ballot via a petition drive spearheaded by Tennesseans for Term Limits and Ross Perot's United We Stand America political organization, is one of four proposed amendments to the charter on Tuesday's ballot in Nashville. The others, which were approved by the Metro Council, are far less controversial. They include:

- Requiring elections for vacated council seats or vice mayor on the next scheduled election, rather than calling special elections.

- Changing the term of the council member serving on the Planning Commission from four years to two years.

- Changing the term of the council member serving on the Traffic and Parking Commission from one to two years.

## Confusing language

Although the basic premise of the term limit referendum is straightforward — two four-year terms — city attorneys were initially confused by the wording of the amendment and its ramifications for city government.

They think they now have the perplexing language of the proposed amendment sorted out.

"There's no question that it's confusing," says Metro Attorney Jim Murphy. "That's always been an issue."

The confusion centered around two key points in the amendment:

- Since it takes effect almost three-quarters of the way through the current terms on the council, will the current term count against the limit of two?

- Will term limits affect the Metro Board of Education?

The referendum states it will become effective on Jan. 1, 1995.

That means, says Murphy, that the time current council members serve between Jan. 1 and the August 1995 election will count as one term.

"That's what the language says. That would mean during the term of the current council members," says Murphy. "They would have to finish out their current term and serve only one more."

As for school board members, they will not be affected by term limits because they are governed by a state statute and not the Metro Charter.

## What the critics say

Critics of the term limit amendment say it circumvents the right of the voter to choose who he or she thinks is best for the job.

"People who want term limits discredit the intellect of the voter," says Cecil Branstetter, chairman of the Metro Charter Committee and one of the writers of the original charter.

"The charter was well written and has served the community well," he says. "There already are term limits each time the voter goes into the ballot box. The voters have voted intelligently and to indiscriminately take from the council those with experience . . . is totally unfair and inappropriate."

Opponents noted during a recent Charter Commission meeting that 11 of the current 40 members on the council are serving their first term.

Branstetter, in fact, hopes all four proposals are voted down this week.

He says the Charter Commission plans a series of meetings over the next few months to review the entire Metro Charter to determine if any amendments should be added.

Supporters of term limits say it will give unknown candidates an "even playing field" when seeking office. Incumbents have too much of an advantage.

"It's always disappointing to me when the council refuses to give the vote to the people," says Councilman Charlie Tygard, one of the few council members who supports term limits. In fact, he proposed his own term limit amendment but withdrew it after the petition drive succeeded.

"It creates a level playing field for challengers," Tygard says. "It also encourages incumbents to get in and do what they promised to do rather than worrying about being re-elected."

# Mixed bag on charter

## Amendment on council elections should pass

11/7/94  
**N**ashville voters in Tuesday's election will find on their ballots four proposed amendments to the Metro Charter. One has merit. Two others probably would do no harm. The other should be rejected.

The first and most controversial proposes to limit members of the Metro Council to two terms. This newspaper supports the concept of term limits as a way to ensure new blood in government and neutralize the advantage incumbents inevitably accrue. However, this amendment is poorly drawn.

The proposal, put on the ballot through a petition drive by Ross Perot's "United We Stand America" organization, includes a "grandfather" clause that exempts council terms served before the amendment takes effect, if approved. However, it would become effective next Jan. 1, seven months before the next Metro election. City attorneys say that language means the current term would count against the two-term limit.

... The amendment doesn't stop there. It..

would make forevermore a part of the Metro Charter a silly requirement for the Metro clerk, each year, to write to Davidson County member or members of Congress and state legislators requesting that they support constitutional amendments limiting terms for Congress and the Legislature. There's nothing wrong with the Metro Council expressing support for term limits each year if it wants to, but to write such a requirement into the Metro Charter, which so far has been protected from such clutter, would be absurd. Voters should reject this amendment.

Amendment 2 on the ballot is a sensible proposal to leave vacant council seats open until the next election, removing the necessity to call a costly special election. It should be adopted.

