

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. F/S R-13-2 ENACTMENT NO. _____

SPONSORED BY: Ken Sanchez and Brad Winter

1 **RESOLUTION**

2 **CREATING A TASK FORCE TO REVIEW THE CHARTER OF THE CITY OF**
3 **ALBUQUERQUE AND MAKE RECOMMENDATIONS ON CERTAIN POTENTIAL**
4 **REVISIONS; AND ADOPTING A PROPOSITION TO BE SUBMITTED TO THE**
5 **VOTERS ON THE SOONER OF THE NEXT CITY-WIDE SPECIAL ELECTION, OR**
6 **THE GENERAL ELECTION BALLOT OF NOVEMBER 4, 2014, THAT AMENDS**
7 **ARTICLE III, SECTION 3 OF THE CHARTER OF THE CITY OF ALBUQUERQUE,**
8 **CONCERNING DIRECT LEGISLATION BY VOTER INITIATIVE TO CREATE A**
9 **BALLOT INITIATIVE REVIEW COMMITTEE TO REVIEW PROPOSED**
10 **MEASURES FOR CONSTITUTIONAL OR OTHER LEGAL DEFECTS;**
11 **SPECIFYING THAT PROPOSED MEASURES SHALL BE SUBMITTED TO THE**
12 **CITY'S ELECTORS ONLY AT GENERAL OR REGULAR MUNICIPAL**
13 **ELECTIONS.**

14 **WHEREAS, the City Charter which created Albuquerque's current form of**
15 **government was adopted by the voters in 1974; and**

16 **WHEREAS, City Charter Review Task Forces were established in 1988,**
17 **1998, and 2009 to revisit the Charter and to make recommendations for**
18 **improving and refining the Charter in light of changes brought about by**
19 **population growth, annexation and the complexity of issues facing the City;**
20 **and**

21 **WHEREAS, each Task Force recommended changes to the Charter which**
22 **were proposed as Charter Amendments and put before the voters in 1989,**
23 **1999, and 2009 respectively and in each case several of the proposed**
24 **amendments were approved by the voters; and**

25 **WHEREAS, approximately five years have passed since the last Charter**
26 **Review Task Force was assembled to analyze the Charter provisions, and in**

1 that time several critical issues have materialized relating to the requirements
2 of the Charter; and

3 WHEREAS, it is timely to convene a Charter Review Task Force to provide
4 a thorough analysis of the City Charter as a whole and to determine whether
5 certain revisions should be proposed to improve the City's governmental
6 structure and operations; and

7 WHEREAS, the Charter Review Task Force created by this resolution
8 should submit its recommendations to the Council in time for placement on
9 the ballot for the October 6, 2015, regular municipal election; and

10 WHEREAS, one of the specific sections of the City Charter that may be
11 amended is Article III, Section 3 which authorizes direct legislation by voter
12 initiative provided that certain minimum requirements are satisfied, including
13 that a minimum number of registered City voters have signed the petition; and

14 WHEREAS, under the current provisions of Art. 3 Section 3 an election on
15 the direct legislation must be held within ninety days of the gathering of the
16 required signatures and filing the petition with City Clerk; and

17 WHEREAS, this process creates the possibility for multiple City-wide
18 special elections in any given year at great cost to the taxpayers of the City
19 and upon City resources, and it is impossible to budget in advance for an
20 unknown number of potential special elections; and

21 WHEREAS, the City Council has the ability to propose an amendment to
22 the City Charter that might help minimize these burdens while still allowing for
23 the continuation of the voter initiative process; and

24 WHEREAS, Article VI, Section 3 of the Charter authorizes the City Council
25 to Initiate Charter Amendments by approving a proposed amendment to be
26 placed out to the voters for consideration and approval; and

27 WHEREAS, in order to ensure continued access to the ballot initiative
28 process by the citizens of Albuquerque while protecting public funds and
29 resources, the City Council desires to submit to the City's electors, at the
30 sooner of the next city-wide special election or the November 4, 2014 general
31 election, a proposal to amend Article III, Section 3 of the City Charter
32 concerning direct legislation by voter initiative.

1 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
2 ALBUQUERQUE:

3 SECTION 1. CREATION OF A CHARTER REVIEW TASK FORCE

4 A. A 15 member City Charter Review Task Force is established to
5 review the City Charter and evaluate provisions that should be amended,
6 added or deleted.

7 B. The Task Force shall be made up of the following members, each of
8 whom is required to be a resident of the City of Albuquerque:

- 9 1. One member selected by each Councilor;
10 2. One at-large member selected by the full City Council who shall
11 chair the Task Force; and
12 3. Five members appointed by the Mayor.

13 C. The Task Force shall hold its first meeting no later than May 30, 2014
14 and shall provide its recommendations for City Charter amendments in a
15 report to the Council and the Mayor on or before February 28, 2015. Upon
16 presentation of its recommendations, the Task Force shall be discharged.

