

ORDINANCE NUMBER O- 20709 (NEW SERIES)

DATE OF FINAL PASSAGE AUG 01 2016

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, SECTION 40, RELATING TO EMPLOYMENT OF DEPUTY CITY ATTORNEYS.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by San Diego Ordinance O-20671, introduced and adopted on July 11, 2016, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 8, 2016, for the purpose of submitting to the qualified voters of the City of San Diego (City) one or more ballot measures; and

WHEREAS, Charter section 40 establishes the office and duties of the elected City Attorney, provides for the appointment of Deputy City Attorneys, and provides, in the fifth paragraph, that a Deputy City Attorney who has served in the Office of the City Attorney for two years or more shall not be terminated or suspended without good cause except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel; and

WHEREAS, the language of Charter section 40 establishing protection for Deputy City Attorneys from certain terminations or suspensions without good cause was approved by City voters on November 2, 2010; and

WHEREAS, the language providing good cause protection was added to create stability and reduce employee turnover in the Office of the City Attorney; and

WHEREAS, one year is a sufficient period of time to determine the fitness of an attorney in a Deputy City Attorney position, such that the good cause protection should extend to a Deputy City Attorney after continuously serving in the Office of the City Attorney for one year; and

WHEREAS, the measure changes from two years to one year the time period of service required before good cause protection extends to a Deputy City Attorney subject to termination or suspension, except that that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel; and

WHEREAS, the City has met and conferred with the Deputy City Attorneys Association (DCAA), the recognized employee organization representing Deputy City Attorneys, in compliance with the Meyers-Milias-Brown Act and the DCAA agrees that this change is appropriate and should be placed before the voters; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one measure amending the Charter by amending Article V, section 40, fifth paragraph, to reduce from two years to one year the period of continuous service required before good cause protection applies to a Deputy City Attorney; and

WHEREAS, this amendment was proposed initially by the Council President; and

WHEREAS, this proposed Charter amendment was heard and reviewed by the Rules Committee and by the Council, and the Council, through this Ordinance, now seeks to place the proposed amendment on the November 8, 2016 Municipal Special Election ballot; and

WHEREAS, this proposed amendment is intended to apply only to the fifth paragraph of Article V, section 40 of the City Charter, not to limit or supersede other changes proposed to section 40 that may be presented as part of other measures at the same election; and

WHEREAS, the Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and Government Code section 34458, and is not subject to veto by the Mayor; NOW,

THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That one measure amending the City Charter by amending Article V, section 40, fifth paragraph, related to the required term of service for application of the good cause requirement for certain terminations or suspensions of Deputy City Attorneys, is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 8, 2016, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

SECTION 40: CITY ATTORNEY

(fifth paragraph) No Deputy City Attorney, who has served continuously as a Deputy City Attorney in the Office of the City Attorney for ~~two~~ one years or more shall be terminated or suspended without good cause, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in the Office of the City Attorney.

(sixth paragraph) To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

END OF MEASURE

Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

| | | |
|--|-----|--|
| MEASURE __. CHARTER AMENDMENT REGARDING REQUIRED TERM OF SERVICE FOR CERTAIN TERMINATIONS OR SUSPENSIONS OF DEPUTY CITY ATTORNEYS. Shall the City Charter be amended to change the term of service required of Deputy City Attorneys, for protection from termination or suspension without good cause, from two years or more of continuous service to one year or more of continuous service, which protection would continue not to apply to layoffs due to lack of work or insufficient appropriations? | YES | |
| | NO | |

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

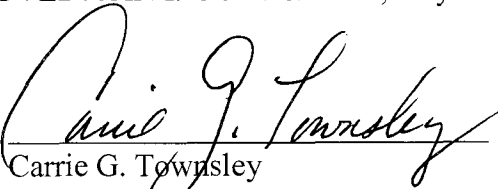
Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Carrie G. Townsley
Chief Deputy City Attorney

CGT:jdf
07/13/16
Or.Dept: Council
Doc. No.: 1322782_2

Passed by the Council of The City of San Diego on AUG 01 2016, by the following vote:

| Councilmembers | Yeas | Nays | Not Present | Recused |
|-----------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Sherri Lightner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lorie Zapf | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Todd Gloria | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Myrtle Cole | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mark Kersey | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Cate | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scott Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| David Alvarez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Marti Emerald | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage AUG 01 2016.

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on AUG 01 2016, said ordinance being of the kind and character authorized for passage on its introduction by Sections 295(b) and 295(d) of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

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