

LOUISVILLE METRO COUNCIL

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTYIN THE MATTER OF REMOVAL PROCEEDINGS AGAINST
DISTRICT 21 COUNCILMAN DAN JOHNSON**RESPONDENT'S MOTION FOR**
CORRECT INTERPRETATION OF KRS §67C.143
(RESPONDENT'S MOTION NO. 3)

Comes now the Respondent herein, Hon. Daniel Johnson, District 21 Louisville Metro Councilman, by counsel, and respectfully moves the Louisville Metro Council Court to enter the following Order. The undersigned hereby certifies that copies hereof were mailed and emailed to the following individuals on October 5, 2017:

Hon. H. Stephen Ott
Clerk, Louisville Metro Council
City Hall, 601 West Jefferson Street
Louisville, Kentucky 40202
Stephen.Ott@louisvilleky.gov

Hon. Mike O'Connell
Jefferson County Attorney
Jefferson Hall of Justice
600 West Jefferson Street
Louisville, Kentucky 40202
Mike.O'Connell@louisvilleky.gov

Hon. Deborah K. Kent
Deborah Kent Law Office
Suite 211
120 Sears Avenue
Louisville, Kentucky 40207-5072
dkent@twc.com

Respectfully submitted,



Thomas A. McAdam, III,
Attorney for Respondent
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220
(502) 584-7255 FAX: 585-2025
thomas@mcadam.com KBA: 45200

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4 IN THE MATTER OF REMOVAL PROCEEDINGS AGAINST
5 DISTRICT 21 COUNCILMAN DAN JOHNSON

6 MEMORANDUM IN SUPPORT OF
7 RESPONDENT'S MOTION FOR
8 CORRECT INTERPRETATION OF KRS §67C.143
9
10 (RESPONDENT'S MOTION NO. 3)

11
12 Comes now the Respondent herein, Hon. Daniel Johnson, District 21 Louisville
13 Metro Councilman, by counsel, and respectfully moves the Louisville Metro Council Court
14 to enter the following Order, declaring the correct interpretation of Kentucky Revised
15 Statute §67C.143.
16

17 (1) On September 14, 2017, at the first meeting of the Louisville Metro Council
18 Court, convened to conduct removal proceedings against District 21 Councilman Dan
19 Johnson, a question was raised concerning the manner in which the Court would be
20 interpreting Kentucky Revised Statute §67C.143, "Removal of elected officers of
21 consolidated local government."
22

23 (2) Assistant Jefferson County Attorney Matthew Golden informed President
24 David Yates that Kentucky law provided that decision to remove a legislative council
25 member would require a vote of two-thirds (2/3) of the *total number of legislative council*
26 *members sitting as a court.*
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28

1 (3) Mr. Golden was making apparent reference to KRS §67C.143, as adopted by
2 the Kentucky General Assembly in 2002 (see EXHIBIT A, attached). Following the
3 wording of this statute, the Court would require 14 votes to convict and remove
4 Councilman Johnson, or 7 votes to find in favor of allowing Councilman Johnson to retain
5 his elected office.
6

7 (4) In 2017, however, the Kentucky General Assembly amended KRS §67C.143 to
8 read as follows:
9

10 “A decision to remove a mayor, legislative council member, or appointee to
11 a board or commission shall require a vote of two-thirds (2/3) of the *total
number of legislative council members.*” (emphasis added)
12

13 This change became effective on June 29, 2017 (see EXHIBIT C, attached), and
14 would require 18 votes to convict and remove Councilman Johnson, or 3 votes to find in
15 favor of allowing Councilman Johnson to retain his elected office.

