



BOSTON CITY COUNCIL

Committee on Government Operations

Lydia Edwards, Chair

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REPORT OF COMMITTEE CHAIR

February 3, 2021

Dear Councilors:

Docket #0155, An Act Relative to the Office of Mayor in the City of Boston, was sponsored by Councilor Ricardo Arroyo and referred to the Committee on January 13, 2021. The Committee held a hearing on January 26, 2021 where public comment was taken and a working session on January 29, 2021.

Summary of Legislation:

Docket #0155 will amend the City of Boston's Charter by providing that if a vacancy occurs in the office of Mayor in the year 2021, the president of the City Council will become Acting Mayor for the remainder of the unexpired term. Under current charter provisions, Section 13, of the Acts of 1948 as amended, if the office of the mayor becomes vacant before March 5, 2021, the City Council would be required to call for a special election to fill the vacancy.

Information Gathered at the Hearing:

At the hearing, the Committee heard testimony from the following individuals: on behalf of the Administration Commissioner Eneida Tavares, Commissioner Boston Election Department; and Sabino Piemonte, Assistant Registrar, Boston Election Department; Michelle Tassinari, Director of Elections, MA Secretary of State's Office; Cheryl Crawford, MassVote; Kerry Costello, League of Women Voters Boston; Beth Huang, Massachusetts Voter Table; and, Pam Kocher, Boston Municipal Research Bureau. The Committee heard from many Boston residents expressing support for not having the special election because it would be unsafe during a pandemic and will disenfranchise voters. The Committee also heard support for not having a special election from business organizations and voting rights organizations because having a special election at this time will result in additional financial and operational burdens, low voter turnout, voter fatigue, and instability in city government.

Information Gathered at the Working Session:

At the working session, Councilors discussed the specific language of the docket and amendments offered by councilor Bok. The Councilors discussed Section 13 of the Charter which governs the procedures and requirements for when a vacancy occurs in the office of mayor and when a special election is required. The relevant provision of Section 13 that requires the City Council to call for a special election is: "if a vacancy occurs in the office of mayor within sixteen months after a regular municipal election, the city council shall forthwith call for a special election." This provision governs if a vacancy occurs before March 5th. If a vacancy occurs after March 5th, there is no special election and under Charter provisions the city will

follow the protocols for the upcoming 2021 municipal election. The provision of the Charter that would govern if a vacancy occurs after March 5, 2021 is as follows: "If a vacancy occurs in the office of mayor at any other time, a mayor shall be elected at-large at the next regular municipal election." Further, Section 13 of the City Charter provides that when there is a special election or if there is no special election and a mayor is elected at large at the next regular municipal election, that person "shall take and subscribe the oaths required by Section 11A, (Oaths of Office) as soon as conveniently may be after the issuance of the certificate of election."

Docket #0155 as written would make the president of the city council the acting mayor for the remainder of the unexpired term which would be January 2022 and does not address the provision of the charter that requires that the duly elected mayor be sworn in upon certification. Docket #0155 as written would extend the term of the acting mayor when the acting mayor's term would end after certification of the November election results and that individual is sworn in pursuant to Section 13. This has the effect of changing another provision in Section 13 other than simply dispensing with the requirement of calling a special election and departs from the Charter.

The Councilors discussed the fact that the powers of an acting mayor and a duly elected mayor are different. The Councilors discussed that the current language in the proposal departs from the Charter because it extends the term of the acting mayor. The Councilors recognized that swearing in the elected mayor after certification will clear up confusion between the powers of acting mayor and the powers of a duly elected mayor and follows the will of the voters. The Councilors agreed that the language not be amendable by the state legislature, that there will not be a permanent change to the Charter at this time, that the language is simple and consistent as near as possible with the Charter as it is written now, and that there are no additions by extending the term of the acting mayor.

