



City of Miami

Legislation

Ordinance: 13082

City Hall
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File Number: 09-00755

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AN ORDINANCE OF THE MIAMI CITY COMMISSION RELATED TO MUNICIPAL ELECTIONS; CHANGING THE QUALIFYING TIME PERIOD FOR A SPECIAL ELECTION FOR A DISTRICT COMMISSION SEAT THAT MAY BECOME VACANT IF AN INCUMBENT COMMISSIONER RESIGNS TO RUN FOR THE OFFICE OF MAYOR; ESTABLISHING THE EFFECTIVE DATE OF SAID RESIGNATION IN ORDER TO ALLOW FOR A SPECIAL ELECTION AT THE SAME TIME AS THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 3, 2009; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Section 100.3605(2), Florida Statutes (2008), provides:

The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes; and

WHEREAS, vacancies on the city commission caused by resignation are filled pursuant to section 12 of the Charter of the City of Miami ("Charter"); and

WHEREAS, Section 12(a) of the Charter provides that a vacancy on the city commission or in the office of mayor caused by the death, resignation, forfeiture or other action or causes shall be filled within ten days after such vacancy occurs by a majority of the remaining commissioners; and

WHEREAS, Section 12(b) of the Charter provides that if the remaining city commissioners shall fail or refuse to fill such vacancy within ten days after it occurs, the city commission shall call a special election to fill the vacancy to be held at a date not less than thirty-eight or more than forty-five days after the expiration of the ten-day period and the five-day qualifying period; and

WHEREAS, Section 12(b) of the Charter further provides that the qualifying period for such special election shall be for the five days not including Saturday, Sunday, or legal holidays, before the thirty-eighth day before the date of the election; and

WHEREAS, in the event that an incumbent commissioner resigns to run for the office of mayor and the remaining commissioners fail or refuse to fill the vacancy after such resignation, the calculation of the qualifying period mandated by Section 12(b) of the Charter prevents the City of Miami ("City") from holding a special election to fill the vacancy on the same date as the general municipal election scheduled for November 3, 2009; and

WHEREAS, it is in the best interest of the City to hold a special election on the same date as the general municipal election on November 3, 2009 to fill the vacancy that may be caused in the event of a resignation and the vacancy is not filled by appointment; and

WHEREAS, the city commission, after taking into consideration the date of the scheduled general municipal election, the requirements of Charter Section 12(b) related to the timing of special municipal elections, and the requirements of the Miami-Dade County supervisor of elections regarding receipt of the names of candidates to be placed on the ballots, has determined that to call a special election to be held on the same date as the general municipal election, the effective date of the incumbent commissioner's resignation must be September 4, 2009; and

WHEREAS, the city commission, after careful consideration of this matter, deems it advisable and in the best interest of the general welfare of the City and its inhabitants to change the date for the qualifying period, so that it is possible to hold a special election on November 3, 2009 to fill the vacancy as described above;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The qualifying time period for a special election for a district commission seat that may become vacant if an incumbent commissioner resigns to run for the office of mayor, and such resignation is effective on September 4th, 2009, is changed to be the five days from September 15, 2009 through September 19, 2009.

Section 3. This ordinance goes into operation if the remaining commissioners fail or refuse to appoint a person to fill the vacancy caused by a resignation effective on September 4, 2009.

Section 4. The candidates for such election shall be qualified as provided in section 4 of the Charter.

Section 5. The person who received the greatest number of votes for the office in such special election is elected to fill the vacancy until the successor in office is elected and qualified at the State of Florida general election in 2010.

Section 6. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 7. This Ordinance shall become effective IMMEDIATELY after final reading and adoption thereof.{1}

Footnotes:

{1} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.