16 (5) The clear intent of the Kentucky legislature can be seen in the record of 17 RS
17 BR 1230 obtained from the Kentucky Legislative Research Commission (see EXHIBIT B,
18 attached), which shows the markup changes on Page 15:
19

20 A decision to remove a mayor, [~~or~~]legislative council member, **or**
21 **appointee to an agency, board, or commission** shall require a
22 vote of two-thirds (2/3) of the total number of legislative council
members [~~sitting as a court~~]. (markup typography in original)

23 From this, it is manifestly obvious that the General Assembly intended to amend
24 and did amend KRS §67C.143 to require not merely 2/3 of the number of legislative
25 council members *sitting as a court* to remove a member, but 2/3 of the *total council*
26 *members.*
27
28

1 (6) The clear effect of the recent change to KRS §67C.143 results in the requirement
2 of 18 votes to convict and remove Councilman Johnson in the instant proceedings, or 3
3 votes to find in favor of allowing Councilman Johnson to retain his elected office.
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6 Respectfully submitted,

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8 Thomas A. McAdam, III,
9 Attorney for Respondent
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1 **LOUISVILLE METRO COUNCIL**

**COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY**

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4 **IN THE MATTER OF REMOVAL PROCEEDINGS AGAINST**
5 **DISTRICT 21 COUNCILMAN DAN JOHNSON**

6 **ORDER INTERPRETING KRS §67C.143**

7 **(RESPONDENT'S MOTION NO. 3)**

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10 Motion having been made, and the Louisville Metro Council Court being otherwise
11 sufficiently advised, it is hereby Ordered:

12
13
14 1. Pursuant to KRS §67C.143 18 votes to will be required convict and remove
15 Councilman Johnson in the instant proceedings, and 3 votes to find in favor of allowing
16 Councilman Johnson to retain his elected office.

17
18 Louisville Metro Council Court

19
20
21 By: _____

**67C.143 Removal of elected officers of consolidated local government -- Hearing --
Vote of council -- Appeal -- Vacancy.**

- (1) Unless otherwise provided by law, any elected officer of a consolidated local government in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council, or, in case of charges against the mayor, upon charges preferred by not less than ten (10) members of the legislative council. No legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge.
- (2) No elected officer shall be removed without having been given the right to a full public hearing.
- (3) A decision to remove a mayor or legislative council member shall require a vote of two-thirds (2/3) of the total number of legislative council members sitting as a court.
- (4) Any elected officer removed from office under the provisions of this section may appeal to the Circuit Court and from there to the Court of Appeals. The appeal to the Circuit Court shall be taken and tried in the same manner as civil cases are tried.
- (5) No elected officer removed from office under this section shall be eligible to fill the office vacated before the expiration of the term to which the elected member was originally elected.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 346, sec. 3, effective July 15, 2002.

1 AN ACT relating to consolidated local governments.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔ Section 1. KRS 67C.103 is amended to read as follows:

- 4 (1) The legislative authority of a consolidated local government, except as otherwise
5 specified in KRS 67C.101 to 67C.137, shall be vested in a consolidated local
6 government council. The members of the council shall be nominated and elected by
7 district. There shall be only one (1) council member elected from each council
8 district.
- 9 (2) There shall be twenty-six (26) council districts. The initial boundaries, population,
10 and numerical designation of the council districts shall be as specified by KRS
11 67C.135. The population of the council districts shall be as nearly equal as is
12 reasonably possible. For any newly consolidated local governments whose officials
13 take office in 2003, upon taking office, the legislative council may take action to
14 adjust the boundaries and population of the districts in order to equalize the
15 population of the districts which may have changed as a result of recent census
16 information. Any changes made to alter the boundaries of council districts shall be
17 based on the population of the county as determined by the most recent United
18 States Census or official census estimates as provided by the United States Bureau
19 of the Census.
- 20 (3) Following the official publication of each decennial census by the United
21 States Bureau of the Census for the area embraced by a consolidated local government,
22 the council shall adopt an ordinance, if necessary, to redistrict the council districts. A
23 redistricting ordinance shall provide for the distribution of population among the council
24 districts, **and each district shall be within two percent (2%) of other districts in**
25 **population**~~[as nearly equal as is reasonably possible]~~. Every council district shall be
26 compact and contiguous and shall respect existing neighborhood, community, and city
27 boundaries whenever possible.

