

Notice of City Measure Election

26-132

SEL 802
rev 1/12 ORS 250.035, 250.041,
250.275, 250.285, 254.095, 254.465

City and Notice Information

Notice is hereby given on February 13th, 2012, that a measure election will be held in

City of Portland

Oregon on May 15th, 2012.

Name of City or Cities

Date of Election

The following shall be the ballot title of the measure to be submitted to the city's voters:

Caption 10 words

Amends Charter to clarify election procedure for filling vacancies

Question 20 words

Shall Portland City Charter procedures to fill vacancies in elective office be clarified?

Summary 175 words

Section 2-206 of the Charter specifies the elections process and timing for filling vacancies in elective City offices. Section 2-206 provides an election procedure to fill vacancies that may occur at any time during a City elected official's four year term. Each of the three subsections of Section 2-206 - (b), (c) and (d) - applies to different periods of time during the four year term. While the wording of Subsection (b) is ambiguous, the City has interpreted Subsection (b) to apply to the periods of time not covered by Subsections (c) and (d). However, because of one ambiguous word, Subsection (b) could possibly be interpreted in a way that renders Subsection (b) meaningless. Changing the single word "but" to "or" in Subsection (b) would clarify that section's meaning consistent with intent and would ensure that vacancies occurring during the first three years of an elected official's term are appropriately addressed by the Charter election procedures.

2012 FEB 14 PM 12:00

The following authorized city official hereby certifies the above ballot title is true and complete, which includes publication of notice and the completion of the ballot title challenge process.



2/14/2012

Signature of Authorized City Official not required to be notarized

Date Signed mm/dd/yy

Ryan Kinsella

City Election Officer

Printed Name of Authorized City Official

Title

MEASURE EXPLANATORY STATEMENT

Required for all Measures Submitted with Multnomah County Elections

ELECTION DATE May 15, 2012	MEASURE NUMBER 26-132	
BALLOT TITLE CAPTION Amends Charter to clarify election procedure for filling vacancies		
NAME OF PERSON RESPONSIBLE FOR CONTENT OF STATEMENT City Attorney James H. Van Dyke		
NAME OF JURISDICTION PERSON REPRESENTS City of Portland		
E-MAIL ryan.kinsella@portlandoregon.gov	TELEPHONE NUMBER 503-823-3546	FAX NUMBER 503-823-4571


Please use space below or attach text on a separate sheet of paper.

This measure amends the Portland City Charter. Section 2-206 of the Charter specifies the elections process and timing for filling vacancies in elective City offices. The intent of Section 2-206 is to ensure that there is an election procedure to fill vacancies that may occur at any time during a City elected official's four year term. Each of the three subsections of Section 2-206 - (b), (c) and (d) - is intended to apply to different periods of time during the four year term. While the wording of Subsection (b) is ambiguous, the City has interpreted Subsection (b) to apply to the periods of time not covered by Subsections (c) and (d). However, Subsection (b) could be interpreted to apply only if a vacancy occurs both more than 100 days before the primary election in the fourth year of the term but also less than seventy-one days before the general election in the fourth year, even though these two time periods could not overlap, rendering Subsection (b) meaningless. Changing the single word "but" to "or" in Subsection (b) would clarify that section's meaning consistent with intent and would ensure that vacancies occurring during the first three years of an elected official's term are covered by the Charter.

The Charter Commission referred this measure to the voters. The City's Charter Commission reviewed the Charter and identified parts of the Charter that the Commission determined are outdated, unenforceable or offensive, including Section 2-206(b). This section can be amended without changing City government structure or operations.

2012 FEB 14 PM 12:55

WORD/NUMBER COUNT TOTAL (500 word/number limit) 253



 SIGNATURE OF PERSON RESPONSIBLE FOR CONTENT OF STATEMENT

2/13/12

 DATE

TEXT OF SEVENTH PROPOSED AMENDMENT

Amend Charter Title 2, Article 2, by amending Section 2-206(b) as follows:

Section 2-206 Vacancies in Office, Filling of Vacancies.

(a) A vacancy in office shall exist when the Mayor, a Commissioner or the Auditor fails to qualify by taking the oath following his or her election, or when any officer or employee dies, resigns, is removed from office, is convicted of a felony, is judicially declared to be mentally incompetent, is convicted of an offense which constitutes corruption, malfeasance or delinquency in office, forfeits his or her office under specific provisions of this Charter, or is elected or appointed to a different office, and qualifies, takes and assumes the duties of such different office.

(b) If a vacancy occurs in an office elective under this Charter more than one hundred (100) days preceding the regular primary election to be held in the fourth year of the term of that office, ~~or but~~ less than seventy-one (71) days preceding the regular general election to be held in that year, the Council, by a single resolution, shall call for two (2) special elections not more than forty-five (45) days apart. The first special election will be for the purpose of nomination. It shall be held not more than ninety (90) days after the vacancy occurs, unless the Council finds reasonable cause for delay beyond ninety (90) days. If one candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the second special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the first special election will be elected to fill the unexpired term in the second special election.

(c) If a vacancy occurs in an office elective under this Charter less than one hundred and one (101) days and more than seventy (70) days preceding the regular primary election to be held in the fourth year of the term of that office, the Council shall call for a special election to be held not more than forty-five (45) days following the regular primary election. The regular primary election will be for the purpose of nomination to fill the unexpired term and nomination of candidates for the next four-year term of the office to be voted upon in the regular general election. If one candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the regular primary election will be elected to fill the unexpired term in the special election.

