

# **Bond Case Briefs**

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## **POLITICAL SUBDIVISIONS - MAINE**

### **Fair Elections Portland, Inc. v. City of Portland**

**Supreme Judicial Court of Maine - June 17, 2021 - A.3d - 2021 WL 2460648 - 2021 ME 32**

Voters group sought judicial review of city council's decision not place a citizen-initiated ballot question on the ballot as a proposed charter amendment and asserted independent claims seeking declaratory judgment and injunctive relief, as well as violations of state and federal law pursuant to § 1983.

The Superior Court affirmed city council's decision. Voters group appealed.

The Supreme Judicial Court held that:

- As a matter of first impression, the Home Rule Act authorizes municipal officers to review a proposed charter modification to determine whether it constitutes a revision rather than an amendment;
- As a matter of first impression, distinction between a charter amendment and a charter revision for purpose of the Home Rule Act is in terms of breadth and in terms of depth; and
- City council's failure to make findings of fact to explain its decision precluded meaningful judicial review.

The Home Rule Act authorizes municipal officers to review a proposed charter modification to determine whether it constitutes a revision rather than an amendment, even where the petition presenting the proposed modification does not include the statute's optional language regarding requests for revision of the charter.

For purposes of the Home Rule Act, the distinction between a charter amendment and a charter revision is one of scope, in terms of breadth of what would be affected and depth of what would be altered, in that a proposed amendment would not, if enacted, materially affect the municipality's implementation, in the course of its operations, of major charter provisions that are not mentioned in the proposed amendment, and in terms of depth, an amendment would not, if enacted, make a profound and fundamental alteration in the essential character or core operations of municipal government; if a petition proposes a change to the charter that is either so broad or so profound, or both, as to justify a revisitation of the entire charter by a charter commission, the proposal is for a revision.

City council's failure to make findings of fact to explain its decision not place a citizen-initiated ballot question on the ballot as a proposed charter amendment precluded meaningful judicial review; given that whether a particular charter proposal would be an amendment or a revision focused on the proposal's effect on the current municipal charter and operations, city council's adjudication of that question was highly fact-specific, but the record contained no statement of city council's basis in law and fact for whether or not it deemed the petition to propose a revision rather than an amendment of the charter, and without that, the court could not determine whether the rejection of the petition involved legal error, abuse of discretion, or findings not supported by substantial evidence.