- 1 (4) The consolidated local government council members shall serve for a term of four
2 (4) years beginning on the first Monday in January following their election except
3 that the initial election of council members shall be in a manner as to provide for
4 staggered terms for council members. At the initial election of the members of a
5 consolidated local government council, those representing even-numbered districts
6 shall be elected for a two (2) year term. Those representing odd-numbered districts
7 shall be elected for a four (4) year term. Thereafter, all council members shall be
8 elected for four (4) year terms.
- 9 (5) The members of a consolidated local government council shall be nominated and
10 elected from the district in which they reside in partisan elections. After the initial
11 terms of office of the first elected council members, council members shall be
12 elected in the same election years as other local government officials as regulated by
13 the regular election laws of the Commonwealth and as provided in subsection (4) of
14 this section.
- 15 (6) No person shall be eligible to serve as a member of a consolidated local government
16 council unless he or she is at least eighteen (18) years old, a qualified voter, and a
17 resident within the territory of the consolidated local government and the district
18 that he or she seeks to represent for at least one (1) year immediately prior to the
19 person's election. A council member shall continue to reside within the district from
20 which he or she was elected throughout the term of office.
- 21 (7) The presiding officer of a consolidated local government council shall be a
22 president who shall be chosen annually by a majority vote of the entire council from
23 among its members at the first meeting of the council in January. The council
24 president has the right to introduce any resolution or recommend any ordinance and
25 shall be entitled to vote on all matters.
- 26 (8) The consolidated local government council shall upon notice meet within seven (7)
27 days after its members have taken office, and shall thereafter hold at least one

1 ~~(1)[two (2)]~~ regular meeting~~[meetings]~~ per month. No newspaper notice shall be
2 required for regular or special meetings of the consolidated local government
3 council. However, notice of all meetings of the council and all meetings of
4 committees of the council shall be held pursuant to KRS 61.805 to 61.850.

5 (9) A majority of the members of the consolidated local government council shall
6 constitute a quorum, but a smaller number may adjourn from day to day. The
7 consolidated local government council may enforce the attendance of members by
8 rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the
9 entire membership of the council may call a special meeting at any time. Meetings
10 shall be held in such places in the county as are provided by ordinance, and the
11 place of meetings shall not be changed except by an ordinance for which two-thirds
12 (2/3) of the members of the consolidated local government council have voted.

13 (10) The council shall determine its own rules and order of business, and keep and
14 provide a public record of its proceedings. The council shall provide for the
15 publication of all ordinances in a composite code of ordinances.

16 (11) Council ordinances that prescribe penalties for their violation shall be enforced
17 through the entire area of the consolidated local government unless:

18 (a) Otherwise provided by statute; or

19 (b) The legislative body of any city within the consolidated local government area
20 has adopted an ordinance pertaining to the same subject matter that is the
21 same as or more stringent than the standards set forth in the consolidated local
22 government's ordinance.

23 (12) In the case of a vacancy on the consolidated local government council by reason of
24 death, resignation, ~~[or]~~ removal, or gubernatorial appointment to the office of
25 mayor pursuant to subsection (6) of Section 2 of this Act, the Governor shall
26 appoint an individual to fill the vacancy. The tenure of the appointment shall be
27 subject to the provisions of Section 152 of the Kentucky Constitution~~[the council]~~

1 ~~by majority vote of the membership of the council shall elect a qualified resident of~~
2 ~~the council district not later than thirty (30) days after the date the vacancy occurs.~~
3 ~~Should the council fail to elect, by majority vote of the membership of the council, a~~
4 ~~qualified person to fill the vacancy within thirty (30) days, the mayor of the~~
5 ~~consolidated local government shall fill the vacancy by appointment of a qualified~~
6 ~~person for the unexpired term].~~

7 (13) All legislative powers of a consolidated local government are vested in the
8 consolidated local government council. The term "legislative power" is to be
9 construed broadly and shall include the power to:

- 10 (a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by
11 a two-thirds (2/3) majority of the membership of the legislative council;
12 (b) Review the budgets of and appropriate money to the consolidated local
13 government;
14 (c) Adopt a budget ordinance;
15 (d) Levy taxes, subject to the limitations of the Constitution and the laws of the
16 Commonwealth of Kentucky;
17 (e) Establish standing and temporary committees; and
18 (f) Make independent audits and investigations concerning the affairs of the
19 consolidated local government and any agency, board, or commission that:

- 20 1. Is composed of members who are appointed by the mayor and
21 approved by the legislative council; or
22 2. Has a budget that is equal to or greater than one million dollars
23 (\$1,000,000), except that this subparagraph shall not apply to any fee
24 officer elected within the consolidated local government.

