



Legislation Details (With Text)

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**Title:** Resolution to Order Election, Approve Charter Amendment of the Ann Arbor City Charter Section for Filling Vacancies in Elective Offices And Determine The Ballot Language for This Amendment (7 Votes Required)

**Sponsors:** Jack Eaton

**Indexes:**

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Date	Ver.	Action By	Action	Result
7/16/2018	1	City Council	Approved	Pass

Resolution to Order Election, Approve Charter Amendment of the Ann Arbor City Charter Section for Filling Vacancies in Elective Offices And Determine The Ballot Language for This Amendment (**7 Votes Required**)

MCL 117.21 of the Home Rule City Act provides that amendment to an existing city charter may be proposed by the legislative body of a city on a 3/5 vote of the members-elect.

The proposed amendment still allows for a vacancy in an elective office to be filled by the City Council, however, if more than 50% of the unexpired term remains when the vacancy occurs, and enough time exists for candidates to file nomination petitions for the primary election, Council would appoint someone for the seat until the next regular City election. The unexpired term would be contested in that primary and regular City election. If the vacancy occurs less than 30 days from the filing deadline for the primary election, the unexpired term would not be contested in the election and Council's appointment would be effective for the entire balance of the unexpired term. In both cases, if the vacancy occurs within 40 days of a regular city election, the seat will not be filled until after the formation of the next Council.

Prepared by: Matthew Thomas, Associate City Attorney

Sponsor: Councilmember Eaton

Whereas, Section 21(1) of the Home Rule City Act (HRCA), MCL 117.21(1), authorizes a city council to adopt a resolution proposing to amend the city charter by three-fifths vote of its members-elect and the resolution proposing to amend the city charter must set forth the exact wording of the proposed amendment to be submitted to the city voters for approval at a regular or special election:

Whereas, The resolution must set forth the ballot language for the proposed charter amendment with each proposal being limited to a single subject, and if the subject of a proposal includes more than one related proposition, each proposition shall be separately stated as a ballot proposal to afford an opportunity for a separate vote of the city voters for or against each proposition;

Whereas, Section 21(2) of the HRCA, MCL 117.21(2), requires that the ballot language for the submission to the city voters of each proposed amendment, including any separate statement of purpose, shall be limited to 100 words, exclusive of caption, shall be a fair and impartial statement of the purpose of the amendment, and shall not create prejudice for or against the proposed amendment;

Whereas, Section 12.14 of the City Charter currently reads:

### Filling Vacancies

#### SECTION 12.14

- (a) If a vacancy occurs in an elective office, the Council shall, within thirty days thereafter, fill the vacancy for the balance of the unexpired term thereof: Provided that, if the vacancy occurs on the Council within forty days prior to a regular city election, it shall not be filled until after the next organization of the Council.
- (b) If a vacancy occurs in an appointive office, except that of City Administrator, such vacancy shall be filled within thirty days thereafter, in the manner provided for making that original appointment: Provided, That, such time may be extended, for not to exceed sixty days, by council resolution setting forth the reasons therefor.
- (c) If a vacancy occurs in the office of the City Administrator, the Council shall fill such vacancy as promptly as possible. During the vacancy, the Council may appoint an Acting City Administrator to act until the new appointee assumes his duties.

RESOLVED, That the following amended charter provision be placed on the ballot and submitted to the voters at the next general city election:

### Filling Vacancies

#### SECTION 12.14

- (a) If a vacancy occurs in an elective office, replacement shall occur as follows:

- (1) If more than fifty percent of the term has been served at the time the vacancy occurs, the Council shall, within thirty days thereafter, fill the vacancy for the balance of the unexpired term thereof: Provided that, if the vacancy occurs on the Council within forty days prior to a regular city election, it shall not be filled until after the next organization of the Council.
- (2) If less than fifty percent of the term has been served at the time the vacancy occurs, the Council shall, within thirty days thereafter, fill the vacancy until the next regular City election, at which the balance of the unexpired term shall be contested. If, however, the vacancy occurs less than thirty days before the deadline provided by state law for filing nomination petitions for the City primary election, the balance of the unexpired term shall not be contested at the next regular City election, and the person appointed by the Council shall serve the entire unexpired term: Provided that, if the vacancy occurs on the Council within forty days prior to a regular city election, it shall not be filled until after the next organization of the Council.
- (3) If an election is required under this subsection, the procedure for the calling and conduct of the elections shall follow the procedure of regular primary and general elections set out by this Charter and state law.

(b) If a vacancy occurs in an appointive office, except that of City Administrator, such vacancy shall be filled within thirty days thereafter, in the manner provided for making that original appointment: Provided, That, such time may be extended, for not to exceed sixty days, by council resolution setting forth the reasons therefor.

(c) If a vacancy occurs in the office of the City Administrator, the Council shall fill such vacancy as promptly as possible. During the vacancy, the Council may appoint an Acting City Administrator to act until the new appointee assumes his duties.

RESOLVED, That the proposed Charter amendment shall appear on the ballot in the following form, which includes the statement of purpose:

CHARTER AMENDMENT PROPOSAL NO. 2  
AMENDMENT TO ALTER THE PROCEDURE FOR FILLING A VACANCY IN ELECTIVE OFFICES

Currently, a vacancy in an elective office is filled by appointment of City Council, regardless of how long is left of the term. If this amendment is approved, a vacancy that occurs with more than half of the term remaining will be filled by appointment until the next regular City election, at which the rest of the term will be contested, so long as the filing deadline for the primary election is thirty days or more after the vacancy occurs.

Shall this proposed amendment to the Ann Arbor City Charter be adopted?

? Yes                      ? No

RESOLVED, That November 6, 2018, be designated as the day for holding an election on the proposed Charter amendment and the City Clerk is directed to give notice of the election and in a manner prescribed by law and to do all things necessary to submit the Charter amendment to a vote of the electors on the designated day as required by law;

RESOLVED, That the Clerk shall transmit a certified copy of this Resolution to the Governor of the State of Michigan for approval of the proposed amendment and transmit a certified copy of this Resolution to the Attorney General of the State of Michigan for approval of the proposed ballot language for the proposed amendment;

RESOLVED, That the City Clerk is directed to publish the proposed charter amendment in full, together with the existing charter provisions amended as required by law and in accordance with resolution of Council, post the proposed charter amendment in full together with the existing charter provisions to the City's website; and

RESOLVED, That the amendment if adopted, shall take immediate effect.

Sponsored by: Councilmember Eaton