

County Council of Cuyahoga County, Ohio

Resolution No. R2013-0160

Sponsored by: Councilmembers Simon, Miller, Jones, and Germana	A Resolution providing for the submission to the electors of the County of Cuyahoga amendments to Article IV, Section 4.01 and Article V, Section 5.06 of the Charter of Cuyahoga County allocating legal duties between the County Prosecutor and the Director of Law to clarify the responsibilities of each office; and declaring the necessity that this Resolution become immediately effective.
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WHEREAS, Article XII, Section 12.10 of the Charter of Cuyahoga County provides that “Proposed amendments to this Charter shall be submitted to the electors of the County in the manner provided for by the Ohio Constitution”; and

WHEREAS, Article X, Section 4 of the Ohio Constitution provides that the “legislative authority... of any county may by a two-thirds vote of its members” submit by resolution charter amendments to the electors of the county “to be voted upon at the first general election occurring not sooner than sixty days after their submission”; and

WHEREAS, this Council believes it is in the best interest of the citizens of the County of Cuyahoga to amend the County Charter to allocate legal duties between the County Prosecutor and the Director of Law to clarify the responsibilities of each office.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Pursuant to Article X, Section 4 of the Ohio Constitution and Article XII, Section 12.10 of the Charter of the County of Cuyahoga, this Council hereby authorizes and directs that there shall be submitted to a vote of qualified electors of the County of Cuyahoga, at the general election to be held on Tuesday, the 5th day of November, 2013, the question of amending Article IV, Section 4.01 and Article V, Section 5.06 of the Charter of the County of Cuyahoga, the respective text to be as set forth herein, with boldfaced text being added and crossed out text being deleted as follows:

SECTION 4.01 PROSECUTING ATTORNEY: ELECTION, DUTIES AND QUALIFICATIONS.

The Prosecuting Attorney shall be elected, and, **subject to the provisions of Section 5.06 of this Charter**, the duties of that office, and the compensation therefor, including provision for the employment of outside counsel, shall continue to be determined in the manner provided by general law.

SECTION 5.06 DIRECTOR OF LAW: POWERS, DUTIES AND QUALIFICATIONS.

The Director of Law shall be the legal advisor to and representative of the **County, the County Executive, and County Council, and all County departments, offices, agencies or other authorities responsible to the Council and the County Executive.** The Director of Law shall be an attorney at law in good standing in the State of Ohio and shall have had at least five years' experience in advising or representing political subdivisions in Ohio.

Notwithstanding any other provision of this Charter or of general law, the Director of Law shall give written opinions as to the law when specifically requested to do so by the Council or the County Executive, and shall act as counsel in any proceeding instituted by or against the County of Cuyahoga, the Council, the County Executive, or any of the other entities listed in this section, and perform any other duties assigned by the Council or County Executive. The Director of Law shall be responsible for the employment of outside counsel in the performance of his or her duties. The County Council may employ outside counsel in the event of a conflict of interest between the County Executive and the Council, or when needed to provide proper legislative oversight. The retention of outside counsel shall be carried out in accordance with the County's contracting and approval procedures as established by ordinance under this Charter.

SECTION 2. Pursuant to Article X, Section 4 of the Ohio Constitution, and Article XII, Section 12.10 of the Charter of the County of Cuyahoga, this Council hereby directs that the proposed amendment of Article IV, Section 4.01 and Article V, Section 5.06 shall be submitted to the Board of Elections of Cuyahoga County, and the question to be submitted on the ballot shall be as follows:

PROPOSED AMENDMENT TO COUNTY CHARTER

Shall Article IV, Section 4.01 Prosecuting Attorney: Election, Duties and Qualifications and Article V, Section 5.06 Director of Law: Powers, Duties and Qualifications of the Charter of the County of Cuyahoga be amended to allocate legal duties between the County Prosecutor and the Director of Law to clarify the responsibilities of each office?

SECTION 3. If the foregoing proposal receives the affirmative vote of a majority of the electors voting thereon, the existing provisions of Article IV, Section 4.01 and Article V, Section 5.06 which are inconsistent herewith, shall be and the

same are hereby repealed effective as of the date on which such amendment becomes effective.

SECTION 4. The Clerk of this Council is directed to certify a copy of this Resolution to the Board of Elections no earlier than one hundred twenty (120) days and not later than sixty (60) days before the November 5, 2013 election. The Clerk is further directed to take all other actions required by law relative to the submission of said amendment for said election, including, if required by law, mailing or otherwise distributing a copy of said proposed amendment to each of the electors of the County as far as may be reasonably possible prior to thirty (30) days before said election.

SECTION 5. It is necessary that this Resolution become immediately effective to enable the Clerk of Council to perform her duties in time for the amendments to be properly placed on the November 5, 2013 election. Provided that this Resolution receives the affirmative vote of eight (8) members of Council, it shall become immediately effective.

SECTION 6. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Schron, seconded by Mr. Miller, the foregoing Resolution was not adopted.

Yeas: Schron, Conwell, Simon, Greenspan and Miller

Nays: Jones, Rogers, Brady, Germana, Gallagher and Connally

County Council President

Date

Clerk of Council

Date

First Reading/Referred to Committee: July 23, 2013

Committee(s) Assigned: Committee of the Whole

Committee Report/Second Reading: August 13, 2013

Legislation Substituted on the Floor: August 13, 2013

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