

RESOLUTION NO. 043, 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: to clarify the intent of the 2017 changes and the procedure for removal of elected officers of a consolidated local government.**

~~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.~~

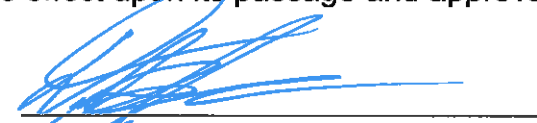
~~SECTION II: Louisville Metro Council encourages the Kentucky General Assembly to amend KRS § 67C.143(3) with the originally adopted language (2002), which states that a decision to remove a mayor or legislative council member shall require a vote of two thirds (2/3) of the total number of legislative 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



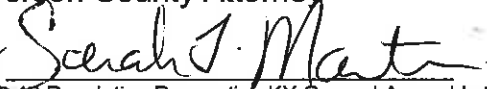
David James  
President of the Council

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Greg Fischer, Mayor

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Approved Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: 





LOUISVILLE METRO COUNCIL  
CLERK'S OFFICE

H. STEPHEN OTT  
CLERK OF THE COUNCIL

## MEMO

To: David James  
Metro Council President

Cc: Council Member Ackerson

From: H. Stephen Ott *A.Ott*  
Clerk of the Metro Council

Date: 4/17/2018

Re: Resolution 043, Series 2018 Unsigned by Mayor Fischer

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Comments: President James,

The Mayor's Office delivered the enclosed copy of Resolution 043, Series 2018 (R-016-18) unsigned by the Mayor. I can only conclude that it was unsigned based on the Mayor's decision to not sign Resolutions directed toward the Kentucky General Assembly.

Pursuant to Metro Council Rule 7.18(a) and KRS 83.500(4):

*If the mayor does not sign an ordinance or resolution presented to him, and does not return it on or before the day on which the board of aldermen holds its regular meeting next after the meeting at which the ordinance or resolution was passed, and three (3) days have intervened between the presentation to the mayor and the meeting, the ordinance or resolution shall be in force as if he had signed it.*

Please let me know if you have any questions or need additional information.

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