

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 051254

Calling for submission to the voters of Kansas City, at a special election to be held on August 8, 2006, a question amending the Charter of Kansas City to increase the mandatory retirement age of municipal judges from age 65 to age 70; directing the City Clerk to notify the responsible election authorities of the election on or after May 26, 2006, but not later than May 30, 2006; and recognizing this ordinance to be an emergency measure.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. ELECTION CALLED. That an election is called on August 8, 2006, for the purpose of submitting to the voters of Kansas City an amendment to the City Charter.

Section 2. NOTICE TO ELECTION AUTHORITIES BY CITY CLERK. That following passage of this ordinance the City Clerk shall deliver certified copies of this ordinance and notice of election to the Clerk of Cass County, Board of Election Commissioners of Clay County, Board of Election Commissioners of Kansas City, and Board of Election Commissioners of Platte County, on or after May 26, 2006, but not later than May 30, 2006, which shall be the authority of each election authority of the City to submit the amendment to the electors of Kansas City and to give public notice as provided by law.

Section 3. NOTICE OF ELECTION. The notice of election shall read as follows:

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NOTICE OF ELECTION

KANSAS CITY, MISSOURI

Notice is hereby given that the City of Kansas City has called a special election to be held on Tuesday, August 8, 2006, between the hours of 6:00 a.m. and 7:00 p.m., at which election all qualified voters residing within Kansas City, Missouri will be given the opportunity to vote.

The official ballot will be in substantially the following form:

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OFFICIAL BALLOT
CITY OF KANSAS CITY

SPECIAL ELECTION, AUGUST 8, 2006

QUESTION NO. _____
(Judge's Retirement Age)

Should the Charter of Kansas City be amended by increasing the mandatory retirement age of Municipal Judges from 65 to 70 years of age?

_____ Yes
_____ No

(Instructions to voters will be supplied by the election authorities.)

A full and complete copy of Committee Substitute for Ordinance No. 051254 (as it may be amended) submitting the above amendment to the electorate is on file in the office of the City Clerk of Kansas City, Missouri where the same is open for inspection and copying.

The polling places for the election will be (INSERT LIST OF POLLING PLACES IN LAST PUBLICATION ONLY)

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I hereby certify that the foregoing is the legal notice to be published pursuant to Section 115.127, RSMo, as amended.

Given under my hand and the official seal of the Kansas City, Missouri, this _____ day of May, 2006.

(SEAL)

MILLIE CROSSLAND
City Clerk of Kansas City, Missouri

Before me, a notary public, personally appeared Millie Crossland, to me known to be the City Clerk of Kansas City, Missouri, and the person who acknowledged to me that she executed the same for the purposes therein stated.

Notary Public

My Commission Expires:_____

Section 6. AMENDMENTS TO BECOME THE CHARTER OF THE CITY OF KANSAS CITY – JUDGE’S RETIREMENT AGE. If a majority of the voters favor the judge’s retirement age question, then the amendment to the Charter of the City of Kansas City, Missouri shall become effective September 1, 2006, which amendment shall read as follows:

BE IT ADOPTED BY THE PEOPLE OF KANSAS CITY:

That the Charter of the City of Kansas City, Missouri, is amended by repealing Sections 306 and 312 and enacting new Sections 306 and 312 of the Charter proposed by Committee Substitute for Ordinance 050953 (as it may be amended) if it is adopted by the people, the sections to read as follows:

Sec. 306. Qualifications of judges.

Judges of the Kansas City Municipal Division shall possess the following qualifications:

- (a) ***Citizenship.*** Citizen of the United States and the State of Missouri for five years immediately prior to appointment;
- (b) ***Residency.*** Resident of the City of Kansas City, Missouri for one year immediately prior to appointment and continuously during service as a judge;
- (c) ***Licensed to practice law.*** Licensed to practice law in the State of Missouri for five years immediately prior to appointment;
- (d) ***Member of The Missouri Bar.*** Member of the Missouri Bar in good standing continuously during service as a judge;
- (e) ***Age.*** Be less than seventy years of age; and
- (f) ***Other qualifications.*** Possess any additional qualifications prescribed by law.