17 D. The charge of the Task Force shall be to examine the City Charter for
18 the purpose of recommending amendments. The charge includes
19 examination of the following:

- 20 1. The provision of the Charter that prohibits City employees from
21 running for or serving in elected office;
22 2. The provision of the Charter that requires nine and only nine
23 Council Districts so as to potentially allow more than nine districts; and
24 3. After how much time after a vacancy occurs shall the Mayor
25 appoint someone to fill the position of City Clerk, City Attorney, or other; and
26 4. The provisions relating to public financing of campaigns and
27 other election provisions in need of update or revision.

28 E. All meetings of the Task Force or its committees shall be open
29 meetings, and the Task Force shall hold at least one public hearing during
30 which input from the public will be sought.

31 F. The Council and the Administration shall provide staffing and
32 resources to the Task Force.

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1 4. Before any signatures are affixed thereon, the form of such petition
2 must be approved by the City Clerk as provided by law and the date of filing
3 the notice of intent shown thereon;

4 5. No such petition or any part thereof, may be filed more than sixty
5 days after ~~[the date of filing the notice of intent]~~[the City Clerk's approval of
6 the form of the measure described in subsection (e) of this section];

7 6. If the Council fails to act upon a measure so proposed within fourteen
8 days after the City Clerk files a certification with the Council that the petition
9 has been signed by the required number of voters, or the Council acts
10 adversely thereon or amends it an election on the issues must be held ~~[within~~
11 ~~ninety days after the date of filing the petition]~~ [at the next general or regular
12 municipal election.]

13 (b) At such election the ballot shall contain the proposed measure as
14 originally submitted and the measure as amended, if amended by the
15 governing body of the city. Below each of these measures, there shall be
16 printed the words: "For" and "Against" followed by spaces for marking with a
17 cross or a check the word desired.

18 (c) The measure receiving a majority of the votes cast on that measure in
19 its favor is adopted. If each measure receives a majority of votes cast on that
20 measure in its favor, the measure receiving the greatest number of votes cast
21 in its favor is adopted. If neither measure receives a majority of the votes
22 cast, neither shall be in effect.

23 (d) The initiative procedure of this Section shall not be available to amend
24 or repeal, directly or indirectly:

25 1. Any ordinance authorizing bonds or other obligations where such
26 ordinance, bonds or other obligations appropriately have been approved at an
27 election in the city;

28 2. Any ordinance levying or otherwise relating to special assessments;

29 3. Any ordinance which imposes, levies, increases or otherwise amends
30 any excise tax pledged to any bonds or other obligations then outstanding;

31 4. Any ordinance which imposes, levies, increases or otherwise amends
32 rates, tolls, fees and charges for services rendered by any municipal utility or

any municipal revenue producing project if bonds or other obligations payable from the designated source are then outstanding; or

5. Any ordinance authorizing or otherwise relating to any city bonds or other obligations then outstanding.

[(e) There is hereby created a Ballot Initiative Review Committee as described below:

1. The Ballot Initiative Review Committee shall consist of the following three members:

i. The City Attorney, who shall serve as chair;

ii. An attorney appointed by the Council President with the advice and consent of the Council;

iii. An attorney appointed by the Mayor with the advice and consent of the Council.

2. Other than the City Attorney, at least one of the appointed members of the Ballot Initiative Review Committee shall have an expertise in municipal law, and at least one shall have an expertise in constitutional law.

3. Within two (2) weeks of receipt from the Clerk of a proposed measure, the Ballot Initiative Review Committee shall review the proposed measure for constitutional or other legal defects. The City Attorney shall report the findings of the Ballot Initiative Review Committee to the City Clerk and advise the Clerk as to whether such legal defects, if any, should prevent an election on the measure in the form of the measure as proposed.

4. Based on the advice of the City Attorney, and any other considerations not inconsistent with law, the City Clerk shall approve or disapprove the form of the petition. If the petition is disapproved the City Clerk shall advise the Measure Proponents as to the basis for denial. The Measure Proponents may seek review of the denial as provided by this code of ordinances and the rules of civil procedure]”

B. TIME OF FILING WITH THE CITY CLERK. The Director of City Council Services, or designee, shall file the proposed amendment described in Section 2(A) above with the City Clerk the sooner of: a) the next soonest notice from the City Clerk that a direct legislation by voter initiative petition has been signed by the required number of voters pursuant to the process

1 described in Article III, Section 3 of the City Charter, or b) within the ninety
2 days immediately preceding the November 4, 2014 regular municipal election.

3 C. COORDINATION WITH BERNALILLO COUNTY. The City Clerk shall
4 coordinate with the Bernalillo County Clerk to prepare and file any necessary
5 documents and agreements to facilitate the placement of this proposed
6 Charter amendment described in Section 2(A) on the November 4, 2014,
7 general election ballot.

8 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, word or
9 phrase of this resolution is for any reason held to be invalid or unenforceable
10 by any court of competent jurisdiction, such decision shall not affect the
11 validity of the remaining provisions of this resolution. The Council hereby
12 declares that it would have passed this resolution and each section,
13 paragraph, sentence, clause, word or phrase thereof irrespective of any
14 provision being declared unconstitutional or otherwise invalid.

15 SECTION 4. EFFECTIVE DATE. Section 1 of this resolution is effective
16 immediately. The Charter Amendment described in Section 2 of this resolution
17 shall take effect immediately following the certification of the election if
18 approved by the voters.

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