- 25 (14) (a) The consolidated local government council shall establish a Government
26 Oversight and Audit Committee. This committee shall be composed of eight
27 (8) members, four (4) members from each of the two (2) largest political

1 caucuses in the legislative council, these members appointed by the chairs
2 of their respective caucuses.

3 **(b) The committee shall have the power to:**

4 **1. Compel testimony and the submission of work papers or documents;**

5 **2. Issue subpoenas to compel any officer of or appointee to an agency,**
6 **board, or commission described in paragraph (f) of subsection (13) of**
7 **this section or any department of the consolidated local government to**
8 **appear before the committee and to compel the submission to the**
9 **committee of any work papers or documents pertinent to an**
10 **independent audit or investigation. Any subpoenas issued or testimony**
11 **compelled shall be subject to any relevant statutes concerning privacy.**
12 **Testimony subject to KRS 61.810 shall only be taken in executive**
13 **session;**

14 **3. Petition the appropriate Circuit Court to compel obedience by**
15 **proceedings for contempt as in the case of disobedience of a subpoena**
16 **issued from the Circuit Court or a refusal to testify therein, if any**
17 **officer or appointee fails or refuses to testify or furnish the work**
18 **papers or documents subpoenaed; and**

19 **4. Administer oaths to witnesses appearing before the committee when**
20 **the committee deems the administration of an oath necessary and**
21 **advisable as provided by law. This decision to administer oaths shall**
22 **be taken by a majority vote of the committee of the legislative council.**

23 **(c) The legislative council of the consolidated local government shall adopt by**
24 **resolution any process or procedures deemed necessary for the**
25 **administration of subpoenas and oaths.**

26 **(15)** The consolidated local government council shall be known as the legislative council
27 of/..... County Metro Government, which shall be a

1 combination of the names of the largest city in existence in the county on the date of
2 the adoption of the consolidated local government and the county.

3 ➔ Section 2. KRS 67C.105 is amended to read as follows:

4 (1) All executive and administrative power of the government shall be vested in the
5 office of the mayor. The term "executive and administrative power" shall be
6 construed broadly. The mayor shall be the chief executive of a consolidated local
7 government formed under the provisions of KRS 67C.101 to 67C.137.

8 (2) (a) The mayor shall be nominated and elected in partisan elections for a term of
9 four (4) years in the same election years as other local government officials as
10 regulated by the regular election laws of the Commonwealth.

11 (b) The mayor shall assume office on the first Monday in January following his or
12 her election and ~~He or she~~ shall serve until a successor qualifies.

13 (c) Except as provided in paragraph (d) of this subsection, the mayor ~~and~~ may
14 serve for no more than three (3) consecutive terms, after which time he or she
15 shall be prohibited from running for election or being appointed as mayor for
16 a period of at least four (4) years.

17 (d) Beginning February 1, 2019, the mayor may serve for no more than two (2)
18 consecutive terms, after which time he or she shall be prohibited from
19 running for election or being appointed as mayor for a period of at least
20 four (4) years.

21 (3) The mayor shall be at least twenty-one (21) years old, a qualified voter, a member
22 of his or her political party, and a resident of the territory encompassing the
23 consolidated local government for a period of at least one (1) year prior to his or her
24 election as mayor. The mayor shall continue to reside within the geographic
25 boundary of the consolidated local government throughout his or her term of office.
26 (4) Except as otherwise provided in KRS 67C.101 to 67C.137, the mayor shall have all
27 the power and authority that the mayor of the city of the first class and the county

1 judge/executive exercised under the Constitution and the general laws of the
2 Commonwealth of Kentucky prior to the consolidation.