Sec. 312. Removal from office.

- (a) ***Automatic forfeiture of office.***
 - (1) ***Failure to maintain the qualifications of office.*** A judge who fails to maintain the qualifications for office shall immediately upon ceasing to be qualified for office forfeit office.
 - (2) ***Felony.*** Judges of the Kansas City Municipal Division shall forfeit office immediately upon being found guilty, either after a trial or as a result of a plea of guilty or *nolo*

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contendere, whether or not a sentence is imposed, of a felony or of any other act in another jurisdiction that would be a felony if committed in Missouri.

- (b) ***Retirement.*** Judges of the Kansas City Municipal Division shall retire on or before their seventieth birthday. Judges not eligible to receive a pension resulting from judicial service to the City on that day are automatically removed from office without further act of the Judge.
- (c) ***Removal based on charges of misconduct.***
 - (1) ***Charges brought by the Municipal Judicial Nominating Commission.*** Four members of the Municipal Judicial Nominating Commission may vote to bring charges against a judge of the Kansas City Municipal Division seeking that judge's removal from office by submitting written charges to the City Council.
 - (2) ***Grounds for removal.*** Judges are subject to removal by the Council for nonfeasance, malfeasance or misfeasance in the performance of official duties or engaging in conduct which brings discredit on the Kansas City Municipal Division, or violating any prohibition established by this Charter for judges.
 - (3) ***Procedure.*** The Council, and not a committee of the Council, shall hold an appropriate hearing sitting as a board of review for the purpose of hearing evidence and testimony relating to the charges. The Mayor will preside and may cast a vote. Unless at least seven members of the Council vote for the removal of a judge, the judge will not be removed from office.
- (d) ***Exclusive procedures for removal.*** Judges of the Kansas City Municipal Division shall not be subject to recall.
- (e) ***State law procedures.*** The procedures established by this Charter are in addition to any procedures provided by state law or rule.

Alternatively, by repealing Section 395.9 and enacting a new Section 395.9 of the Charter of Kansas City if the Charter proposed by Ordinance 050953 (as it may be amended) is not adopted by the people, to be effective May 1, 2006, the section to read as follow:

Sec. 395.9. Retirement; retirement pay.

All judges of the municipal court shall retire at age seventy (70), under such terms and conditions as may be prescribed by the city council.

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Each judge of the municipal court, other than a part-time judge, serving after the initial adoption of this section, shall receive retirement pay, for service, when he reaches seventy (70) years of age regardless of whether he is still serving as a municipal judge, at the rate of not less than two (2) percent of the existing salary at the time each said judge is entitled to retirement pay, multiplied by the total number of years service as municipal judge; provided however, such retirement pay shall not exceed fifty (50) percent of the existing salary for judges of the municipal court at the time each said judge is entitled to retirement pay.

A municipal court judge, other than a part-time judge, who has served in office at least ten (10) years may be retired for mental or physical disability and receive disability retirement pay at fifty (50) percent of his regular salary at the time of retirement, so long as he is disabled. The city council, upon recommendation by the municipal judicial nominating commission, shall determine, by a majority vote, whether or not a judge of the municipal court should be retired for disability.

The city council may by ordinance provide disability retirement pay for mental or physical disability, for judges of the municipal court who have served less than ten (10) years in office so long as such judge is disabled.

Any judge removed from office under the provisions of section 396 of this article shall not receive any retirement benefits whatsoever under the provisions of this section.

Judges of the municipal court receiving retirement pay under the provisions of this section shall be ineligible to receive any other pension or retirement benefits from the city.

Section 5. EMERGENCY RECOGNIZED. This ordinance, providing for the submission of Charter amendments to the people of Kansas City, Missouri, is hereby recognized to be an emergency measure within the meaning of Section 15, Article II, of the Charter, and as such shall become effective immediately upon its passage.

Approved as to form and legality:

William Geary
Assistant City Attorney