(d) If a vacancy occurs in an office elective under this Charter less than seventy-one (71) days preceding the regular primary election, but more than seventy (70) days preceding the regular general election, to be held in the fourth year of the term of that office, and the incumbent vacating the office:

(1) Was one of two or more candidates for the same office in the regular primary election, then if an opposing candidate was nominated by a majority of votes cast

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CITY OF CHICAGO

in that primary, that candidate will be deemed elected to fill the vacated office until the regular general election and the candidate elected at the regular general election will fill the balance of the unexpired term. If no candidate opposing the incumbent was nominated by a majority of votes cast in that primary, the Council shall call for a special primary election as provided in paragraph (2) of this subsection.

(2) Was an unopposed candidate for the same office in the regular primary election, then the Council shall call for a special primary election. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and no candidate is nominated by a majority of votes cast, the candidate elected in the regular election will fill the balance of the unexpired term. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term. If the special primary election is held more than one hundred (100) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term.

(3) Was not a candidate for the same office in the regular primary election, then if a candidate is nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the balance of the unexpired term. If no candidate is nominated by a majority of votes cast, the Council shall call for a special election in which the candidate receiving a majority of votes cast will be deemed elected to fill the balance of the unexpired term.

Any election required by this subsection, between two nominees who received the highest number of votes cast in a prior election, shall be held not more than forty-five (45) days after the prior election.

(e) A person holding an office elective under this Charter may file with the Auditor a written notice of intent to resign from office on a specific future date of the occurrence of a specific event within the unexpired term of the office. The Council then may by resolution schedule and hold the special election or elections, as provided in subsections (b) through (d) of this Section, although no vacancy has occurred. However, no candidate elected to fill an unexpired term under this subsection may take and assume the duties of the office unless and until the vacancy occurs.

(f) If a vacancy occurs in the Office of the Auditor, the Council may fill the office by appointment pending election as provided therein.

(g) In the event of the death or crippling disability preventing the performance of three (3) or more members of the City Council due to natural disaster, calamity, accident or enemy attack, the following City officials in the order named shall succeed to the vacancies on the City Council: City Auditor, City Attorney, Director of Office of Fiscal Administration, executive assistants of disabled Council members in the order of their

seniority as an executive assistant. Any individual serving under this Section shall have all qualifications required in this Charter for an elected official. The City Council thus constituted shall serve as an interim Council for the purpose of transacting necessary City business. The interim Council so constituted shall as soon as practical select from among qualified citizens of the City of Portland, as defined by Section 2-202 of this Charter, persons to serve as members of the City Council. The persons so selected shall serve until the next regular election. The City Council as thus constituted shall, if the regularly elected Mayor is not a member thereof, elect one of their number as Mayor. Members of the Council as thus constituted shall serve as City Commissioners by this Charter. The Council as constituted under authority of this subsection shall meet in the City Hall, if possible, but may meet at an alternate location which shall be designated in advance by the Council as an alternate site for the transaction of City business. In the event of martial law, the Council shall be organized as by this subsection provided, and it shall function to the extent possible under the order establishing martial law. The provisions of this subsection shall be supreme in the event it shall be employed, notwithstanding any other provisions of this Charter or ordinances of the City in conflict therewith.

The Oregonian


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Affidavit of Publication

I, **G. Hatter**, duly sworn depose and say that I am the Principal Clerk Of The Publisher of The Oregonian, a newspaper of general circulation, as defined by ORS 193.010 and 193.020, published in the city of Portland, in Multnomah County, Oregon; that the advertisement was published without interruption in the entire and regular issue of The Oregonian or the issue on the following date(s):

1/26/2012


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Subscribed and sworn to before me this date:


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Run Schedule Invoice Text	NOTICE OF RECEIPT OF BALLOT TITLE		

Ad Content Proof
NOTICE OF RECEIPT OF BALLOT TITLE
 Notice is hereby given that a ballot title for a measure proposed by the Charter Commission has been filed with the Elections Office of the City of Portland on January 23, 2012.

The ballot title is as follows:
CAPTION:
 Amends Charter to clarify election procedure for filling vacancies

QUESTION:
 Shall Portland City Charter procedures to fill vacancies in elective office be clarified?

SUMMARY:
 Section 2-205 of the Charter specifies the elections process and timing for filling vacancies in elective City offices. Section 2-206 provides an election procedure to fill vacancies that may occur at any time during a City elected official's four year term. Each of the three subsections of Section 2-206 - (b), (c) and (d) - applies to different periods of time during the four year term. While the wording of Subsection (b) is ambiguous, the City has interpreted Subsection (b) to apply to the periods of time not covered by Subsections (c) and (d). However, because of one ambiguous word, Subsection (b) could possibly be interpreted in a way that renders Subsection (b) meaningless. Changing the single word "but" to "or" in Subsection (b) would clarify that section's meaning consistent with intent and would ensure that vacancies occurring during the first three years of an elected official's term are appropriately addressed by the Charter election procedures.

An elector may file a petition for review of this ballot title in the Multnomah County Circuit Court no later than 5:00 P.M. on Monday, February 6, 2012.

LAYORNE GRIFFIN-VALADE
 Portland City Auditor