

County Council of Cuyahoga County, Ohio

Resolution No. R2018-0141

<p>Sponsored by: Council President Brady on behalf of Charter Review Commission and Councilmembers Miller, Simon, Conwell and Brown</p>	<p>A Resolution providing for the submission to the electors of the County of Cuyahoga an amendment to Article IX of the County Charter clarifying the roles and responsibilities of the Personnel Review Commission and the Department of Human Resources, to prohibit discrimination on the basis of gender identity/expression in county employment, and to provide for the establishment of the unclassified service by general law and council ordinance; and declaring the necessity that this Resolution become immediately effective.</p>
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WHEREAS, Article XII, Section 12.09 of the Charter of Cuyahoga County provides that “The Charter Review Commission may propose to the Council such amendments to this Charter as it shall deem appropriate” and “Council shall vote within sixty days after the proposals are received on whether or not to submit the proposals to the electors at the next general election held more than sixty days after its vote on the proposed amendments”; and

WHEREAS, Article XII, Section 12.10 of the Charter of Cuyahoga County provides that “[p]roposed 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, the Council believes it is in the best interest of the citizens of the County of Cuyahoga to amend the County Charter as provided hereinafter.

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, Sections 12.09 and 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 6th day of November, 2018, the question of amending Article IX of the Charter of Cuyahoga County, the respective text to be set forth herein (additions bolded and underlined and deletions stricken):

ARTICLE IX – COUNTY EMPLOYMENT PRACTICES

SECTION 9.01 PERSONNEL REVIEW COMMISSION.

There shall be a Personnel Review Commission. The Council shall appoint the members of the Personnel Review Commission, consisting of three electors of the County having experience in personnel matters or personnel administration and who are supportive of equal opportunity considerations. No more than two of the three members of the Personnel Review Commission shall be members of the same political party. The Personnel Review Commission is authorized to employ persons in the service of the County. The Personnel Review Commission shall be responsible for administering, for and in cooperation with the officers, agencies, boards and commissions of the County, an efficient and economical system for the employment of persons in the public service of the County according to merit and fitness. The County's human resources policies and systems, including ethics policies for County employees, shall be established by ordinance and shall be administered in such manner as will eliminate unnecessary expense and duplication of effort, while ensuring that persons will be employed in the public service without discrimination on the basis of race, color, religion, sex, national origin, sexual orientation, **gender identity/expression**, disability, age or ancestry. The Personnel Review Commission shall submit a recommendation regarding any ordinance concerning County personnel policies prior to passage by County Council. In the event the Personnel Review Commission does not endorse an ordinance, the Personnel Review Commission may provide a Statement of Non-Endorsement to the County Council.

The term of office of each member of the Personnel Review Commission shall be six years. The terms shall be staggered so that no term expires within less than two years of the expiration of any other term. The Council shall fill a vacancy occurring for an unexpired term in the same manner as a regular appointment.

~~Of the terms of office for the initial appointees, one shall be appointed for a term of six years, one shall be appointed for a term of four years and one shall be appointed for a term of two years. The County Executive shall nominate the initial appointees to the Personnel Review Commission not later than March 1, 2011 and thereafter within thirty days after the occurrence of a vacancy. The members of the Personnel Review Commission serving as of the effective date of this provision may serve until their existing term expires and may be subject to reappointment by Council.~~

No member of the Personnel Review Commission shall hold any other public office or public employment with the County. The Council shall establish a per diem compensation for the members of the Personnel Review Commission.

The Council may remove any member of the Personnel Review Commission for inefficiency, neglect of duty or malfeasance in office after notice and public hearing before the Council, provided that two-thirds of the members of the Council concur.

SECTION 9.02 AUTHORITY OF PERSONNEL REVIEW COMMISSION.

The Personnel Review Commission shall have:

(1) Responsibility for the resolution or disposition of all personnel matters, with authority to appoint hearing officers to hear all employee appeals previously under the jurisdiction of the State Personnel Board of Review, including those of classified employees who work for the County Executive, Prosecuting Attorney, County Planning Commission, and the County Public Defender;

(2) Responsibility for ~~administration of~~ **reviewing and auditing** compliance with federal, ~~and state,~~ **and local** laws regarding personnel matters within the County Executive's organization and departments. This **responsibility shall include the authority to submit reports and recommendations to the County Executive and County Council on issues of compliance;**

(3) For the County Executive's organization and departments, authority to ~~ensure~~ **review, audit, report and make recommendations regarding the following:**

- Pay equity for like positions;
 - Standardization of benefits;
 - Approval of qualifications;
 - Consistent discipline;
 - Training of management in personnel practices;
 - Training of employees in job functions;
 - ~~- Training for total quality management;~~
 - Consistent administration of performance management system.;
 - ~~- Coordination of recruitment;~~
 - ~~- Compliance with ethics resolutions or ordinances as passed by the Council;~~
- and

(4) Responsibility for creation of rules and policies related to the Personnel Review Commission's authority set forth in this Charter in accordance with the human resources policies established by ordinance;

(5) Sole responsibility for civil service testing for initial and promotional appointments within the classified service of the County in cooperation with the Department of Human Resources, and

~~(5)~~**(6)** Such other functions as may be deemed necessary by the Council for the Personnel Review Commission to carry out its mission and purpose.

