

**HOUSE . . . . . No. 5396**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Paul F. Tucker and Joan B. Lovely***

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

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

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>11/18/2022</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>11/18/2022</i>

**HOUSE . . . . . No. 5396**

By Representative Tucker of Salem and Senator Lovely, a joint petition (accompanied by bill, House, No. 5396) of Paul F. Tucker and Joan B. Lovely (with the approval of the mayor and city council) relative to preliminary election dates and filling vacancies in the offices of mayor and councillor in the city of Salem. Election Laws. [Local Approval Received.]

**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. Notwithstanding the provisions of chapter 43 of the general laws or of any  
2 general or special law to the contrary, section 1 of chapter 445 of the acts of 1960 is hereby  
3 amended by deleting the phrase “On the third Tuesday” and inserting in place thereof the  
4 following phrase:- On a Tuesday no less than six weeks but no more than eight weeks.

5 SECTION 2. Section 2 of chapter 445 of the acts of 1960 is hereby amended by deleting,  
6 in subsection 2 the word “unless he shall” and inserting in place thereof the words:- unless they  
7 shall.

8 SECTION 3. Section 3 of said chapter 445 is hereby amended by deleting the first  
9 paragraph thereof and inserting in its place the following:- Any person who is qualified to vote at  
10 any regular or special municipal election in said city for a candidate for any elective municipal  
11 office in said city, and who is a candidate for nomination thereto, shall be entitled to have their

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

22 SECTION 4. Said Section 3 of said chapter 445 is hereby further amended by deleting  
23 the words “nineteen hundred” in each of the three instances in which they appear.

24 SECTION 5. Said section 3 of said chapter 445 is hereby further amended by deleting in  
25 the second paragraph of the text entitled “Petition of Accompanying Statement of Candidate” the  
26 words “we believe him to” and inserting in place thereof the following:- we believe they are.

27 SECTION 6. Section 4 of said chapter 445 of the acts of 1960 shall be amended by  
28 deleting in the third sentence the words “regular or special municipal election” and inserting in  
29 place thereof the words:- preliminary election.

30 SECTION 7. Section 5 of said chapter 445 shall be amended by deleting the words “he  
31 shall post in a conspicuous place in his office” and inserting in place thereof the following  
32 words:- the city clerk shall post in a conspicuous place in their office.

33 SECTION 8. Section 5 of said chapter 445 shall be further amended by deleting in the  
34 first sentence the words beginning with “which shall be drawn by lot” and ending with “in their  
35 order as drawn by him” by inserting in place thereof the following:- which shall be drawn by lot  
36 by the city clerk within seventy-two hours succeeding five o'clock in the afternoon of the last day  
37 fixed for filing the nomination papers with the city clerk, and the city clerk shall cause the  
38 ballots, which shall contain said names in their order as drawn by the clerk,

39 SECTION 9. Said section 5 of chapter 445 is hereby further amended by deleting, in the  
40 third sentence, the words “he desires” and inserting in place thereof the following:- they desire.

41 SECTION 10. Said section 5 of chapter 445 is hereby further amended by deleting, in the  
42 second paragraph, the words “in the year nineteen hundred and” and inserting in place thereof  
43 the following:- they year.

44 SECTION 11. Said section 5 of chapter 445 is hereby further amended by deleting, in the  
45 last paragraph, the words “On the back and outside of each ballot when folded” and inserting in  
46 place thereof the following:- At the top of each ballot

47 SECTION 12. Section 6 of said chapter 445 is hereby amended by deleting the last clause  
48 and inserting in place thereof the following clause:- or anything showing how they were  
49 nominated or indicating their views or opinions.

50 SECTION 13. Section 7 of chapter 445 shall be amended by deleting the words “in his  
51 office” in the last sentence and inserting in place thereof the following words:- in their office.

52 SECTION 14. Section 8 of chapter 445 shall be amended by deleting in its entirety the  
53 phrase “If any person receives at a preliminary election a majority of all the votes cast for the

54 office for nomination to which he was were a candidate, he shall be deemed and declared elected  
55 thereto; provided, that at said election at least eighty per cent of the total registered vote of the  
56 city, or, in the case of a ward councilor, of the ward, shall be cast; otherwise” and capitalizing the  
57 word “the” immediately following.

58 SECTION 15. Section 8 of said chapter 445 shall be further amended by deleting, in the  
59 last sentence, the words “his name printed” and inserting in place thereof the following words:-  
60 their name printed.

61 SECTION 16. Section 9 of chapter 445 shall be amended by deleting in the first sentence  
62 the words “filed with him” and inserting in place thereof the following words:- filed with the city  
63 clerk.

64 SECTION 17. Notwithstanding the provisions of section 59A of chapter 43 of the general  
65 laws, or any other general or special law to the contrary, the charter of the city of Salem, on file  
66 in the office of the archivist of the commonwealth, as provided by section 12 of chapter 43B of  
67 the General Laws, is hereby amended by inserting the following heading before the first  
68 paragraph of section 59A :- A. Mayor – Vacancies in the office of Mayor.

69 SECTION 18. Section 59A of the charter of the city of Salem is further amended by  
70 deleting, in the third sentence of the first paragraph , the words “Until the time of the election”  
71 and capitalizing the word “the” immediately following.

72 SECTION 19. Section 59A of the charter of the city of Salem is hereby further amended  
73 by inserting the following new sentence at the end of the first paragraph:- Unless a councillor  
74 serving as acting mayor under this section formally resigns, the councillor shall, upon the

75 election and qualification of a successor mayor, resume their service as a councillor in the  
76 capacity to which they were elected and shall serve for the remainder of the unexpired term.

77 SECTION 20. Section 59A of the charter of the city of Salem is hereby amended by  
78 inserting the following sentence at the end of the second paragraph:- Provided, however, that a  
79 councillor serving as mayor under this section shall be considered an incumbent councillor for  
80 election-related purposes.

81 SECTION 21. Section 59A of the charter of the city of Salem is hereby amended by  
82 inserting the following heading before the third paragraph:- B. Councillor – Vacancy arising in  
83 the office of City Councillor.

84 SECTION 22. Section 59A of the charter of the city of Salem is hereby further amended  
85 by inserting the following two new paragraphs at the end of section 59A:-

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

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

91 SECTION 23. This act shall take effect upon its passage.