



## **Testimony on Proposed Charter Amendment to Eliminate Resign to Run for Elected Officials**

Philadelphia City Council Committee on Law and Government

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I am Ellen Mattleman Kaplan, Vice President and Policy Director of the Committee of Seventy, a non-partisan and not-for-profit watchdog organization fighting for honest and effective government, fair elections and better informed citizens.

The Committee of Seventy reluctantly supports amending the Charter's requirement that city elected officials must resign before running for another public office because Philadelphians desperately need more good candidates to choose from and this measure is likely to foster more competition.

We would be forced to change our view, and work against this, if the bill and resolution are changed to (1) go into effect for the 2015 municipal elections, and (2) permit city elected officials to simultaneously run for reelection and for another public office. I will return to these points.

Seventy helped draft the Philadelphia Home Rule Charter, which is now 62 years old. "Resign to Run" was inserted into the Charter to quell fears that public officials would use their positions to unduly influence and intimidate employees under their supervision or would neglect their official duties in order to campaign. *Home Rule Charter §10-107(5)*.

An early test came in 1962 when Mayor Richardson Dilworth was forced to resign in order to run for governor. Since then, a number of city elected officials – including Michael Nutter before his first mayoral election in 2007 – have resigned to seek other offices. Countless others have declined to throw their hat in the ring because of the resign to run provision.

By a margin of 55% to 45%, city voters rejected eliminating resign to run when the question was put before them on the May 2007 ballot. Voters rarely reject ballot questions. In fact, resign to run is the only ballot question to be defeated in the last dozen years.

Council members who vote for this and want the voters to approve it will have to make a very strong case.

Seventy supported the Charter change in 2007. Given its rejection by the voters, our support this time around has been arrived at reluctantly. However, we continue to believe that Philadelphia's elected officials should not be forced to leave their jobs in order to run for another public office. Here are our reasons:

- **Elections Will Become More Competitive.** Requiring current officeholders to resign precludes many qualified competitors from running for other offices. This one-party town already makes it especially hard for Republicans to win city office, except for seats guaranteed for a member of a minority party. Unless a candidate believes he or she is a sure bet, the risks of being unemployed and without an income for months or maybe years in order to seek another public office are too high for most.

A recent example demonstrates the downside of resign to run. This is not intended as a slap against Mayor Nutter. But he was unchallenged in the 2011 Democratic primary. No Democrat on this Council, or in another city elected office, was willing to leave their job to run against him. And no sitting Republican challenged him in the general election either. The upshot was a virtual unknown topping the GOP ticket and an uninspiring 2011 mayoral election that was a forgone conclusion before it began.

Competitive elections are healthy. They force candidates to articulate detailed plans and workable solutions. Elections that are already in the bag do not bring out the best in candidates. Yet barring unforeseen circumstances, mayoral elections in Philadelphia are only competitive every eight years and usually only within the Democratic primary. Logic dictates

that voters' interest in elections and the quality of ideas will increase if more candidates are in the mix.

- **Citizens Keep Their Elected Representatives.** Resign to run forces officeholders out prematurely, leaving an entire district or city (depending on the office) unrepresented. Michael Nutter resigned his Fourth District Council seat in July 2006 to run for mayor in 2007. His constituents were without a district Council member for several months before Carol Ann Campbell won a special election in November 2006 to fill out his term.

Eliminating resign to run, as proposed, would still require elected officials to make a big sacrifice. They could not run for another public office and for reelection at the same time. For instance, a City Council member, City Commissioner, Sheriff, or Register of Wills could finish his or her four-year term while running for mayor. But they would not have the same job to return to if they lost.

Since none of these posts are term-limited, incumbents can keep them indefinitely as long as they continue to win reelection. Only serious candidates will decide to run for another public office if resign to run is eliminated. Frivolous candidates would still be deterred.

Of concern is that the District Attorney and City Controller, because they run during a different election cycle, would not have to choose between reelection and running for mayor (or any other federal, state or city office not in the same election cycle). However, this added benefit for two elected officials is not reason enough to oppose eliminating resign to run for all city elected officials.

- **City And Non-City Officeholders Would Be On Equal Footing.** Elected officials who represent Philadelphia on the federal or state level are not encumbered by resign to run provisions. Congressmen Bob Brady and Chaka Fattah did not have to resign to run for Philadelphia's mayor in 2007. Neither did state Representative Dwight Evans. All three had jobs to fall back on when they lost. Had he come up empty, Michael Nutter would have been polishing his resume.

- **Policy Reasons Behind Resign To Run Are Antiquated.** The fears of candidates exerting undue influence on or intimidating employees are far less likely today than they were in 1951. Employees who engage in political activities during work hours, in city-owned facilities and using tax-payer funded resources face penalties under the city’s political activity rules. Most city employees were hired under a merit-based civil service system rather than through patronage appointments. Numerous laws protect employees who report being forced by candidates/supervisors to engage in improper conduct. Bad behavior still occurs. But in this high tech world it is far more difficult to hide.

There is always a risk that candidates will pay less attention to their current jobs if running for another public office, particularly a non-city office. But we suspect candidates for local elections may turn out to be more vigilant in performing their jobs because it brings added public exposure they don’t have to buy with campaign dollars.

Resign to run provisions for elected officials in other cities are rare. A February 2011 survey of 12 cities (among them, New York City, Los Angeles, Boston, Baltimore, Chicago and Washington, D.C.) by The Pew Charitable Trusts found that only Dallas and Phoenix had “Resign to Run” provisions for elected officials. Unlike Philadelphia, however, both cities have term limits for City Council members. Phoenix exempts Council members from resigning during the last year of their term.

As I said earlier, Seventy’s support for eliminating resign to run would go away if the current proposal is amended in either of two ways:

- The proposal as currently drafted would not go into effect until January 2016. The 2015 mayor’s race is already well underway. Asking voters to eliminate resign to run would be, and would be perceived to be, self-serving.

Holding off on the effective date would also allow time to close any potential loopholes in the city’s campaign finance ordinance that could result from eliminating resign to run. Seventy is grateful to Councilman Oh for following up on our suggestion to seek guidance from the Ethics Board. One of our concerns, for example, is whether an elected official serving out his or her

term could continue to raise money (as they now can as non-candidates) while, at the same time, run for another city public office. We are pleased that the Executive Director of the Ethics Board is here today to begin to address this concern and others related to campaign finance.

- The proposal as currently drafted would not permit city elected officials to run for reelection and for another public office at the same time. We are aware of situations outside of Philadelphia where candidates have won two offices and had to relinquish one. It is not fair to voters if the candidate seeking their support may not end up representing them.

In sum, the elimination of resign to run will allow more dedicated Philadelphians to run for public office and enable all Philadelphians to have real choices at the polls.

We urge this Committee's support. Thank you.