SECTION 9.03 CLASSIFICATION.

(1) The Personnel Review Commission shall administer a clear, countywide classification and salary administration system for ~~technical, specialist, administrative and clerical functions with a limited number of broad~~ classified employees of the charter government, and pay ranges within for each classification that are adopted by Council resolution. A change to the pay range assigned to a classification may not be enacted until an analysis of the budgetary impact has been conducted. The PRC in collaboration with the Human Resources Department will conduct the budgetary impact analysis. ~~The classification system shall include the employees of the offices listed in Article V of this Charter, as well as those of the County Executive and County Council except those employees in positions designated as unclassified by general law. The classification system shall, to the extent permitted by the Ohio Constitution, include the employees of all offices, officers, agencies, departments, boards, commissions or other public bodies, other than separate political subdivisions, that are supported in whole or in part from taxes levied, or other financial assistance provided, by the County.~~

(2) The unclassified service shall include those employees who are unclassified pursuant to general law and Council Ordinance.

SECTION 9.04 APPOINTING AUTHORITIES.

The County Executive and the officers, offices, agencies, departments, boards and commissions and other public bodies, who under this Charter or under general law are authorized to employ persons in the service of the County, shall be appointing authorities. Persons interested in employment with the County shall make application to the Department of Human Resources. No appointing authority shall appoint a person to fill a vacancy in the classified service who does not meet the qualifications for that position approved by the Personnel Review Commission. All Appointing Authorities shall strive in making appointments in both the classified and the unclassified service to ensure that the diversity of the population of the County is reflected in the persons who are employed by the County.

SECTION 9.05 DEPARTMENT OF HUMAN RESOURCES.

There shall be a Department of Human Resources, which shall, **report to the County Executive and be responsible for management of all personnel matters for employees of the County Executive.** ~~as part of its duties, perform such functions on behalf of the Personnel Review Commission as the Commission shall delegate. The Department of Human Resources shall provide regular reports to the Personnel Review Commission regarding the Department's performance of such delegated functions in accordance with timeframes established by the Personnel Review Commission.~~

SECTION 9.06 DIRECTOR OF HUMAN RESOURCES: POWERS, DUTIES AND QUALIFICATIONS.

The Director of Human Resources shall be appointed by the Executive, subject to confirmation by Council, and shall serve at the pleasure of the County Executive. The Director of Human Resources shall manage County employment matters **for employees of the County Executive** including, **but not limited to, recruitment, hiring, firing, discipline, layoffs, training, benefits, time and attendance, HR compliance, and drafting policies and procedures, and individual compensation decisions within the framework of the classification and salary administration system and/or any rules established by ordinance.** The Director shall be responsible for offering support to the Law Department on all labor and employment matters. The Director of Human Resources shall have a minimum of five years of experience advising or working in the public sector, experience in employment related matters, management experience or related relevant experience.

SECTION 2. Pursuant to Article X, Section 4 of the Ohio Constitution and Article XII, Section 12.09 and 12.10 of the Charter of the County of Cuyahoga, this Council hereby directs that the proposed amendment of Article IX shall be submitted to the Board of Elections of Cuyahoga County, and the question to be submitted on the ballot shall read as follows:

PROPOSED AMENDMENT TO COUNTY CHARTER

Shall Article IX be amended to clarify the roles and responsibilities of the Personnel Review Commission and the Department of Human Resources, to prohibit discrimination in county employment on the basis of gender identity/expression, and to provide for the establishment of the unclassified service by general law and council ordinance?

SECTION 3. If the foregoing proposal receives the affirmative vote of a majority of electors voting thereon, the existing provisions of Article IX 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 day (120) days and not later than sixty (60) days before the November 6, 2018 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 6, 2018 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 of 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. Brady, seconded by Mr. Miller, the foregoing Resolution was duly adopted.

Yeas: Miller, Tuma, Gallagher, Schron, Conwell, Jones, Brown, Houser, Simon, Baker and Brady

Nays: None

County Council President

Date

Clerk of Council

Date

First Reading/Referred to Committee: July 10, 2018

Committee(s) Assigned: Committee of the Whole

Journal CC031
July 24, 2018