3 (5) The mayor is authorized to supervise, administer, and control all departments and
4 agencies as may be created by KRS 67C.101 to 67C.137 or created by ordinance.
5 The mayor shall appoint all department and agency directors. The appointees shall
6 serve at the pleasure of the mayor. Specifically, the mayor shall:

7 (a) Prepare and submit an annual report coinciding with the fiscal year, on the
8 state of the consolidated local government, to be presented at a public meeting
9 of the council;

10 (b) Submit an annual budget no fewer than sixty (60) days prior to the end of the
11 fiscal year;

12 (c) Oversee the administration and implementation of the adopted budget
13 ordinance;

14 (d) Enforce the ordinances of the consolidated local government;

15 (e) Supervise all officers, agents, employees, cabinets, departments, offices,
16 agencies, functions, and duties of the consolidated local government;

17 (f) Call special meetings of the consolidated local government council;

18 (g) Appoint and remove his or her own staff at his or her own pleasure;

19 (h) Execute written contracts, subscriptions, agreements, or obligations of the
20 consolidated local government;~~and~~

21 (i) Approve or veto ordinances and resolutions adopted by the consolidated local
22 government council;

23 (j) Submit any written contracts, subscriptions, agreements, or obligations with a
24 value equal to or greater than fifty thousand dollars (\$50,000) for approval by
25 the legislative council; and

26 (k) Appoint a deputy mayor and keep the office of deputy mayor filled
27 throughout the mayor's term. The deputy mayor shall:

- 1 1. Meet all the qualifications for mayor established pursuant to
2 subsection (3) of this section;
- 3 2. Serve at the mayor's pleasure and may be replaced by the mayor for
4 any cause; and
- 5 3. Have only the duties assigned to him or her by the mayor.
- 6 (6) (a) If ~~In case~~ the office of mayor becomes vacant by reason of death, resignation,
7 or removal:
 - 8 1. The deputy mayor shall become the temporary mayor, inheriting all
9 powers and duties of the mayor;
 - 10 2. The deputy mayor shall serve as temporary mayor for no more than
11 thirty (30) days until the Governor appoints an individual to serve as
12 mayor. The Governor may appoint any individual, including the
13 deputy mayor, who meets the qualifications for mayor established
14 pursuant to subsection (3) of this section to serve as mayor; and
 - 15 3. The tenure of this appointment shall be governed by Section 152 of the
16 Kentucky Constitution.
- 17 (b) If the offices of both the mayor and deputy mayor become vacant by reason
18 of death, resignation, or removal:
 - 19 1. The presiding officer of the consolidated local government council
20 shall become the temporary mayor, inheriting all powers and duties of
21 the mayor;
 - 22 2. The presiding officer shall serve as temporary mayor for no more than
23 thirty (30) days until the Governor appoints an individual to serve as
24 mayor. The Governor may appoint as mayor any individual, including
25 the presiding officer, who meets the qualifications for mayor
26 established pursuant to subsection (3) of this section; and
 - 27 3. The tenure of this appointment shall be governed by the provisions of

1 Section 152 of the Kentucky Constitution~~[, the members of the~~
2 legislative council of the consolidated local government shall by a
3 majority vote of the membership of the council elect a qualified person
4 to fill the vacancy in the office of the mayor not later than thirty (30)
5 days after the date on which the vacancy occurs for the unexpired term.
6 The members of the legislative body of the consolidated local
7 government may elect one (1) of their members to serve as temporary
8 mayor until they are able to hold the election to fill the vacancy for the
9 unexpired term. If the legislative council fails to elect a person to fill the
10 vacancy within thirty (30) days after the vacancy occurs, the Governor
11 shall fill the vacancy in the office by appointment of a qualified person
12 for the unexpired term].

- 13 (7) The mayor of a consolidated local government shall be known as the mayor of
14 /..... County Metro Government, which shall be a combination
15 of the names of the largest city in existence in the county on the date of the adoption
16 of the consolidated local government and the county.

