HOW PHILLY WORKS
Resign to Run and the 2015 Mayor's Race

Labor Day is the traditional start of the election season. So we're using the day after to remind you that Philly's mayor's race is officially underway.

Technically, the race is in 2015. But, as a practical matter, the field of candidates will be determined much earlier.

A major reason is because of a rule applicable to all 25,000 city employees – elected and non-elected – that bans them from running for mayor – or for any other city, state or federal office (other than for reelection) – without first giving up their government job.

A proposal to abolish "Resign to Run" is expected to be introduced this fall in City Council, where three of the four elected officials reportedly interested in running for mayor in 2015 now work. As currently written, the proposal is not supposed to impact the 2015 election. But, once it's introduced, Council can change the effective date. And voters could see a ballot question as early as next spring.

So we wanted to tell you about it in this edition of **HOW PHILLY WORKS** so you understand how "Resign to Run" impacts the next mayor of Philadelphia.

--September 3, 2013

Editor's Note: The version of this piece released earlier today said "Resign to Run" was the only ballot question to lose since the Home Rule Charter, the city's governing document, was last written in 1951. We goofed. We're supposed to be experts in the city Charter, but somehow managed to forget perhaps the biggest post-1951 Charter amendment defeat: the resounding rejection by city voters in November 1978 of an effort by then-Mayor Frank Rizzo to eliminate the Charter's two-term limit on mayors so that he could seek a third term in 1979. Our apologies.

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This sounds very familiar.
If you voted in May 2007, you might remember a ballot question asking whether "Resign to Run" should be eliminated for elected officials. Of the almost 200,000 Philadelphia voters who answered, 55% said "no," 45% said "yes" on it.

If voters already said "no," why try again?
Because elected officials don't think it's fair that they have to give up their jobs to run for another public office when state and federal elected officials don't have to do the same thing. And also because five years after a ballot question loses, it can be on a ballot again. (Full disclosure: Seventy supported abolishing "Resign to Run" in 2007. We'll tell you why in a minute.)

Do other cities have "Resign to Run" rules?
Most don't. And among those that do, Philly's is the strictest. The Pew Charitable Trusts surveyed 12 cities in 2011 and found that only Dallas and Phoenix had "Resign to Run" provisions. Unlike Philly, both cities have term limits for City Council members.

Start from the beginning. Why does Philadelphia have a "Resign to Run" provision?
According to annotations written into the Charter itself, "Resign to Run" is necessary "...because an officer or employee who is a candidate for elective office is in a position to influence unduly and to intimidate employees under his supervision and because he may neglect his official duties in the interest of his candidacy."

There must be some political back story.
There always is. "Resign to Run" came about as a result of widespread criticism of massive patronage in city government. Another Charter change in 1951 brought most city jobs under a merit-appointment system and created a more independent (i.e., less political) Civil Service Commission. The voters' passage of the new Charter in April 1951 was followed seven months later by the election of the first Democratic mayor (Joe Clark) after nearly a century of GOP mayors. The Democrats have dominated the second floor of City Hall ever since.

So today "Resign to Run" guards against undue influence and intimidation by Democrats, right?
What goes around comes around. Actually, the political culture, while certainly not absent from city government, is very different than it was sixty years ago. Restrictions on partisan political activities (also put in place in 1951) insulate merit-appointed city employees from improper influence to the greatest extent possible. It's hard to gauge whether elected officials who are not forced to resign would be more or less likely to influence and intimidate employees as they would if they were running for reelection (as they can now). When the Philadelphia Board of Ethics discussed "Resign to Run" at a recent meeting, its Executive Director said it didn't seem that it would.

What about neglecting their duties when they are running for another office?
That's a genuine concern, especially if the race is competitive. National political analyst Stuart Rothenberg mused about the possibility of a national "Resign to Run" rule after examining attendance records of members of Congress running for another public office. John McCain, for example, missed more than half the U.S. Senate votes during his 2007 campaign for president against his Senate colleague Barack Obama, who (along with his VP running mate, Senator Joe Biden) didn't show up for at least a third of the Senate votes that year.

A local campaign is very different from a national campaign.
True, but the concept is the same: Most people would have a hard time focusing on one job when they are actively seeking another. Interestingly, Pennsylvania's Election Code acknowledges this by prohibiting Philadelphia's three elected City Commissioners from doing their jobs when they are running for reelection. (The Commissioners still get their full pay though. But that's a topic for another day.)

So why do some people want to get rid of "Resign to Run?"
One reason is so that voters don't prematurely lose the people they elected to represent them. Here's a good example: Michael Nutter resigned his Fourth District Council seat in July 2006 to run for mayor in 2007. His constituents were without a Council member until ward leader Carol Ann Campbell won a special election in November 2006 to fill out his term. (Campbell ran for her own term in 2007, but lost in the Democratic primary to Councilman Curtis Jones, Jr.)

I bet Nutter wasn't too happy he had to resign.
The mayor did say how tough it was on his family to be without his income. (He actually took a job with a consulting firm shortly after he resigned, but quit after three months to devote himself full-time to

campaigning.) But you can be sure he was relieved "Resign to Run" was in place when he ran for reelection in 2011 and, despite rumors of possible Democratic primary challengers (including City Councilman Bill Green), no city employee took the plunge.

Why did the Committee of Seventy support eliminating "Resign to Run" in 2007?
Seventy strongly believes in more genuine competition in elections. According to a recent Sunlight Foundation study, it results in less partisanship (as candidates are forced to moderate their positions to woo voters). They also tend to result in more informed decisions by voters, so says a 2011 book published by the University of Pennsylvania press (so it must be true). In our view, removing "Resign to Run" would encourage more people to run for public office and result in more competitive elections.

