

HOUSE No. 5435

Substituted by the House, on motion of Ms. Garlick of Needham, for a bill with the same title (House, No. 5396) [Local Approval Received]. December 19, 2022.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to preliminary election dates and filling vacancies in the offices of Mayor and Councillor in the city of Salem.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The first sentence of section 1 of chapter 445 of the acts of 1960 is hereby
2 amended by striking out the words “On the third Tuesday” and inserting in place thereof the
3 following words:- On a Tuesday no less than 6 weeks but no more than 8 weeks.

4 SECTION 2. The second sentence of section 2 of said chapter 445 is hereby amended by
5 striking out the words “unless he shall” and inserting in place thereof the following words:-
6 unless they shall.

7 SECTION 3. Section 3 of said chapter 445 is hereby amended by striking out the first
8 paragraph and inserting in place thereof the following paragraph:-

9 Any person who is qualified to vote at any regular or special municipal election in said
10 city for a candidate for any elective municipal office in said city, and who is a candidate for
11 nomination thereto, shall be entitled to have their name as such candidate printed on the official
12 ballot to be used at a preliminary election for nomination therefor; provided, that if they are a

13 candidate to be voted for in a single ward they shall be a registered voter in the ward wherein
14 they are a candidate, and provided, further, that on or before 5 o'clock in the afternoon of the
15 sixth Tuesday preceding such preliminary municipal election there shall be submitted to the
16 board of registrars of voters a nomination paper prepared and issued by the city clerk, wherein
17 the candidate sets forth in writing their candidacy, and wherein the petition is signed in person by
18 at least 25, or, in case of a candidate for the office of mayor and other offices, by at least 100,
19 voters of the city qualified to vote for a candidate for the said office, whose signatures are
20 certified as hereinafter provided.

21 SECTION 4. The second paragraph of said section 3 of said chapter 445 is hereby further
22 amended by striking out, the words "nineteen hundred" wherever they appear.

23 SECTION 5. Said second paragraph of said section 3 of said chapter 445 is hereby
24 further amended by striking out the words "we believe him to" and inserting in place thereof the
25 following words:- we believe they are.

26 SECTION 6. The third sentence of section 4 of said chapter 445 is hereby amended by
27 striking out the words "regular or special municipal election" and inserting in place thereof the
28 following words:- preliminary election.

29 SECTION 7. Said chapter 445 is hereby further amended by striking out section 5 and
30 insert in place thereof the following section:-

31 SECTION 5. On the first day, other than a legal holiday, following the expiration of the
32 time for filing the above described nomination papers with the city clerk, the city clerk shall post
33 in a conspicuous place in their office the names and residences of the candidates for nomination
34 who have duly qualified as such, as they are to appear on the official ballots to be used at the

35 preliminary election, except as to the order of the names, which shall be drawn by lot by the city
36 clerk within 72 hours succeeding 5 o'clock in the afternoon of the last day fixed for filing the
37 nomination papers with the city clerk, and the city clerk shall cause the ballots, which shall
38 contain said names in their order as drawn by the clerk, and no others, with a designation of
39 residence, and of the office and term of office, to be printed, and the ballots so printed shall be
40 official and no others shall be used at the preliminary election. At any drawing for position on
41 the ballot, each candidate shall have an opportunity to be present in person or by 1
42 representative. There shall be left at the end of the list of candidates for nomination for each
43 office blank spaces equal in number to the number of persons to be nominated therefor, in which
44 spaces the voter may insert the name of any person not printed on the ballot for whom they
45 desire to vote for nomination for such office, but the name of such person shall not be printed on
46 the official ballot to be voted for at any regular or special municipal election in said city unless
47 such person is qualified to be nominated under section 3. There shall be printed on such ballots
48 such directions as will aid the voter, as, for example: "vote for one", "vote for two", and the like,
49 and the ballots shall be headed substantially as follows:-

50 OFFICIAL PRELIMINARY BALLOT.

51 Candidates for nomination for the offices of (name of offices) in the city of Salem at a
52 preliminary election to be held on the _____ day of _____, the year _____.

53 At the top of each ballot shall be printed the words "Official Ballot for preliminary
54 Election" followed by the designation of the ward for which the ballot is prepared, the date of the
55 preliminary election and a facsimile of the signature of the city clerk.

