

**RESOLUTION NO. RS2018-1314** (ROSENBERG, BLALOCK, & HENDERSON) – This resolution, as substituted, would propose six amendments to the Metropolitan Charter.

The Council, pursuant Metro Charter Sec. 19.01, may only adopt two resolutions during the term of the Council that submit amendments to the voters for ratification. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the Council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. The Council has not yet used exercised their ability to place Charter amendments on the ballot this term.

Metro Charter Sec. 19.01 requires that a resolution to amend the Charter must prescribe a date not less than eighty (80) days subsequent to the date of its filing for the holding of a referendum election to vote to ratify or reject the proposed amendments. Under state law, the resolution as *adopted by Council* must be filed with the Election Commission 75 days before the election. (Tenn. Code Ann. §2-3-204(b))("Resolutions...requiring the holding of elections on questions submitted to the people which are to be held with the regular November election...shall be filed with the county election commission not less than seventy-five (75) days prior to such election.")(See *also* Tenn. Op. Att'y Gen. No. 08-171, Nov. 5, 2008, construing T.C.A. § 2-3-204). The resolution provides that the date for holding the referendum election on the proposed Charter amendments is to be November 6, 2018.

The six proposed amendments to the Metro Charter are as follows:

- The first proposed amendment would revise the line of succession for the office of mayor, providing that the vice mayor would serve until the vacancy was filled as provided in section 15.03. The ordinance would clarify that, in the event the vice mayor is unable or unwilling to serve as mayor, the Council would nominate and elect a successor, selected by winning a majority of votes, defined as "one vote more than half of all the members to which the council is entitled with the exception of any seat which is vacant." The successor would also be required to be legally qualified to hold office per Section 5.02 of the Metro Charter and would not be eligible to file a nominating petition for the subsequent election for mayor or vice mayor. The amendment would also substitute gender neutral references for masculine-only pronouns. This amendment was added to the Resolution at the August 7 Council meeting.
- The second proposed amendment, as amended, would require a special election for mayor when more than twelve (12) months remain in the unexpired term, for vice mayor when more than twenty-four (24) months remain in the unexpired term, and for district council member when more than eight (8) months remain in the expired term, and clarify that no special election for councilmember-at-large be held. Run-off elections would be conducted 5 weeks after the first special election. An amendment is anticipated from the sponsor.

- The third proposed amendment would establish instant runoff voting as the mechanism for filling a vacancy in the office of vice mayor or a district council member. (Section I of this amendment presupposes adoption of the second amendment, summarized above.) Compared to traditional runoff elections, under instant runoff voting, voters would rank candidates in order of preference. A candidate receiving a majority of first-preferences for that office would win the election. If no candidate received such a majority, the lowest-scoring candidate would be eliminated and his or her votes redistributed to remaining non-eliminated candidates based upon the eliminated candidate's voters' order of preference. This would continue until one candidate received a majority of the votes. This amendment could be implemented with or without the adoption of the second proposed amendment.

The Metro Legal Department, citing a 2017 letter from the Coordinator of Elections, submits that instant runoff voting is inconsistent with current state law provisions in Tenn. Code Ann. §§ 2-5-208(b), 2-7-133(b), and 2-8-101.

An amendment is anticipated from the sponsor.

- The fourth proposed amendment would require oaths of office for mayor, vice mayor, and members of council to include an oath to uphold the Charter of the Metropolitan Government of Nashville. Currently, such oaths reference only support of the Tennessee Constitution and the Constitution of the United States.
- The fifth proposed amendment would change the term limits for the offices of councilman and councilman at-large from two (2) terms to three (3) terms. It would also change "councilman" to "councilmember."
- The sixth proposed amendment would update the Metropolitan Charter with general neutral references in place of masculine-only pronouns. References to "he" would be changed to "he or she," "his" would be changed to "his or her," "him" would be changed to "him or her," "councilman" would be changed to "councilmember," and "policemen" would be changed to "police officers." Minor typographical errors would also be corrected.

The first proposed amendment, Proposed Charter Amendment A, as amended, was added to the Resolution at the August 7<sup>th</sup> Council meeting. The second proposed amendment, Proposed Charter Amendment B, was amended at that meeting, but the Resolution was deferred before a vote was taken to add Proposed Amendment B to the Resolution. The third through sixth proposed amendments have not yet been debated.

*Fiscal Note: The proposed "instant runoff" amendment has the potential of avoiding the cost of an additional election date. For this to happen, the runoff for the vice mayor or district council member position would need to be the only item on the ballot. If some other item is also on the ballot, the inclusion of these runoffs would not result in any additional costs.*

*The Election Commission has made a general estimate that a district election to fill a vacant council seat would cost approximately \$90,000. A county-wide election to fill the office of vice mayor would cost approximately \$750,000. These are general estimates only. Actual costs would depend on the number of locations, number of early voting days, etc.*