17 ➔Section 3. KRS 67C.111 is amended to read as follows:

- 18 (1) All cities other than those of the first class located within the territory of the
19 consolidated local government, upon the successful passage of the question to
20 consolidate a city of the first class and its county, shall remain incorporated unless
21 dissolved in accordance with KRS 81.094 and shall continue to exercise all powers
22 and perform the functions permitted by the Constitution and general laws of the
23 Commonwealth of Kentucky applicable to the cities of the class to which they have
24 been assigned.
- 25 (2) Upon the adoption of a consolidated local government in a county containing a city
26 of the first class, there shall be no further incorporations of cities within the county.
- 27 (3) ~~[Upon the adoption of a consolidated local government in a county containing a city~~

1 ~~of the first class, there shall be no annexations for a period of twelve (12) years by~~
2 ~~any city remaining in the county. After that time,]Any proposed annexation by a~~
3 city in that county having the support of more than eighty percent (80%) of the
4 property owners within the territory to be annexed may be undertaken without the
5 approval of the consolidated local government. Any other proposed annexation by
6 a city in that county shall first receive the approval of the legislative council of the
7 consolidated local government prior to the city proceeding under the provisions of
8 KRS Chapter 81A. The city shall request the approval of the consolidated
9 legislative council by ordinance. The consolidated legislative council's decision
10 shall be made by ordinance and within sixty (60) days of the receipt of the request
11 by the affected city. If an ordinance has not been enacted by the consolidated
12 legislative council within sixty (60) days, the request for a city to proceed with an
13 annexation proposal shall be deemed to be approved by the consolidated legislative
14 council.

15 (4) The adoption of a consolidated local government in a county containing a city of the
16 first class shall not prevent the merger or dissolution of any existing cities as
17 provided by law or the merger of any remaining cities with the newly consolidated
18 local government.

19 ➔Section 4. KRS 67C.115 is amended to read as follows:

20 (1) Upon the successful passage of the question to consolidate a city of the first class
21 and its county, all ordinances and resolutions of the previously existing city of the
22 first class and all ordinances and resolutions of the county shall become effective
23 ordinances and resolutions of the consolidated local government until repealed,
24 modified, or amended in accordance with the following order of precedence:

25 (a) If a city ordinance conflicts with a county ordinance, the county ordinance
26 shall prevail and shall become effective countywide; and

27 (b) If a city ordinance addresses a subject matter not addressed by a county

1 ordinance, the city ordinance shall become effective countywide; and

2 (c) If a county ordinance addresses a subject matter not addressed by a city
3 ordinance, the county ordinance shall become effective countywide.

4 Notwithstanding paragraph (a) of this subsection and in the event a uniform land
5 development code has not been jointly adopted by the city and county prior to the
6 effective date of a consolidated local government, the historic preservation and
7 landmarks ordinances, and the zoning regulations of the city adopted pursuant to
8 KRS Chapter 100, shall prevail and become effective countywide.

9 (2) Ordinances and resolutions of either the city of the first class or its county in
10 existence on the effective date of a local government consolidation which conflict
11 with other provisions of this chapter shall be void. Except as provided in KRS
12 67C.123(3), any ordinance, resolution, or order in effect in a city of the first class or
13 its county on the date a consolidated local government takes effect shall expire five
14 (5) years from that date unless amended or reenacted by the consolidated local
15 government.

16 (3) All ordinances of the city and county creating agencies and boards and interlocal
17 agreements shall survive and be deemed reenacted by the council. All members may
18 serve the balance of the terms to which they were appointed and until their
19 successors are appointed and duly qualified according to law.

20 (4) For purposes of this section, a conflict shall be deemed to exist between ordinances
21 or resolutions, or the provisions of this chapter, where any rights, remedies,
22 entitlements, or the enforcement thereof cannot reasonably be reconciled.

23 (5) The county attorney shall serve as the legal advisor and representative to the
24 consolidated local government and except for those duties pertaining to fiscal court
25 set forth in KRS 69.210, the county attorney shall retain and exercise all other
26 duties, powers, and rights delegated to that office by law. **This subsection does not**
27 **prevent the consolidated local government council or its two (2) largest political**

1 caucuses from retaining their own legal counsel should they choose to do so.

2 (6) Wherever the words "county judge" or "county judge/executive" appear in any
3 resolution or ordinance in existence in a city of the first class or in a county
4 containing a city of the first class as of the effective date of the establishment of a
5 consolidated local government, they shall be deemed to mean the mayor of the
6 consolidated local government.

