



## MEMORANDUM

To: Charter Review Committee  
Floyd Hartman, Interim City Manager  
Bryan McWilliams, City Attorney

From: Mick McKamie, Special Counsel

Date: June 6, 2024

Subject: Charter Amendments – Voting Rights Act Basics

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The Voting Rights Act of 1965 seeks to address discriminatory election and voting practices and applies to all voting systems and processes throughout the country. You have requested some information about how the Act may impact changes to the number of members and method of selection of the Amarillo City Council. This is a basic look at some ways the Voting Rights Act applies.

**1. Section 2 challenges:** Section 5 of the Voting Rights Act required Texas and local governments in Texas to submit any change in voting practices to the U. S. Department of Justice for “preclearance” prior implementation. That review was to determine if the change would result in a dilution of the electoral power or participation of minorities. That obligation was removed by the U.S. S. Ct. A few years ago.

However, Section 2 of the Act remains fully effective, and provides for the right to challenge election practice and procedures on the same basis – to prevent discriminatory practices. A Section 2 challenge can be brought in Federal court by any affected group or persons, or by a public interest organization such as Maldef or NAACP.

**2. Single-member District or Ward method:** currently, members of the City Council are elected at-large, by vote of all registered voters in the City. A change to a system which requires a member to reside in a designated geographic district and to be elected by the voters that reside in that district can implicate voting rights issues. In particular, the boundaries of the districts should be drawn in such a way that the participation of minority group members as voters and as candidates not be diminished. If there is a feasible way to create one or more single-member districts that are considered statistically “safe” for a minority to win election, such a district or districts should be given preference. The objective is to encourage minority candidacy and voter participation. If single-member districts are deliberately created to avoid that result, a Section 2 challenge would have merit.

This analysis also applies to hybrid systems, wherein some Councilmembers are elected from single-member districts, and some are elected at-large.

Over a decade ago, the demographics of Amarillo were examined, and it was determined that in order to create a safe district for a minority candidate, the number of Council seats would have to increase to a total of 11 or 13. Voting rights demographics are usually based upon statistical analysis of recent U.S. Census block data, conducted by experts in that limited field of study.

**3. One-man one-vote:** Also required by the Voting Rights Act is an examination of the total voting age population of each Single-member district in a ward or hybrid system. The variance in population of voting-age persons in the largest district should not exceed 10% more than the voting-age population of the smallest district. That protects each voters voting power, including members of minority groups.

**4. Cumulative Voting.** Cumulative Voting plans, wherein each voter can cast as many votes as there are vacancies on the City Council, and cast them in any combination for one or more candidates, was thought to be more favorable for minority candidate and voter participation. Some Texas jurisdictions adopted such systems over the last 25 years. However, studies have shown that cumulative voting does not materially impact minority voter participation, nor success at the polls. Therefore, it is not currently favored by minority-interest groups and is unlikely to be sought by complainants in a Section 2 court challenge.

Please feel free to provide us questions on this issue as we proceed in the study of the Charter.