Summary of Amendments:

Based upon the information gathered at the hearing and the working session regarding public health and safety concerns in holding a special election during a pandemic and concerns about how the current language departs from the Charter, the docket is amended as follows: Section 1 of Docket #0155 is stricken in its entirety and replaced with the following: *Section 1.*

Notwithstanding any general or special law to the contrary, if a vacancy in the office of the mayor of Boston occurs at any time in the year two thousand and twenty-one, the vacancy shall not be filled by a special municipal election and shall instead be filled according to the provision of Section 13 of Chapter 452 of the Acts of 1948, as appearing in Section 1 of Chapter 376 of the Acts of 1951 and further amended in Chapter 328 of the Acts of 1996, that begins, at line 13, "a mayor shall be elected at large at the next regular municipal election". This amended language expressly cancels the special election in 2021, does not divert from the current charter language and is as consistent as possible to Section 13 by not adding language extending the term of the acting mayor.

Rationale and Recommended Action:

Passage of this home rule petition as amended will allow the City of Boston to forego the requirement of holding a special election in 2021 while still maintaining consistency with Charter provisions. Having the duly elected individual sworn in after certification will provide stability, is consistent with Charter provisions, clears up confusion between the powers of acting mayor and the powers of a duly elected mayor, and recognizes the will of the people.

By the Chair of the Committee on Government Operations, to which the following was referred:

Docket #0155, An Act Relative to the Office of Mayor in the City of Boston,

submits a report recommending that this docket **ought to pass in an amended draft.**

For the Chair:

A handwritten signature in black ink that reads "Lydia Edwards". The signature is written in a cursive style and is positioned above the printed name.

Lydia Edwards, Chair
Committee on Government Operations



CITY OF BOSTON

IN THE YEAR TWO THOUSAND TWENTY-ONE

HOME RULE PETITION

WHEREAS, On January 7, 2021, Mayor Martin J. Walsh was nominated by President-Elect Joe Biden to serve as the Labor Secretary and, if confirmed, would leave his position before the end of his term; *and*,

WHEREAS, The Boston City Charter states that in the event that the Mayor does not complete his or her term, the Boston City Council President shall serve as the acting Mayor until an election is held to elect a new Mayor; *and*,

WHEREAS, As currently written, if the Mayor resigns before March 5, 2021, the Boston City Charter would require a special preliminary election and election be held in addition to the already regularly scheduled municipal elections in September and November; *and*,

WHEREAS, Organizing and executing multiple municipal elections in a single year would place a large financial burden on the City of Boston, especially during a public health emergency like the ongoing COVID-19 pandemic; *and*,

WHEREAS, The COVID-19 pandemic is already expected to have a negative impact on the City's revenue and will continue to require increased investments in critical city services such as public health, housing, food access and more; *and*,

WHEREAS, Requiring Boston residents to repeatedly leave their homes in order to vote in multiple elections in the same year during a global pandemic puts their lives at risk; *and*,

WHEREAS, Holding multiple elections within the short time period of one year will create barriers to accessibility, lower voter turnout, and place disproportionate burdens on traditionally disenfranchised communities, such as immigrant, low-income, disabled, Black, and Latinx communities; *and*,

WHEREAS, Holding an unnecessary and redundant special election for the position of Mayor of Boston would endanger the health of Boston residents, exacerbate an already uncertain financial future for the City, and contribute to existing inequities often seen in elections. *THEREFORE BE IT*

ORDERED, That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause 1 of Section 8 of Article II, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**PETITION FOR A SPECIAL LAW RE:
AN ACT RELATIVE TO THE OFFICE OF MAYOR IN THE CITY OF BOSTON**

Section 1. Notwithstanding any general or special law to the contrary, if a vacancy in the office of the mayor of Boston occurs at any time in the year two thousand and twenty-one, the vacancy shall not be filled by a special municipal election and shall instead be filled according to the provision of Section 13 of Chapter 452 of the Acts of 1948, as appearing in Section 1 of Chapter 376 of the Acts of 1951 and further amended in Chapter 328 of the Acts of 1996, that begins, at line 13, “a mayor shall be elected at large at the next regular municipal election”.

Section 2. The provisions of this act shall be effective upon passage.

Filed in Council: February 3, 2021