

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. XI.B.
4/23/2019

TO: Mayor and Council
FROM: Kenneth Jordan, Municipal Counselor

Resolution of the Council of The City of Oklahoma City proposing an amendment to the Charter of The City of Oklahoma City, calling a special election for voter approval of such amendment, setting the date of Tuesday, July 9, 2019, for the special election, and directing the City Clerk to publish notice of the proposed Charter amendments and the special election.

Councilman Shadid

Background Councilman Dr. Ed Shadid, Ward 2, asked the Municipal Counselor to prepare three amendments to the City Charter for consideration for introduction by Council at its March 12, 2019 meeting. However, only one of the three amendments was introduced by Council and set for final consideration at its April 23, 2019 meeting.

The introduced amendment proposed by Councilman Shadid is summarized as follows:

CHARTER, ART. IV, § 8, CITY OFFICIAL CANNOT HOLD TWO OFFICES

Oklahoma City Charter Art. IV, § 8 currently prohibits any “person holding office or employment under the United States Government or the State of Oklahoma, notaries public excepted, or any other State or municipality,” from holding any “office or regular employment” with The City of Oklahoma City; but an exception is provided so that a Federal, County or State Advisory Board or Commission member may hold office or serve on a City board or commission.

Councilman Shadid’s proposed changes to this section would delete the words “or employment” and “or regular employment,” and limit the Charter prohibition solely to prevent U.S. or State law public “officers” from holding City “office” (i.e., Council, City Manager, etc.) For example, under the Councilman’s changes, a State Legislator still could not serve on the City Council, nor could an I-89 School Board member, or the Mayor of Midwest City or an

Oklahoma County Commissioner—all of whom are “officers” under State law. However, such persons could in theory become full-time OKC employees—assuming their positions would not present irreconcilable attendance issues with either their employment with OKC or their service as State, school district, or municipal, or county officers. As another example, with this amendment, Council-Elect James Cooper, Ward 2, could serve as a full-time teacher (an employee) for I-89 while also serving on the Oklahoma City Council. Under the current Charter, Council-Elect Cooper’s full-time service with I-89 as a teacher-employee must cease before he takes office as a City Councilman on April 9, 2019, or else he is in violation of current Art. IV, § 8.

The City’s current prohibition under Charter, Art. IV, § 8 is broader than the State’s dual-office-holding prohibition found in Title 51, Section 6 of the Oklahoma Statutes, which prevents dual-office-holding by public officers or their “deputies” (with many exceptions to the State-law general rule). The State law prohibition obviously would encompass some employees of public agencies—i.e. the “employees” of public officers deemed to be “deputies” (this term is not defined in the statute). However, “deputies” would obviously not cover all “employees” of the public entity. Council-Elect Cooper, for example, would not be deemed to be a “deputy” of either the I-89 School Board (who are all public officers) or of the I-89 Superintendent (who is most likely also a public officer). As a full-time middle-school teacher, he would merely be an employee of I-89. Hence, the current State statute does not prevent Council-Elect Cooper’s concurrent service as a full-time I-89 teacher and an Oklahoma City Councilman (or a COTPA Trustee, a position he has held for a few years). On current Art. IV, § 8 prevents such concurrent service.

In summary, Councilman Shadid’s objective in proposing the changes to Charter Art. IV, § 8 is to narrow the City’s dual-position-holding prohibition and to bring it into closer alignment with State law. The changes he proposes would, in fact, make the City’s prohibition less restrictive than State law; but even with the proposed amendment, the Charter section would still prohibit “officers” of other public entities from serving on the City Council, or as the City Manager, the Municipal Counselor, the City Auditor, or a Municipal Judge.

The proposed changes to Art. IV, § 8 may be found at Exhibit “A,” Page 1, of the attached Resolution; and are summarized in the proposition/gist set forth as Exhibit “B,” Page 1, of said Resolution.

Purpose If approved by Council, this Resolution would propose the referenced Charter amendment, as summarized above, and would call a special election on such amendment for Tuesday, July 9, 2019. The Resolution would also direct 21 daily publications of the proposed amendment by the City Clerk, which publications are required by law to give public notice of the proposed Charter amendments and the special election.

Review Municipal Counselor's Office

Recommendation: Consider adoption of the Resolution.

Attachments