Lots of city races are already competitive.
Not really. Especially reelections: As we said, no city employee challenged Michael Nutter's bid for a second term in 2011, or John Street's in 2003. When there were open mayor's seats, Nutter was the only city employee willing to resign to run in 2007; only City Council members Happy Fernandez and John Street took the same risk in 1999. And very few city employees resign to take on incumbents in City Council.

But wouldn't getting rid of "Resign to Run" bring out candidates who aren't serious?
Many people do think "Resign to Run" is valuable in weeding out frivolous candidates. Giving up your job, salary and benefits in order to gamble a run for office sets a high bar. The rigors and costs of campaigning also tend to separate committed candidates from those whose hearts aren't in it.

Wouldn't Council members beat up more on the mayor if they didn't have to resign?
That's what the *Inquirer* Editorial Board said when it opposed scrapping "Resign to Run" in 2007: it could cause continual battles between the mayor and Council – especially if Council members are running to deprive the mayor of a second term – with the result of little productive work getting done. (Some would say it's no different from the battles that go on now.)

It seems like a jump ball to me: good reasons to keep "Resign to Run" and good reasons to drop it.
Lots of Philadelphians seem to feel this way, judging from the 55%-45% split in 2007. If it gets on a ballot again, voters need to weigh the benefits versus the downsides. We hope writing about it will help.

Now tell me about the proposal expected this fall.
At-Large Councilman David Oh says he plans to introduce a proposed Charter amendment to eliminate "Resign to Run" for elected officials, effective January 1, 2016.

Does David Oh want to run for mayor?
Probably not in 2015, for several reasons: he's in his first term and, as a Republican in a town overwhelmed by Democrats, he would have to think long and hard before resigning to run for mayor. His motives in introducing the proposal to abolish "Resign to Run" would be perceived as less self-serving than his potential-mayor's-office-seeking colleagues: Council President Darrell Clarke and At-Large Council members Jim Kenney and Bill Green.

Clarke? He just became Council President. Why would he leave so soon?
Clarke seems to be relishing his leadership of Council. And resigning to run for mayor would be a very difficult decision. But talk about Mayor Clarke is mounting. And Clarke isn't throwing water on the fire.

He just launched a new website – www.clarke2015.com – but hasn't said whether it's for his bid for reelection or a mayoral run.

So David Oh is the front man.
We've talked to Councilman Oh several times. He genuinely believes "Resign to Run" is bad policy. He says it diminishes Philadelphia's stature in Harrisburg by handcuffing city employees who would make strong candidates for Governor of Pennsylvania, state Senator or state Representative, but don't want to give up their jobs to give it a shot.

Didn't Ed Rendell resign as mayor to run for Governor?
Good memory. Rendell did resign as mayor in December 1999, a few weeks before his second (and last) term as mayor was over. But "Resign to Run" didn't factor into his decision to run for Governor, which didn't happen until 2002. The last (and only) city mayor to resign to run for Governor was Richardson Dilworth in 1962. He lost.

If Oh's proposal wouldn't take effect until 2016, why is it coming up now?
Because Council wants the question on a ballot as soon as possible, optimally in the spring 2014 primary. The closer to an election, the more self-serving it looks.

If "Resign to Run" is abolished, could elected officials still run for reelection and another public office?
No. As currently written, Councilman Oh's proposal would permit elected officials to serve out their terms, but they couldn't run for reelection during the same year in which they run for another public office.

I'm confused. Give me an example.
Let's take the mayor, City Council members, the three City Commissioners, the Register of Wills and the Sheriff. They all run in the same election year. Under Oh's current proposal, if any one of them wants to seek another public office during the same year in which they would stand for reelection, they must choose between the two. They can't run for both.

What about the City Controller? I hear Alan Butkovitz is thinking about running for mayor too.
The two city elected officials who don't run in the same election year as the others – the City Controller and the District Attorney – would not be forced to choose between reelection and running for another public office. But if they were interested in running for another public office (e.g., federal or state) that was on the ballot in the same election year as their reelection, they couldn't run for both.

What about Tom Knox and state Senator Tony Williams? I hear they want to be mayor too.
Neither Knox, who has already announced his plans to run, nor Williams are bound by "Resign to Run." In fact, they could put effort behind a "no" vote on a ballot question in 2014 in order to reduce the risk of more competitors – unless the ballot question clearly spells out a 2016 effective date.

As I see it, the real upside to eliminating "Resign to Run" is for *non-elected* city employees.
Not exactly. As currently written, Councilman Oh's proposal would abolish "Resign to Run" only for elected officials.

Whoa. Non-elected city employees would still have to resign under Oh's proposal?
Yes. And that was also true in the 2007 ballot question. It's not all that unusual for government to impose different requirements on elected and non-elected employees. For instance, elected officials are permitted to engage in partisan political activities that are prohibited for virtually all non-elected city employees (city council employees are an exception, but that's another story).

You said the Ethics Board discussed "Resign to Run?" Why?
David Oh smartly recognized that abolishing "Resign to Run" could raise concerns under the city's campaign finance law. Although the Ethics Board hasn't taken a position on "Resign to Run," its Executive Director thought the concerns could be resolved. (We're not explaining what they are here because they're complicated and this **HOW PHILLY WORKS** is already long enough.)

Last question: Will Seventy support Councilman Oh's proposal?
We're leaning that way. But we could easily flip the other way if the proposal is changed to apply to the 2015 elections or to permit elected officials to run for two public offices in the same election year. We'll keep you posted.

If you enjoy this series, please help us continue it by donating today! (We are a non-partisan non-profit that does not accept government money – your support is truly appreciated!)

As always, if you have any questions or ideas for future HOW PHILLY WORKS, please send your ideas to futureofthecity@seventy.org.