Amendments 3 and 4 change the term lengths of council members elected to the Planning Commission and the Traffic and Parking Commissions to two years. They seem harmless enough, but unnecessary. —

# SAMPLE BALLOT - DAVIDSON COUNTY STATE GENERAL ELECTION - NOV. 8, 1994

STATE OF TENNESSEE GENERAL ELECTION	DEMOCRATIC NOMINEES	REPUBLICAN NOMINEES	INDEPENDENT CANDIDATES
<b>GOVERNOR</b>	PHIL BREDESEN <input type="checkbox"/>	DON SUNDQUIST <input type="checkbox"/>	STEPHANIE E. HOLT <input type="checkbox"/>
VOTE FOR ONE (1)			CHARLIE MOFFETT WILL SMITH
<b>UNITED STATES SENATE (Full Term)</b>	JIM SASSER <input type="checkbox"/>	BILL FRIST <input type="checkbox"/>	JOHN JAY HOOKER <input type="checkbox"/>
VOTE FOR ONE (1)			CHARLES F. JOHNSON PHILIP L. KIENLEN
<b>UNITED STATES SENATE (Unexpired Term)</b>	JIM COOPER <input type="checkbox"/>	FRED THOMPSON <input type="checkbox"/>	CHARLES N. HAMCOCK <input type="checkbox"/>
VOTE FOR ONE (1)			HOBART R. LUMPKIN TERRY L. LYLE KERRY MARTIN CHARLES M. MOORE DON SCHNELLER JON WALLS

**PROPOSED METROPOLITAN  
CHARTER AMENDMENTS**

**SUMMARY OF PROPOSED CHARTER AMENDMENT #1**  
 This would amend Article 1 of the Metropolitan Charter to limit the person holding any elected office authorized or created by the Charter to two consecutive terms. Those officials in office on the effective date of the amendment January 1, 1995, if reelected for the 1995-1998 term, would not be permitted to run for another term in 1999 under this amendment.

This amendment would require the Metropolitan Clerk, each year, to write to state legislators representing Davidson County, requesting they support an amendment to the Tennessee Constitution imposing term limits on members of the Tennessee General Assembly. The letter would endorse a three term limit for each representative and a two term limit for each senator in the Tennessee General Assembly.

This amendment would require the Metropolitan Clerk, each year, to write to members of the United States Congress representing Davidson County, requesting they support an amendment to the United States Constitution imposing term limits on members of the United States Congress. The letter would endorse a three term limit for each representative and a two term limit for each senator in the United States Congress.

**AMENDMENT #1**  
 Should Article 1 of the Metropolitan Charter be amended to limit the person holding any elected office authorized or created by the Metropolitan Charter to two consecutive terms? Should the Metropolitan Clerk write letters each year to all members of the Tennessee General Assembly and all members of the United States Congress endorsing amendments to the Tennessee and United States Constitutions that limit representatives to three terms and senators to two terms?

YES ..... >  YES

NO ..... >  NO

# Banner

TODAY'S NEWS TODAY

## SLIDE



Banner photo by Steve Lowry  
for Frist's victory party at  
orbit Plaza Tuesday.

### Conservative clout extends far beyond state's big-3 sweep

By Jeff Woods and Ed Cromer  
*Banner Political Writers*

Jubilant state Republicans are celebrating a "political earthquake" that has toppled Democrats and has given the GOP control of the governor's office and both U.S. Senate seats for the first time in 20 years.

The Republicans won all three contests Tuesday by big margins, and the party also won five of the state's nine congressional seats — taking open seats in the 3rd and 4th Districts that had been held by Democrats.

"It's a political earthquake in Tennessee," Republican newcomer Bill Frist told a wall-to-wall ballroom crowd after defeating 18-year incumbent Sen. Jim Sasser.

"And 18 years was long enough," he shouted as the crowd roared.

Don Sundquist defeated Democrat Phil Bredesen in the governor's race, which drew about 1.4 million votes, which could be the highest turnout in a non-presidential election since 1978, state elections officials say.

Fred Thompson cruised past Democrat Jim Cooper to win the special election for the last two years of Vice President Al Gore's Senate term.

But the conservative trend went beyond the three major statewide elections:

- Voters in Davidson, Shelby and Knox counties decided term limits should be applied to their governing bodies. Metro Council members will be restricted to two terms.

- Republicans picked up four seats in the state House of Representatives and one in the Senate.

- Republican Van Hilleary defeated Jeff Whorley in the 4th District to take the seat vacated by Cooper.

- Ed Bryant defeated Harold Byrd to retain for the GOP the 7th District seat Sundquist relinquished to run for governor.

Please see STATE, page A-2

Continued from page A-1

● Republicans Zach Wamp beat Randy Burton in the 3rd District to succeed the retiring Marilyn Lloyd, a Democrat.

