

Wilmington, Delaware
June 16, 2022

#

Sponsor:

**Council
Member
Darby**

WHEREAS, Wilmington City Charter (“Charter”) § 3-203 states that the “mayor, with the advice and consent of a majority of all the members of the council, shall appoint the city solicitor”; and

WHEREAS, pursuant to Charter § 4-300, the City Solicitor is tasked with representing and providing legal advice to the City and its departments, which includes both the executive and legislative branches; and

WHEREAS, Charter § 2-105 permits City Council to employ and determine the compensation of outside council when the “law department declines to advise or render legal services to the council in any matter and whenever the council is conducting an investigation relating to the executive and administrative branch of the city government”; and

WHEREAS, although the City Solicitor has provided legal representation and advice to the Mayor and City Council, City Council believes Charter § 3-203 creates an appearance of bias by allowing the Mayor to appoint the City Solicitor; and

WHEREAS, in order to avoid the appearance of bias and to reduce City Council’s need to seek outside legal consultation to assist in carrying out their duties, City Council believes it is necessary to amend Charter § 3-203 and modify the City Solicitor position from an appointed position to an elected position; and

WHEREAS, 22 Del. Code § 811 permits the City Charter to “be amended by act of the General Assembly, passed with the concurrence of two thirds of all the members elected to each House thereof”; and

WHEREAS, consistent with Part III, Chapter 2, Section 3(B) of the *Delaware Legislative Drafting Manual* (2019 ed.), the Wilmington City Council has attached a draft proposed General Assembly bill as *Attachment A*.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Wilmington City Council urges the Delaware General Assembly to amend City Charter § 3-203 to modify the City Solicitor position from an appointed position to an elected position.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution urges the Delaware General Assembly to enact legislation that will amend City Charter § 3-203 to modify the City Solicitor position from an appointed position to an elected position.

ATTACHMENT A

(Proposed General Assembly Bill)

DRAFT

SPONSOR(S):

HOUSE OF REPRESENTATIVES

151st GENERAL ASSEMBLY

HOUSE BILL NO. ___

AN ACT TO AMEND SECTION 3 OF THE CITY OF WILMINGTON HOME RULE CHARTER TO MODIFY THE CITY SOLICITOR POSITION FROM AN APPOINTED POSITION TO AN ELECTED POSITION.

WHEREAS, Wilmington City Charter (“Charter”) § 3-203 states that the “mayor, with the advice and consent of a majority of all the members of the council, shall appoint the city solicitor”; and

WHEREAS, pursuant to Charter § 4-300, the City Solicitor is tasked with representing and providing legal advice to the City and its departments, which includes both the executive and legislative branches; and

WHEREAS, Charter § 2-105 permits City Council to employ and determine the compensation of outside council when the “law department declines to advise or render legal services to the council in any matter and whenever the council is conducting an investigation relating to the executive and administrative branch of the city government”; and

WHEREAS, although the City Solicitor has done an exemplary job providing legal representation and advice to the Mayor and City Council, City Council believes Charter § 3-203 creates an appearance of bias by allowing the Mayor to appoint the City Solicitor; and

WHEREAS, in order to avoid the appearance of bias, City Council believes it is necessary to amend Charter § 3-203 and modify the City Solicitor position from an appointed position to an elected position; and

WHEREAS, 22 Del. Code § 811 permits the City Charter to “be amended by act of the General Assembly, passed with the concurrence of two thirds of all the members elected to each House thereof”; and

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE
(Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Article III, Chapter 2, Section 3-203 of the City of Wilmington Home Rule
2 Charter by making deletions as shown by strike through and insertions as shown by underline as
3 follows:

4 **Wilmington City Charter, Sec. 3-203. City solicitor.**

5 ~~The mayor, with the advice and consent of a majority of all the members of the council, shall~~
6 ~~appoint the city solicitor.~~ At the general election to be held in the year 2024 and in every fourth year
7 thereafter, a city solicitor shall be elected.

Section 2. This enactment shall be effective after signature by the Governor.

SYNOPSIS

An Act to Amend the City of Wilmington Home Rule Charter to modify the City Solicitor position from an appointed position to an elected position.

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