

**STATE OF RHODE ISLAND
BOARD OF ELECTIONS**

**IN RE: City Of East Providence Charter Amendments And Effect On Terms Of Office
For Council And School Committee**

DECISION

This matter was heard on May 14, 2018, before the Board of Elections ("Board") concerning the adoption of certain amendments to the City of East Providence charter and the effect of such amendments upon the terms of office for the members of the city council and school committee.

Factual and Procedural History

On November 6, 2012, the voters of East Providence were presented with several ballot questions concerning proposed amendments to the city charter, including Local Question 11, which read in part:

Shall the Charter for the City of East Providence be amended to establish four (4) year terms for members of the council and members of the school committee?

The amendment was "to become effective upon passage." Question 11 was approved by a majority of the voters. East Providence held elections for the council and the school committee on November 4, 2014, and again two years after, on November 8, 2016. The ballots for each of these elections expressly stated that the council and school committee seats would be for two-year terms. The city solicitor advised the local canvassing board that the charter amendment could not legally become effective until it was ratified by the General Assembly. Efforts to have the General Assembly ratify the amendments were unsuccessful.

The Board scheduled a meeting on April 26 to initially discuss this matter. The Board entered an order that required the submission of legal briefs from all interested parties by May

11. The Board also scheduled a hearing on the merits for May 14. On May 3, the canvassing authority met and voted to hold an election in 2018 for the city council and school committee. The candidates for city council would seek four-year terms, while the candidates for school committee would seek two-year terms. The canvassing authority's ruling is reflected its May 7 written decision. On May 11, the canvassing authority filed its legal brief, consistent with this Board's scheduling order. No other briefs were received by the May 11 deadline, or anytime thereafter.

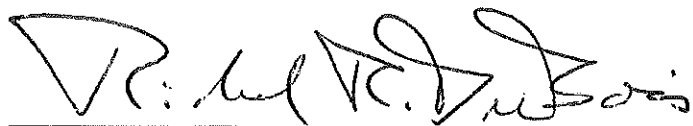
Notice for the May 14 Board hearing was published in the *Providence Journal* and in a local newspaper circulated in East Providence. No one present at the hearing sought to challenge the East Providence canvassing authority ruling of May 3.

Discussion

The Board has jurisdiction to review this matter pursuant to its general supervisory oversight of local boards of canvassers, as conferred by R.I. Gen. Laws § 17-7-5(a)(1). Pursuant to this jurisdiction, the Board adopts the findings of fact and rulings of the canvassing authority as reflected in its May 7 decision. Specifically, the Board hereby rules that the seats for the city council will be subject to an election to be held in 2018, and that the terms of office will be four years. The Board concurs with the canvassing authority that the 2012 Charter amendment legally became effective for city council seats upon passage of the ballot question. Our Supreme Court held that a charter amendment, absent anything to the contrary, becomes effective upon passage. *Stallwood v. Oster*, 764 A.2d 196, 197 (R.I. 2000) (“We are of the opinion that the charter amendment, changing the date of the engagement of office of the elected officials of the town of Lincoln became effective on the date of passage.”) The city of East Providence enjoys the right of self-government in all local matters as long as the charter is consistent with the

Rhode Island Constitution and laws enacted by the general assembly and conforms to the powers reserved to the general assembly. *See, Newport Court Club Associates v. Town Council of Town of Middletown*, 716 A.2d 787, 790 (R.I. 1998). The amendment therefore does not need to be ratified by the General Assembly, as it relates to the terms for city council members.

The Board further rules that the seats for the school committee will be subject to an election to be held in 2018, and that the terms of office will be two years, until and unless the General Assembly ratifies the charter amendments pertaining to the school committee, including the term of office. The Board concurs with the canvassing authority that the provisions of Question 11 dealing with school committee members must be ratified by the General Assembly before becoming effective. The circumstances surrounding the school committee are different: municipalities have no inherent power to legislate on matters of statewide concern or upon matters that are specifically reserved to the General Assembly by our State Constitution under Rhode Island law. Matters pertaining to education are of statewide concern. *See e.g., R.I. Const., art. XII, § 1; Royal v. Barry*, 160 A.2d 572, 576 (R.I. 1960). This includes responsibility for the creation and organization of all school committees, whose powers and duties are defined under R.I. Gen. Laws § 16-2-1 *et seq.* When a city seeks to amend its charter to change something which relates to an area of state responsibility, the charter amendment must be ratified by the General Assembly. Thus, the provisions of the amendment relating to school committee cannot have legal effect without ratification by the General Assembly, and elections must continue to be held every two years, including this year.



Richard R. DuBois, Chair