

Agenda No #4275

Sponsors: Council Members Walsh and Chukwuocha

AN ORDINANCE TO AMEND CHAPTER 40 OF THE CITY CODE REGARDING RESTRICTIONS ON SELECTING, RECLASSIFYING, OR OTHERWISE PLACING MEMBERS OF THE APPOINTED SERVICE IN VACANT POSITIONS IN THE CLASSIFIED SERVICE DURING A LAME-DUCK PERIOD.

WHEREAS, the City of Wilmington (the “City”) Personnel Code serves as a labor relations guide for the City and reflects principles of merit, equity and fairness on which the City was founded; and

WHEREAS, Section 7-102 of the City Charter establishes the “merit principle” of City employment and specifically provides that “[a]ll appointed promotions to positions in the classified service shall be made solely on the basis of merit and fitness, demonstrated by examination or other evidence of competence”; and

WHEREAS, one of the fundamental duties of City Council is to be a steward of the City’s budget and to ensure that public funds are being spent for their intended purpose and in compliance with the City Charter and City Code; and

WHEREAS, it is vital to the integrity of the City’s employee selection process that the selection of an applicant remain free of political influence or advantage and that the most qualified applicant be selected for a position, particularly during a “lame-duck” period; and

WHEREAS, the selection, reclassification, or placement of an appointee in a classified service position during a “lame-duck” period may cause significant harm to the public trust, employee morale, and City governance; and

WHEREAS, the provisions of this Ordinance were reviewed by the Administrative Board in accordance with the requirements of Section 4-200 of the City Charter.

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NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON

HEREBY ORDAINS:

SECTION 1. Chapter 40 of the City Code is hereby amended by amending § 40-6 to include the following definition:

Lame-duck period shall mean either (a) the period of time between when the mayor fails to win an election (primary or general) and the inauguration of a successor; or (b) the period of time between an election (primary or general) in which the mayor does not run for reelection and the inauguration of a successor.

SECTION 2. Chapter 40 of the City Code is hereby amended by adding to Chapter 40, Article II, Division 1, Subdivision III, a new Section 40-104 to read as set forth herein:

Sec. 40-104.- “Lame-duck” period.

- (a) During any lame-duck period, no member of the appointed service shall be selected, reclassified, or otherwise placed into any vacant position in the classified service.
- (b) An appointee may submit an application to any vacant position in the classified service during a lame-duck period. After the expiration of the position posting period, the examination, evaluation, and selection process may not proceed until after the lame-duck period, except in the case of a public emergency as explained herein. The application of the appointee shall be evaluated, along with any other applications, after the conclusion of the lame-duck period. If it is necessary to fill a vacant position in order to meet a public emergency affecting life, health, property or the public peace, the vacant position may be filled during the lame-duck period if the director of human resources certifies that such emergent circumstances exist and the Administrative Board approves the certification.
- (c) If no applications are submitted by an appointee for a vacation position in the classified service during a lame-duck period, the examination, evaluation, and selection process for such position may proceed during the lame-duck period.

SECTION 3. This Ordinance shall become effective upon passage by City Council

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and approval by the Mayor.

First Reading October 6, 2016
Second Reading. . . October 6, 2016
Third Reading
Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this ____

day of _____, 2016.

Assistant City Solicitor

Approved this ____ day of _____, 2016

Mayor

SYNOPSIS: This Ordinance amends Chapter 40 of the City Code (the Personnel Code) by adding Section 40-104, which will restrict members of the appointed service from being selected, reclassified, or placed into a vacant position in the classified service during a “lame-duck period.” The definition of “lame-duck period” will be added to section 40-6, and shall mean either (a) the period of time between when the mayor fails to win an election (primary or general) and the inauguration of a successor; or (b) the period of time between an election (primary or general) in which the mayor does not run for reelection and the inauguration of a successor. There is no anticipated fiscal impact by this Ordinance.