

CITIZENS LEAGUE REPORT

No. 119

**Proposed Charter Amendment 17
Prohibiting Borrowing for Current
Expenses**

October 1960

Citizens League
545 Mobil Oil Building
Minneapolis 2, Minnesota

October 26, 1960

PROPOSED CHARTER AMENDMENT NO. 17 TO PROHIBIT MINNEAPOLIS FROM
BORROWING FOR CURRENT EXPENSES

Recommendation

The Board of Directors of the Citizens League recommends a No vote on Minneapolis' proposed charter amendment no. 17 on November 8 mainly because:

- (1) The proposal goes too far in prohibiting borrowing for current expenditures under any circumstances. City officials should not have their hands completely tied in the event of some genuine unforeseeable disaster or emergency.
- (2) City officials in recent years have shown no inclination to borrow for current purposes for other than emergency reasons, and when they have borrowed for such purposes there appeared to be no public criticism of the action.

The following statement of facts and pros and cons of this issue was prepared by the League's Taxation and Finance Committee.

Background

During the campaign for the proposed CIVIC Charter in early 1960, opponents of the proposal criticized its borrowing provisions for permitting borrowing for current expenses. The CIVIC Charter supporters responded by stating that the existing Minneapolis charter already permitted such borrowing, that such borrowing had been used as recently as 1950, and that the CIVIC Charter actually tightened the control on such borrowing.

After failure of the CIVIC Charter in June 1960, the City Council's Bi-Partisan Charter Committee met to consider what piecemeal changes in the charter the Council should recommend for submission to the voters. In late summer it decided on four special taxes and a proposal to forbid borrowing for current expenses. The Charter Commission at one point in its deliberations on the five proposals voted to table the borrowing prohibition on the grounds that it would be lost on the November ballot among all the national, state and local candidates and issues, and was not a matter of emergent importance. Subsequently, the commission met in executive session and voted to put one tax proposal - the telephone tax - on the ballot and also the borrowing proposal.

The City's authority to borrow, and the proposed amendment

At present the City of Minneapolis may borrow for current expenses because its charter contains no express prohibition on such borrowing. This would be changed under the proposed amendment by making the pertinent section (Chap. 15, Sec. 9) read in part as follows, with the underlined words being those added:

"Upon the request of the City Council expressed by ordinance or resolution adopted by the votes of two-thirds of all members thereof, the Board of Estimate and Taxation in its discretion shall have power by a vote of at least five (5) of its members to incur indebtedness for municipal purposes other than the purchase of public utilities and payment of current expenses, and to pledge the credit of the city for the payment of principal and interest and for that purpose shall have power to issue and sell negotiable bonds of the city or any other form of obligation it may deem best, but any such bonds or obligations shall be sold only in the manner provided by Section 1856, General Statutes 1913, to the purchaser who will pay the highest price therefore at the rate of interest fixed by the Board of Estimate and Taxation and the obligations or bonds shall be drawn accordingly."

The proposed amendment would also eliminate from the enumeration of statutes included in the charter, the following:

"Chapter 3, General Laws of 1919, page 4, approved January 22, legalizing and authorizing expenditures and obligations in excess of annual appropriations and authorizing the issuance of \$1,000,000 bonds therefor."

The proposed amendment would not prohibit borrowing to pay for poor relief, since this is authorized by another section of the statutes applying to all political subdivisions. (M.S. 261.16)

Exercise of borrowing power under the present charter

As indicated by the above quoted section of the charter, and interpreted by bond attorneys, the present borrowing procedure is this:

All City agencies, including the Park and Library boards, request bonds through the City Council. By vote of two-thirds of its membership the Council in turn requests bond issues of the Board of Estimate and Taxation. The Board of Estimate and Taxation makes final determination of how many bonds shall be issued, and at what maturities, but in no case can it issue more than the Council requested for any particular purpose.

Action by the Estimate Board requires five affirmative votes.

The Estimate Board consists of six members: two members directly elected at large for overlapping four year terms, and four ex-officio members: the Mayor, the Comptroller, the chairman of the City Council Ways and Means Committee and a representative chosen by and from the Park Board.

Until mid-1959 the Estimate Board had seven members. At that time the special independent school district was approved for Minneapolis and this took the School Board member off the Estimate Board.

Pertinent borrowing provisions of the CIVIC Charter

The pertinent sections of the proposed CIVIC Charter read as follows:

"10.230. Issuance of Bonds. The Council may issue bonds by resolution adopted by vote of two-thirds of the membership of the Council for the purpose of defraying the cost of any capital improvement project included in the capital budget of the City or any amendment thereof, funding any judgment against the City, refunding bonds at maturity, or refunding bonds at their optional date whenever a saving in aggregate interest cost will be thereby effected.

"10.240. Emergency Bonds. In addition to the power in Section 10.230, the Council may issue bonds in case of public emergency involving serious threat to life, health or property. The resolution authorizing the bonds shall state in specific terms the nature of the emergency and be passed by a three-fourths vote of the total membership."

