



Office of the City Clerk

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Legislation Text

File #: Or2018-626, **Version:** 1

ORDER

WHEREAS, the City of Chicago, through its Municipal Code, provides for an office of corporation counsel, who is to "[a]pppear for and protect the rights and interests of the city in all actions, suits and proceedings brought by or against it;" and

WHEREAS, in that capacity, the City's Corporation Counsel has initiated or participated in legal actions to protect the interests of Chicagoans; and

WHEREAS, some of these actions have involved federal matters and parties including the United States Attorney General (Attorney General); and

WHEREAS, the Attorney General is the head of the Department of Justice (DOJ) and is the federal government's chief law enforcement officer; and

WHEREAS, as head of the legal department of one of the United States' largest cities, the Corporation Counsel has an interest in ensuring that the Attorney General with whom at any point he or she may be collaborating or opposing is duly appointed; and

WHEREAS, on November 7, 2018 then-Attorney General Jefferson Sessions resigned; and

WHEREAS, that announcement was followed by a tweet from the President announcing that the Acting Attorney General would be Mr. Sessions' chief of staff, Matthew G. Whitaker; and

WHEREAS, on Tuesday, November 13, 2018, the Maryland Attorney General filed a motion in an ongoing action against the federal government seeking to enjoin Whitaker's appearance as Acting Attorney General and to instead substitute Deputy Attorney General Rod J. Rosenstein; and

WHEREAS, the motion was made in Maryland's pending action seeking compliance with a key provision of the Affordable Care Act (ACA); and

WHEREAS, specifically, Maryland's arguments include that the Attorney General must be a Senate-confirmed official and that the Attorney General Succession Act provides that if the office of the Attorney General is vacant, the Deputy Attorney General is authorized to exercise the duties of the office; and

WHEREAS, in so doing, Maryland notes that Whitaker's appointment "is unlawful" and that an appropriate appointment "is of immense public interest due to the Attorney General's plenary authority over federal litigation, as well as substantial policymaking and oversight power;" and

WHEREAS, Chicago has itself been involved in significant litigation involving the Attorney General, and has

experienced the wide ranging impact of the Attorney General's policy decisions have on a local basis; and

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WHEREAS, in 2017, Chicago won a permanent injunction against the DOJ's attempt to condition grant money on the basis of adherence to the Attorney General's approach to federal immigration policies; and

WHEREAS, that federal funding significantly impacts public safety efforts in the City; and

WHEREAS, a mirror action had to be filed in October 2018 after the Attorney General continued those policies in the following grant year; and

WHEREAS, also in October 2018, then-Attorney General Sessions expressed an intention to file a brief opposing a proposed Consent Decree involving the City-a matter intrinsically connected to police reform and therefore one of the City's chief concerns; and

WHEREAS, the office of the United States Attorney General has shown itself to have broad authority and influence over matters of national importance and local effect; and

WHEREAS, the most recent federal administration in particular has taken a particular interest in Chicago's policies, seeking to supplant their version of what is appropriate in matters of utmost concern to Chicagoans such as immigrant protections and criminal justice reform; and

WHEREAS, given the seeming agenda to override local policies, this City Council deems it imperative that the acting Attorney General is not an agent hand-chosen for political or other nebulous purposes but is a properly and transparently vetted and installed successor; and

WHEREAS, the City Council therefore seeks to have Chicago join Maryland in the call to ensure that the person charged with carrying out the mandates of the United States Department of Justice is duly and lawfully appointed; now, therefore,

Edward M. Burke Alderman, 14th Ward

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF CHICAGO: that the Corporation Counsel explore the appropriate legal actions to pursue in seeking to enjoin the appointment of Matthew G. Whitaker as Acting Attorney General and seeking to declare that Deputy Attorney General Rod J. Rosenstein be recognized in his capacity as Acting Attorney General.

CHICAGO November 14. 2018

To the President and Members of the City Council:

Your Committee on Finance having had under consideration a proposed order directing the Corporation Counsel to join in actions or initiate an action to enjoin Matthew Whitaker from acting as United States Attorney General.

Direct Introduction

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Order Transmitted Herewith.

**This recommendation was concurred in by (a^iva voce voteo
of members of the committee with dissenting vote(s)T**

Respectfully' submitted

Chairman