



Legislation Details (With Text)

File #:	ID 18-0527	Version:	1	Name:	
Type:	Ordinance	Status:		Withdrawn	
File created:	8/13/2018	In control:		City Council	
On agenda:	8/21/2018	Final action:		8/21/2018	
Title:	Ordinance Amending Section 21-8 of the Greensboro Code of Ordinances with Respect to Personnel				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. 18-0527 Ordinance Amending Sec. 21-8 Employee Political Activity.pdf				

Date	Ver.	Action By	Action	Result
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Ordinance Amending Section 21-8 of the Greensboro Code of Ordinances with Respect to Personnel

Department: Legal

Meeting Date:

Public Hearing: No

Advertising Date/By: N/A

Contact 1 and Phone: Tom Carruthers, City Attorney, 373-2320

Contact 2 and Phone: Jennifer Schneider, Assistant City Attorney, 373-2320

PURPOSE:

To amend Sec. 21-8 of the Greensboro Code of Ordinances to enable city officers, agents or employees to become a candidate for nomination, election, or appointment to political office.

BACKGROUND:

Although municipalities are vested with the powers of governance and general management of the city and its employees (NCGS 160A-67 and 160A-169), that authority is limited in scope because it is constrained by state and federal laws and by inherent fundamental rights.

Greensboro Code of Ordinances Sec. 21-8(a)(1) prohibits city officers, agents, or employees from becoming a candidate for nomination, election, or appointment to political office. This provision would likely fail in the face of a constitutional challenge because it places an unconstitutional limitation on a person's right to earn a livelihood. North Carolina Constitution Article I, Sec. 1 protects the fundamental rights of citizens by preventing government actions that interfere with the right to enjoy the fruits of one's own labor.

As stated in the case *Roller v. Allen* (245 N.C. 516, 525 (1957)), there is a fundamental right to "earn a livelihood." The *Roller* Court further reaffirms a US Supreme Court holding that "[a] state cannot under the guise of protecting the public arbitrarily interfere with private business or prohibit lawful occupations or impose unreasonable and unnecessary restrictions on them."

Further, *Moore v. Knightdale Bd. Of Elections* (331 N.C. 1 (1992)) holds that the legislature cannot put additional restrictions on a person's right to run for office because such restrictions violate Article VI, Section 6 of the North Carolina Constitution. The pertinent constitutional provision states, "Eligibility to elective office. Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office." Thus, the legislature is forbidden from disqualifying any voter who is not disqualified by the N.C. Constitution from holding office. The *Moore* rationale is applicable to Greensboro in that Greensboro's ordinance restricts an employee's right to run for office, which imposes an additional limitation that is not found in the N.C. Constitution.

Sec. 21-8(a)(1) of the Greensboro Code of Ordinances is a limitation on the potential employment opportunities and political activities of its employees. State employees are not restricted from seeking public office, and a survey of other municipalities in North Carolina reveals that their employees are not subjected to this restriction either. Therefore, amending Sec. 21-8(a)(1) to remove this restriction will allow employees of the City of Greensboro to enjoy and pursue all the rights and obligations of citizenship.

BUDGET IMPACT:

None.

RECOMMENDATION / ACTION REQUESTED:

It is recommended that City Council amend Sec. 21-8 of the Greensboro Code of Ordinances to enable city officers, agents or employees to become a candidate for nomination, election, or appointment to political office.