In a couple of rare bright spots for the Democrats, Bob Clement won easily in the 5th District and fellow incumbent Bart Gordon survived a strong challenge from Republican Steve Gill to cling to his 6th District seat.

"Obviously, the Democrats have not satisfied the needs of the population," said state Sen. Thelma Harper of Nashville, who easily won re-election.

"The Democrats obviously need to totally reorganize on the county level," outgoing Democratic Gov. Ned McWhorter said. "I felt good about the local responses as I went around the state. . . I was surprised at the margin that built up throughout the state."

The three statewide victories returned Republicans to Tennessee's political center stage in grand style.

This will be only the second time in state history that Republicans have controlled both Senate seats and the governor's office. In 1970, Bill Brock was elected to join Howard Baker in the Senate, and Winfield Dunn was elected governor.

And it was the first time since Lamar Alexander's 1982 re-election as governor that a Republican has won any statewide office in Tennessee.

The Republican tide was so strong that even little-known Memphis firefighter Tom Watson, the GOP nominee for the Public Service Commission, managed to collect 45 percent of the vote in losing to Sara Kyle, a niece of the late Gov. Frank Clement and a cousin to the congressman.

#### 'We've got to produce'

Alexander, who is pondering a 1994 presidential bid, said Tuesday's elections "boiled down to one word: Washington, D.C. Stop these 1,400-page health care bills, forget



Barber photo by John Russell

Sheriff's Department inmates Mike Tassley (left), Antonio Hyde (center) and Ronnie Savage pick up campaign signs collected as part of a "clean up the city" promotion on radio station Y-107.

the 1,000-page education bills, stop the 1,000-page crime bills. We don't need your advice on that."

"It's up to us Republicans now to say what we believe in," he continued. "We've got to produce. We've only had two Republican senators in our state's history, and we've only had four Republican governors in this century. We now have a two-party state."

Dunn, who eight years ago lost his second bid for the governorship, called the GOP sweep "the culmination of a dream for me."

"Going back to the early '60s, I had looked for a time when we would have a competitive, two-party system," he said. "It looks like we've got it now."

In any other year, Sasser and Cooper might have been viewed as dedicated public servants. But in this year of mad-as-hell voters, in Tennessee and nationwide, they were derided as career politicians.

"It's important not to be discouraged by this election by the current Republican tide or by the

pundits," Cooper told dejected supporters Tuesday evening.

"Being a public servant is not a vice — it's a virtue," he continued.

"Even though most public servants have been vilified in this campaign, I think it's very important to realize the great contribution that public servants have made in the past in American history and will continue to make in the future."

#### Presidential baggage

Across the nation, and particularly in the South, President Clinton was blamed for dragging down his party. His unpopularity in Tennessee clearly helped Republicans.

But Thompson, who racked up the largest vote tally (1878,476) of the election, contended voters were expressing much more than displeasure with the president's policies.

"I am more convinced today than ever before that this election this year had to do with more than just partisan politics, Democrats and Republicans," Thompson said. "I had more to do than just whet-

ter or not you liked the person who is currently holding the office of president of the United States. It had to do with more fundamental things than that.

"People feel alienated from their government. People feel alienated from the people's branch of government, and they're demanding fundamental changes. And if the professional politicians don't understand that, they're soon going to understand that. We didn't run for office this year to go up there and just warm a seat."

State GOP Chairman Randle Richardson, hardly savoring his party's historic night, called on Republicans to capitalize on their victories by broadening their appeal.

"We've grown, but we ought to expand our horizons even more," Richardson said. "We shouldn't say that who we are now is who we ought to be. We ought to open up our arms and welcome everybody regardless of race or gender or creed. And we ought to open up this party to let everybody in, regardless of what they believe."

# Davidson, Knox, Shelby OK term limits

By Rob Moritz  
Senior Staff Writer 1/19/94

Term limits got a big vote of confidence from voters here and in two other Tennessee counties.

And politicians had better take notice, the executive director of Tennessee for Term Limits says.

"I can tell you politicians who ignore what the people told them today do so at their own peril," said Alan Lindsay, whose organization spearheaded petition drives to get the term limits on the ballots in Nashville as well as in Knox and Shelby counties.

In Nashville, a term limit amendment to the Metro Charter requiring no more than two four-year terms for council members and the vice mayor passed overwhelmingly with 78.5 percent of the vote. They received similar votes in both Knox and Shelby counties.

