



Legislation Text

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Resolution Requesting the Virginia General Assembly to Amend the Charter of the City of Hampton, Virginia Pertaining to the Resignation of Councilmembers Running for the Office of Mayor in Order to Align the Effective Resignation Date with the Date of the Municipal General Election

PURPOSE/BACKGROUND:

At its July 14, 2021 meeting, the City Council adopted an ordinance, as required by the Code of Virginia, to provide for the transition of elections for the positions of mayor, members of the city council, and members of the school board to the November general election date from the May general election date.

As a result of this change in state law, a Hampton City Charter provision, which requires certain councilmembers to resign their council seat in order to run for mayor, will no longer operate as intended. Specifically, section 3.01:2 of the Charter provides that a councilmember desiring to become a candidate for the office of mayor, who is not elected on the same election cycle as the mayor, must tender his or her resignation at least ten days prior to the final date for filing petitions and notices of acceptance as specified by general law, with such resignation to be effective on June 30 of the election year. This June 30 resignation date was intended to allow for the two-year remainder term of the vacant City Council seat to be filled by Hampton voters during the general election in the preceding May, rather than by an interim appointment by City Council members or by the Circuit Court.

If left unchanged, the City Charter will continue to require councilmembers to resign effective June 30 in an election year, which will be 6 months before the seat could be filled by the November general election (January 1). This will require the City Council to make an interim appointment to fill the vacancy. Accordingly, the City Council desires to amend the Charter such that the resignation will instead be effective on December 31 following the November general election date, so that the seat can instead be filled by the voters at the November general election, with a term to commence January 1, rather than first by Council appointment.

Pursuant to Section 15.2-202 of the Code of Virginia, the Council is required to hold a public hearing and adopt a resolution requesting the Charter change from the General Assembly.

Recommendation:

Conduct a public hearing and vote on the resolution.

WHEREAS, as a result of the passage of Senate Bill 1157 (2021) by the General Assembly, as

of July 1, 2021, the City Council was required by Section 15.2-1400 of the Code of Virginia to provide, by ordinance, for the transition of elections for the positions of mayor, members of the city council, and members of the school board to the November general election date from the May general election date;

WHEREAS, accordingly, the City Council adopted such an ordinance at its July 14, 2021 meeting;

WHEREAS, Section 3.01:2 of the Hampton City Charter (“Charter”) provides that a councilmember desiring to become a candidate for the office of mayor, who is not elected on the same election cycle as the mayor, is eligible to do so but must resign as a councilmember at least ten days prior to the final date for filing petitions and notices of acceptance as specified by general law, with such resignation to be effective on June 30 of the election year;

WHEREAS, the June 30 resignation date was intended to allow for the two-year remainder term of the vacant City Council seat to be filled by Hampton voters during the general election in the preceding May, rather than by an interim appointment by City Council members;

WHEREAS, however, as a result of the transition of municipal elections from May to November, councilmembers resigning to run for the office of mayor in a November election will still be required to resign by June 30 in accordance with the Charter, causing a six-month vacancy in the Council seat, which will not be filled, according to general law, until January 1 following the November general election date;

WHEREAS, in such an instance, the City Council will be required by Sections 24.2-228 of the Code of Virginia and 3.02 of the Charter to make an interim appointment to fill the vacancy within 60 days of June 30;

WHEREAS, if the City Council does not make such an interim appointment within 60 days, then the Code of Virginia provides that the judges of the Hampton Circuit Court may make the appointment;

WHEREAS, the City Council desires to amend the Charter such that councilmembers running for mayor in accordance with Section 3.01:2 of the Charter will have their resignation effective the last day before the commencement of the term of his or her elected successor, rather than a fixed date of June 30;

WHEREAS, if approved, the amendment will allow such a resignation to be effective on December 31 following a November general election date, rather than the earlier date of June 30, which prevents the need for an interim appointment to a vacant seat, so that the seat can instead be filled by the voters at the November general election, with a term to commence January 1;

WHEREAS, the City Council further desires to amend Section 3.01:2 of the Charter to make technical clarifications pertaining to the date by which resignation must be tendered; and

WHEREAS, the City Council has, on this date, held a duly advertised public hearing, as required by Section 15.2-202 of the Code of Virginia, pertaining to the above-described proposed amendments to the Charter.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hampton, Virginia that the City Attorney is hereby authorized and directed to prepare and transmit to the members of the General Assembly representing the City of Hampton, together with all such other documents as may be necessary and appropriate, a draft bill to amend the Charter of the City of Hampton, as follows:

Sec. 3.01:2. - Election of mayor.

No candidate for election to the office of mayor shall simultaneously run for election to any other position on the council.

In the event that a councilmember other than a sitting mayor desires to be a candidate for mayor, the councilmember not elected on the same election cycle as the mayor is eligible to do so but must tender his or her resignation as a councilmember at least ten days prior to the filing deadline for all documents necessary to qualify as a candidate for the office of mayor as specified by general law, with such resignation to be effective on the last day before the commencement of the term of the councilmember's elected successor. Such resignation shall state the councilmember's intention to be a candidate for mayor; require no formal acceptance by the remaining councilmembers, and be final and irrevocable as of the date it is tendered.

The vacancy resulting from any such resignation shall be filled for the remaining two-year term at the same succeeding general municipal election at which the office for mayor is filled.