56 SECTION 8. Section 6 of said chapter 445 is hereby amended by striking out the words
57 “or anything showing how he was nominated or indicating his views or opinion” and inserting in
58 place thereof the following words:- or anything showing how they were nominated or indicating
59 their views or opinions.

60 SECTION 9. Section 7 of said chapter 445 is hereby amended by striking out the words
61 “in his office” and inserting in place thereof the following words:- in their office.

62 SECTION 10. Section 8 of said chapter 445 is hereby amended by striking out the words
63 “If any person receives at a preliminary election a majority of all the votes cast for the office for
64 nomination to which he was were a candidate, he shall be deemed and declared elected thereto;
65 provided, that at said election at least eighty per cent of the total registered vote of the city, or, in
66 the case of a ward councilor, of the ward, shall be cast; otherwise the” and inserting in place
67 thereof the following word:- The.

68 SECTION 11. The second sentence of said section 8 of said chapter 445 is hereby
69 amended by striking out the words “his name printed” and inserting in place thereof the
70 following words:- their name printed.

71 SECTION 12. The first sentence of section 9 of said chapter 445 is hereby amended by
72 striking out the words “filed with him” and inserting in place thereof the following words:- filed
73 with the city clerk.

74 SECTION 13. The charter of the city of Salem, which is on file in the office of the
75 archivist of the commonwealth, as provided by section 12 of chapter 43B of the General Laws, is
76 hereby amended by striking out section 59A and inserting in place thereof the following section:-

77 A. Mayor – Vacancies in the office of Mayor.

78 If a vacancy occurs in the office of mayor by death, removal or resignation during the
79 first to 36 months, inclusive, of the term ending on December 31 for which the mayor was
80 elected, the city clerk shall forthwith order an election to fill such vacancy for the remainder of
81 the unexpired term. Such election may be held at the time of the regular municipal election so
82 long as the vacancy does not occur more than six months prior to the regular municipal election.
83 The city council shall hold a meeting to elect, by majority vote, one of its members as acting
84 mayor until a candidate for mayor is elected and the election results are certified. If the city
85 council fails to elect a member at said meeting or within 30 days thereafter, the president of the
86 city council shall become acting mayor, shall exercise all the rights and powers of mayor and
87 shall be sworn to the faithful discharge of the mayor's duties. The candidate for mayor elected at
88 such election shall take office immediately upon the certification of the results of the election.
89 Unless a councillor serving as acting mayor under this section formally resigns, the councillor
90 shall, upon the election and qualification of a successor mayor, resume their service as a
91 councillor in the capacity to which they were elected and shall serve for the remainder of the
92 unexpired term.

93 If a vacancy occurs during the thirty-seventh month beginning January 1 through the end
94 of the term for which the mayor was elected, a meeting shall be held by the city council to elect,
95 by majority vote, one of its members as acting mayor for the remainder of the unexpired term. If
96 the city council fails to elect a member at said meeting or within 30 days thereafter, the president
97 of the city council shall become acting mayor, shall exercise all the rights and powers of mayor
98 and shall be sworn to the faithful discharge of the mayor's duties. Provided, however, that a

99 councillor serving as mayor under this section shall be considered an incumbent councillor for
100 election-related purposes.

101 B. Councillor – Vacancy arising in the office of City Councillor.

102 If a vacancy occurs at any time in the office of a councillor elected by and from the
103 qualified voters of the city, such vacancy shall be filled forthwith by a majority vote of all the
104 remaining members of the city council for the remainder of the unexpired term.

105 If a vacancy occurs, before the last six months of the term, in the office of a councillor
106 elected by and from the voters of a ward, the city council shall forthwith order an election to fill
107 such vacancy for the remainder of the unexpired term.

108 A councillor selected to fill an unexpired term under the provisions of this section shall
109 not be considered an elected incumbent for election-related purposes.

110 When a councillor is serving as acting mayor under subsection A of this section, so as to
111 facilitate the continued orderly administration and operations of the city, the required quantum of
112 vote for council action shall be calculated based upon a ten-member body.

113 SECTION 14. This act shall take effect upon its passage.