

RESOLUTION NO._____, SERIES 2018

A RESOLUTION URGING THE KENTUCKY GENERAL ASSEMBLY TO AMEND KRS 67C.143 TO ITS PRE-2017 AMENDMENT LANGUAGE TO CLARIFY VOTING RIGHTS IN REMOVAL HEARINGS (AS AMENDED).

SPONSORED BY: COUNCIL MEMBER ACKERSON

WHEREAS, the 2017 Kentucky General Assembly revised Kentucky Revised Statute (“KRS”) § 67C.143(3) by removing the words “[sitting as a court]” but retaining the prohibition in subsection (1) that “[n]o legislative council member preferring a charge shall sit as a member of the legislative council when it tries that charge[.]”;

WHEREAS, the 2017 amendment to KRS § 67C.143(3) created uncertainty during the Metro Council removal proceedings against former Councilman Dan Johnson;

WHEREAS, removal charges were filed against Dan Johnson on August 10, 2017 by five (5) members of the Louisville Metro Council for misconduct, incapacity, and willful neglect in the performance of his duties of the office of Metro Council;

WHEREAS, the Jefferson County Attorney’s Office reviewed the amendments to KRS § 67C.143(3) and advised the Louisville Metro Council President that removal of a Metro Council member from office would require a vote of two-thirds (2/3) of the total number of legislative council members sitting as a court;

WHEREAS, the Respondent filed a motion with Council Court requesting a ruling on the interpretation of KRS § 67C.143 and argued that eighteen (18) votes were required to remove Councilman Johnson, or three (3) votes to find in favor of allowing Councilman Johnson to retain his elected office;

WHEREAS, the Charging Committee filed a Response to Respondent's Motion arguing that KRS § 67C.143 allows the five (5) members of the Charging Committee to vote on the removal charges against the Respondent;

WHEREAS, the Charging Committee tendered proposed instructions to the Council Court claiming that the vote to remove a Metro Council member requires a two-thirds (2/3) supermajority of the entire Metro Council;

WHEREAS, on October 25, 2017, Metro Council President issued a Memorandum and Order, upon advice of the Jefferson County's Attorney's Office, that stated KRS § 67C.143 requires fourteen (14) votes of a possible twenty (20) voting members of the council court to remove a member of Metro Council;

WHEREAS, changes made by the 2017 Kentucky General Assembly made removal of the Louisville Mayor impossible because ten (10) members are required to bring charges against the mayor yet KRS § 67C.143 requires two-thirds (2/3) of the entire Metro Council to remove the mayor; and

WHEREAS, the uncertainty surrounding the interpretation of this statute led to the negotiations and a settlement agreement between the Council Court and Respondent in November 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE METRO GOVERNMENT ("METRO COUNCIL") AS FOLLOWS:

SECTION I: Louisville Metro Council encourages the Kentucky General Assembly to amend KRS § 67C.143(1) as follows:

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.

SECTION II: Louisville Metro Council encourages the Kentucky General Assembly to amend KRS § 67C.143(3) with the originally adopted language (2002), which states that 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. as follows:

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 present. Those members present, including the accused and the charging committee, shall have a vote on this matter.

SECTION III: This Resolution shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer, Mayor

Approved Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____