7 ➔Section 5. KRS 67C.131 is amended to read as follows:

8 (1) The salary of the members of the legislative council of a newly consolidated local
9 government created by the provisions of KRS 67C.101 to 67C.137 shall be eighty
10 percent (80%) of that amount that is permitted for county commissioners on July
11 14, 2000, as provided by Section 246 of the Kentucky Constitution. In order to
12 equate the compensation of legislative council members with the purchasing power
13 of the dollar, the Department for Local Government shall compute by the second
14 Friday in February of every year the annual increase or decrease in the consumer
15 price index of the preceding year. The Department for Local Government shall
16 notify the appropriate governing bodies charged by law to fix the compensation of
17 the above elected officials of the annual rate of compensation to which the elected
18 officials are entitled in accordance with the increase or decrease in the consumer
19 price index. Upon notification from the Department for Local Government, the
20 appropriate governing body may set the annual compensation of the above elected
21 officials at a rate no greater than that stipulated by the Department for Local
22 Government.

23 (2) Each legislative council member may hire one (1) full-time staff person. In addition
24 to that full-time staff person, the two (2) largest political caucuses within the
25 legislative council may hire a minimum of two (2) full-time staff persons, but no
26 more than four (4) full-time staff persons to meet the staffing needs of that
27 caucus.

1 ➔ Section 6. KRS 67C.139 is amended to read as follows:

2 If a cooperative compact exists between a city of the first class and its county prior to the
3 creation of a consolidated local government, upon the establishment of the consolidated
4 local government:

5 (1) (a) The mayor of the consolidated local government shall assume all appointment
6 authority previously held by the county judge/executive and the mayor of the
7 consolidating governments. Appointments made by the mayor should reflect
8 the political, geographic, gender, and ethnic diversity of the population
9 within the jurisdiction of the consolidated local government. Upon the
10 expiration of a term of appointment, the mayor shall make an appointment
11 or reappointment within ninety (90) days of the term's expiration.

12 (b) If the mayor fails to make an appointment within ninety (90) days, the
13 appointment authority shall shift to the members of the committee on
14 committees of the legislative council which shall make the appointment
15 within thirty (30) days after the expiration of the ninety (90) day period. The
16 committee on committees' appointment shall take into account the political,
17 geographic, gender, and ethnic diversity of the population;~~[and]~~

18 (2) (a) When authorized by statute, the mayor shall, subject to legislative council
19 approval, determine which statutorily created agencies, boards, and
20 commissions require legislative council approval for the appointment of
21 members.

22 (b) 1. Subject to legislative council approval, the mayor shall determine the
23 agencies, boards, and commissions to which legislative council
24 members shall be appointed. The mayor's determination under this
25 subparagraph shall be made in consultation with the Office of the
26 Attorney General and shall not violate the incompatible offices
27 prohibitions in KRS 61.080(3).

1 2. The presiding officer of the legislative council shall make all
2 legislative council appointments to agencies, boards, and commissions
3 from the membership of the legislative council and shall select one (1)
4 member from each of the two (2) largest recognized political caucuses
5 within the council, subject to subparagraph 1. of this paragraph.

6 ~~[The mayor, in consultation with the legislative council, shall, when authorized by~~
7 ~~statute, determine which agencies, boards, and commissions created by statute~~
8 ~~shall require legislative council approval for the appointment of members to~~
9 ~~such agencies, boards, and commissions.]~~

10 (c) The legislative council shall enact an ordinance setting out the role of the
11 legislative council, if any, in the appointment process for each individual
12 agency, board, and commission created by statute. Only one (1) agency, board,
13 or commission shall be addressed per ordinance. Such ordinance shall require
14 a vote of the majority of the entire membership of the legislative council for
15 approval and shall be subject to mayoral veto and legislative override pursuant
16 to KRS 67C.103(13)(a) and 67C.105(5)(i); and

17 (3) The appointment of members to all agencies, boards, and commissions created by
18 ordinance shall be determined by the ordinance creating the agency, board, or
19 commission.