In fact, term limits referenda were approved in all eight states where they were on the ballot, and in the District of Columbia.

"I think we have sent a very clear message," Lindsay said from Knoxville. "What the voters are telling them in clear language, a free-wielding legislature needs to stop. We need one that is disciplined and has self-restraint."

Supporters of term limits will now begin lobbying state legislators to get a statewide term limit referendum on the ballot, Lindsay said.

The charter amendment approved in Nashville also requires letters be sent to all members of the state General Assembly and the United States Congress urging them to endorse term-limit amendments to the state and United States constitutions.

"We'll send a very strong message to our Legislature that says you guys need to go to work to get term limits. We'll try to build a coalition of legislators to stand up and say we're going to do what the voters want us to do."

### 3 other amendments

Three other amendments to the Metro charter also were approved. They include:

- Requiring elections for vacated council seats or vice mayor on the next scheduled election, rather than calling special elections.
- Changing the term of the

## Kleinfelter ready to tackle mundane issues

By Rob Moritz  
Senior Staff Writer

David Kleinfelter is eager to get to work at his new job as a Metro Council member.

"I'm ready to go," the 32-year-old Nashville lawyer said after easily outdistancing two opponents in the race for the District 25 councilmanic seat vacated by Gayle Ray when she was elected sheriff earlier this year.



Kleinfelter

Kleinfelter received 52 percent of the 5,387 votes cast in the election. His closest opponent was Norman Werrell, a former executive director of the Tennessee Arts Commission, who garnered 32 percent of the vote. Douglas Gilbert, a state employee, received 16 percent.

Unsure about when he'll be officially sworn in, Kleinfelter plans to attend Tuesday's meeting and be as involved as he can.

"I suspect I'll be there. Whether I'll actually be able to sit in the council chambers, I don't know," he says, adding that he can't be officially sworn in until the vote is certified. That could take a week.

During the five-week campaign, he found traffic problems and poor drainage as the two issues most

discussed by voters in the 25th District.

"These are rather mundane issues to some, but when you get three feet of water in your yard after a rain it can be a big problem," he says, adding that he plans to work closely with Metro Public Works to improve street drainage.

"There's a lot of traffic in my district and speed control problems that need to be addressed," he says.

"I tried to portray myself in this race as a person who has the commitment and energy to tackle the frankly boring issues," he says, referring to the solid waste issue, another subject he wants to tackle.

"Most people aren't too interested in that, or find it boring," he says. "This is an extremely important issue, and I'm willing to take the time to look. The whole waste issue is up in the air right now."

Kleinfelter, of 2994 23rd Ave. S., is an attorney with Doramus & Traeger. A graduate of Vanderbilt University, he received his law degree from the University of Tennessee.

He formerly worked as press secretary for the Democratic caucus of the state House and on Gov. Ned McWherter's 1984 campaign. He also worked on Ray's campaign for Metro Council three years ago and on her campaign for sheriff. In fact, Ray urged him to seek her vacated council seat.



Wilson



Tygard

gard says. "They sent a very clear message. They want politicians to do what they say, get in and get out."

Longtime council member Tandy Wilson, an opponent of term limits, also was unsurprised.

"I understand that people are upset so I wasn't surprised it passed," said Wilson, a charter member of the 31-year-old Metro Council. "I understand the frustration."

"I'm surprised a little bit by the margin it won. It goes with the territory; everybody is pretty much wanting change and we have to expect that."

However, term limits will limit the effectiveness of Metro Council members, Wilson added.

"It will change the makeup of the council and how it operates," he said. "Every eight years you'll have a complete change. So much of it you don't learn in a short period of time. It will make the mayor's office that much stronger."

Wilson also said he's not sure he'll seek his office again next

year.

"I've just enjoyed representing the people," he said. "It's getting close to the time for me to get out whether they have term limits or not."

### Confusion cleared up

Although the basic premise of the term-limit referendum is straightforward, city attorneys were initially confused by the wording of the amendment and its ramifications for city government.

Two key questions have been cleared up.

Since the term-limit charter amendment takes effect on Jan. 1, 1993, almost three-quarters of the way through the current terms on the council, the last fourth of the current term will count against the limit of two.

Also, the amendments will not affect the Metro Board of Education because members are governed by a state statute and not the Metro Charter.

"It's hard not to smile from ear to ear right now," Lindsay said after Tuesday night's election.