In short, the CIVIC Charter required that, except for borrowing for capital improvements, funding or refunding, an emergency had to be declared, necessitating a three-fourths vote of all 13 aldermen and specific statement of the nature of the emergency.

The CIVIC Charter provided no Board of Estimate and Taxation or similar body, placing full fiscal responsibility in the Council. The drafters of the proposal believed that the Council would be held directly accountable if they abused their borrowing power, but also believed that they should have the authority to issue bonds in unforeseen emergencies, such as a tornado or other disaster.

Emergency borrowing in St. Paul

Proponents of the borrowing amendment cite St. Paul's experience with "emergency" borrowing as an indication of possible abuse of the authority to borrow for current purposes in an emergency situation. The St. Paul charter states:

"Emergency appropriations -- Sec. 206. In the event of destruction of or injury to public buildings or structures, by fire, flood, tornadoes or other elemental causes, or of the invasion of threatened invasion of the City by epidemic or contagious diseases, or of any other sudden and unexpected emergency wherein the funds appropriated for any of the purposes above and in this chapter provided for become inadequate properly to protect the public interests, the council by unanimous vote of all members thereof shall have power to authorize the mayor and comptroller, to borrow temporarily and upon such terms as the council may prescribe, such sum or sums of money as the council may, by unanimous vote of all the members determine to be necessary to meet such emergency, and to execute and deliver to the party or parties making such loan, such notes, bonds, or other evidences of indebtedness as the council may prescribe. The payment of such temporary loans shall be provided for either by issuing bonds therefor or by tax levy within one year from the date of such loans. All acts of the council under this section must be approved by the mayor and the comptroller by signing and countersigning the ordinance or ordinances

resolution or resolutions by which such action is taken, and if such ordinance or ordinances, resolution or resolutions are not so signed and countersigned, they shall be void and of no effect."

Information we have received from the chief accountant of the St. Paul comptroller's office indicates the following:

Pressed by the City's tax and spending limits, the Council has used the emergency provision consistently to make more operating funds available, particularly for winter maintenance (mostly snow removal). The yearly budget presumably estimates the expenditures for winter maintenance at the "normal" level, but every year this proves to be insufficient. During the year the Public Works Department is able to pay bills by borrowing available cash from other funds, but at the end of the year, the City must balance its books and therefore on December 31 issues short term notes to make up the deficit in the winter maintenance account, and any other accounts for which the Council was not able to provide current funds.

These notes are for very short terms, usually till January 2, and for low interest. For example, in 1958, \$400,000 of such notes were issued, including \$275,000 for winter maintenance, \$20,000 for police equipment, \$55,000 for fire hazard correction in the schools, \$20,000 for pumping water in Como Park Lake, and \$30,000 for police vehicles. Total interest charges were \$22,22.

For the last six years the following amount of borrowing has occurred under this provision for winter maintenance, which in some cases included purchase of equipment:

1954	\$495,000	1957	\$550,000
1955	840,000	1958	275,000
1956	775,000	1959	480,000

While there have evidently been some questionable interpretations of the term "emergency" the Council's action has never been questioned in a taxpayer's suit.

Arguments for and against proposed amendment

In favor of the amendment

Supporters of the proposed amendment hold that City officials should be barred from issuing bonds for current purposes because they are likely to do so when there is really no genuine emergency condition. They hold that the difficulty of defining emergencies makes it impossible to limit such borrowing to genuine emergencies. They hold that there is particular danger of such action as the result of fiscal stringency, creating, for example, extreme pressure to issue bonds for the payment of salaries. Such conditions, they hold, may be particularly likely during times such as these when the City Council sees a desperate shortage of current funds. They cite the situation in St. Paul.

Underlying this attitude is a great concern for preserving, and possibly improving, the excellent credit rating the City has developed as a result of the conservative borrowing policy it has followed over the past ten years or so.

In opposition to the amendment

(1) City officials should not have their hands completely tied in the event of some genuine unforeseeable disaster, such as a tornado.

(2) Judging from City officials' statements in past years, Minneapolis has been in fiscal straits comparable to the current one many times during the past 10 years, yet has not issued bonds for current purposes.

(3) The City borrowed for current purposes in only a few cases in the past 15 years, and in those cases there seems to have been no criticism of the need for the borrowing.

(4) So much official and public pride about and dedication to a conservative borrowing policy - and the resultant favorable interest rate - has been built up over the past 10 years, it is highly unlikely that officials would risk the support of the voters by issuing bonds for current purposes unless there were a genuine emergency.

(5) Not only is a two-thirds vote of the entire Council required to authorize bonds, but also the approval of five of the six members of the Board of Estimate and Taxation.

(6) A restrictive amendment of this kind tends to reduce rather than enhance the responsibility demanded of elected City officials.