20 ➔Section 7. KRS 67C.143 is amended to read as follows:

21 (1) Unless otherwise provided by law, any elected officer of a consolidated local
22 government in case of misconduct, incapacity, or willful neglect in the performance
23 of the duties of his or her office may be removed from office by the legislative
24 council, sitting as a court, under oath, upon charges preferred by the mayor or by
25 any five (5) members of the legislative council, or, in case of charges against the
26 mayor, upon charges preferred by not less than ten (10) members of the legislative
27 council. No legislative council member preferring a charge shall sit as a member of

- 1 the legislative council when it tries that charge.
- 2 (2) No elected officer shall be removed without having been given the right to a full
3 public hearing.
- 4 (3) A decision to remove a mayor, ~~for~~ legislative council member, or appointee to an
5 agency, board, or commission shall require a vote of two-thirds (2/3) of the total
6 number of legislative council members~~sitting as a court~~.
- 7 (4) Any elected officer removed from office under the provisions of this section may
8 appeal to the Circuit Court and from there to the Court of Appeals. The appeal to
9 the Circuit Court shall be taken and tried in the same manner as civil cases are tried.
- 10 (5) (a) No elected officer removed from office under this section shall be eligible to
11 fill the office vacated before the expiration of the term to which the elected
12 member was originally elected.
- 13 (b) Any appointee to an agency, board, or commission removed under this
14 section shall not be eligible for the office from which he or she was removed
15 before five (5) years following the date of his or her removal from that
16 office.
- 17 ➔Section 8. KRS 424.290 is amended to read as follows:
- 18 (1) Not less than three (3) days before any primary or regular election the county clerk
19 shall cause to be published in a newspaper a copy of the face of the voting
20 machines, or where an electronic or electromechanical voting system is used, a copy
21 of the ballot cards or supplementary material on which appear the names of
22 candidates or issues to be voted upon. Where the lists of candidates or issues to be
23 voted upon differ for various precincts within the county, the county clerk shall
24 cause to be published only one (1) set of data with appropriate notations showing
25 the differences in the various precincts. If supplemental paper ballots have been
26 approved as provided in KRS 118.215, the paper ballot shall be published at the
27 same time as other material required to be published by this subsection. The cost of

1 publication shall be paid by the county, urban-county, charter county,
2 consolidated local government, or unified local government, except that the cost
3 of publishing any voting data required to be published by this subsection that is
4 limited to a city election or a district election other than a school district election
5 shall be paid by the city or the district as the case may be.

6 (2) The county clerk in a county containing a consolidated local government shall
7 publish in a newspaper only the names and parties of the candidates for each
8 office, any issues to be voted upon, and the Internet Web site of the county clerk
9 where further information may be found.

10 (3) "Copy," as used in subsection (1) of this section, means a summary of candidates
11 and issues to be voted upon showing all the pertinent information that will appear,
12 upon which the voters will cast their votes at a particular polling place.

67C.143 Removal of elected officers of consolidated local government -- Hearing -- Vote of council -- Appeal -- Restrictions on eligibility for office or appointment following removal.

- (1) Unless otherwise provided by law, any elected officer of a consolidated local government in case of misconduct, incapacity, or willful neglect in the performance of the duties of his or her office may be removed from office by the legislative council, sitting as a court, under oath, upon charges preferred by the mayor or by any five (5) members of the legislative council, or, in case of charges against the mayor, upon charges preferred by not less than ten (10) members of the legislative council. No legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge.
- (2) No elected officer shall be removed without having been given the right to a full public hearing.
- (3) A decision to remove a mayor, legislative council member, or appointee to a board or commission shall require a vote of two-thirds (2/3) of the total number of legislative council members.
- (4) Any elected officer removed from office under the provisions of this section may appeal to the Circuit Court and from there to the Court of Appeals. The appeal to the Circuit Court shall be taken and tried in the same manner as civil cases are tried.
- (5)
 - (a) No elected officer removed from office under this section shall be eligible to fill the office vacated before the expiration of the term to which the elected member was originally elected.
 - (b) Any appointee to a board or commission removed under this section shall not be eligible for:
 1. The office from which he or she was removed before five (5) years following the date of his or her removal from that office; or
 2. Appointment to a board or commission described in KRS 67C.103(13)(f) before five (5) years following the date of his or her removal from that office.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 150, sec. 6, effective June 29, 2017. -- Created 2002 Ky. Acts ch. 346, sec. 3, effective July 15, 2002.