



## Finance Corral

### Putting a Corral around How Much They Can Take from Us, Spend and Borrow.

**Click here** if you wish to go directly to our **suggested city charter amendment**.

In order to wrest overall control of this country's finances away from our elected officials and place the overall control in the hands of the taxpayers, applicable governing constitutions and/or charters must be amended.

It is apparent that it will be extremely difficult to do so at the federal constitutional level at the current time, without tremendous upward pressure from the state level.

Voters have the right to petition (I & R, or Initiative & Referendum) for a state constitutional amendment in 24 (Texas is not included) of the states. Please go to [www.iandrinstute.org](http://www.iandrinstute.org) for further information.

In the state of Texas, voters currently have the right to petition at only the home rule city level (essentially all cities of over 5,000 inhabitants).

Houstonians approved a city charter amendment in November 2004 authorizing voter control over the city's overall finances. The charter amendment was devised after extensively researching the TEL (Tax and Expenditure Limitation) measures adopted by many states, including the famed Colorado Taxpayer Bill of Rights (TABOR). The amendment was placed into the city charter only after an appellate court forced the city to do so. A voter lawsuit demanding that the city actually enforce the city charter amendment is now before the Texas Supreme Court, solely because of the City's specious assertion that petitioning voters do not have standing to bring suit to force a city to enforce laws that are in the city charter. In the meantime, the city has incurred about \$2 billion in operating losses and is in precarious financial position.

**Click here** if you wish to read about **The Houston Experience**.

We have attached an improved revised version of the 2004 Houston city charter amendment for your use in amending your city charter in Texas. The 2004 amendment has been revised in

the attachment to reflect the needed strengthening made obvious by the Houston experience. We have highlighted in red the portions that you will or might have to revise to meet your needs.

It may be adaptable for use in cities in other states, and possibly can be used for guidance in writing desired state constitutional amendments. If used for a state constitutional amendment, we recommend that the exact desired constitutional language be stated on the ballot and the ballot call precisely for verbatim insertion into the state constitution. We strongly recommend that you not leave it up to the legislators to translate the constitutional language.

**Following are explanations of the subsections of the suggested city charter amendment.**

**Subsection One:** This is furnished to make it very clear in any possible subsequent litigation what the exact purpose is of this city charter amendment.

**Subsection Two:** Some cities will already have a deficit in their Unrestricted Fund Balance. This subsection prevents any increases in the deficit coming about from further excesses of expenses over revenues, and is particularly designed to prevent continued build up in recorded but unfunded pension and other post-employment earned benefits, which is a burgeoning problem with many governmental entities.

**Subsection Three, paragraph one:** This requires 60% voter approval before the city can increase its annual total revenues faster than the annual combined increase in population and inflation. The thinking behind this is that by controlling the inflow of revenues to the city you automatically ultimately control the rate of expense outflow. The City of Houston greatly increased its pension and other post-retirement benefits and has temporarily gotten around the revenue limitation by dramatically delaying funding of such recorded liabilities, but thereby creating most of its approximately \$2 billion of Deficit in Unrestricted Fund Balance. That caused Subsection Two to be added to this revised version.

**Subsection Three, paragraph two:** This prevents any annual carryover of any unused cap on revenues.

**Subsection Three, paragraph three:** This permits the city to immediately respond to financial needs created by a federal national disaster. However, it requires that any reimbursements received by the city from the state and federal governments must be passed on to the taxpayers in that the taxpayers originally funded the disaster expenses. This provision has been now added to the Houston version in that the City of Houston kept (i. e., double dipped) the monies it received from FEMA for expenses paid for by the taxpayers relative to Hurricanes Katrina and Rita, as the City had previously used the hurricane expenses to reduce its liability to taxpayers for excess revenues disallowed by the 2004 city charter amendment.

**Subsection Four:** This provides that the city controller pre-certify that the city's budget will comply with this amendment before the budget can be officially adopted. It then requires independent auditor certification that the city did in fact comply with the amendment's

revenue cap or state the amount of excess revenues. This also provides for refunding excess revenues to the taxpayers.

**Subsection Five:** This provides that the city must have voter approval before creating any long-term debt. In most cities voters get to vote only on general obligation bonds, which in the case of Houston GOB debt is less than 20% of all long-term debt. This is very specific as to what is considered long-term debt, more inclusive than sometimes considered.

**Subsection Six:** This merely affirms that bondholders are first in line for repayment. This should remove bondholder resistance to the charter amendment.

**Subsection Seven:** This makes sure that voters are adequately and timely informed regarding subsequent elections held regarding this amendment and the voters get to see equal representation of both sides of the issues.

**Subsection Eight:** This specifies the implementation date and beginning calculation bases. It firmly ties the beginning data to the 2010 census and the 2009 population, thereby preventing calculation gamesmanship in determining the base beginning point for compliance in the initial implementation year.

**Subsection Nine:** This specifies the exact meaning of critical terms used in the amendment. It ties the accounting terms used to the exact financial statements from which the data must be extracted and specifies the exact source for the population data.

**Subsection Ten:** This provides for means for voters to sue for non-enforcement of this amendment, without fear of retribution unless the lawsuit is ruled frivolous. Very importantly, this provides for very severe monetary penalties against any elected official who impedes or prevents implementation of this amendment. Had this provision been in the original Houston amendment, it might not have gone to the courts or at least have been quickly settled.

**Subsection Eleven:** This is the usual severance clause.

Opponents to this amendment will attempt to throw up many roadblocks to prevent passage of this amendment. We have accumulated a listing of most of the related frequently raised questions.

Please [click here](#) to read the FAQs and answers.