



PROPOSAL P ON THE DETROIT PRIMARY BALLOT THE PROPOSED DETROIT CHARTER

Proposal P seeks voter approval of a revised Detroit City Charter. It is the culmination of three years of work by the Detroit Charter Revision Commission convened in 2018.

If Proposal P is Adopted the new charter would go into effect to create new departments and advisory commissions, shift the balance of power between the mayor's office and the legislative branch, and create new responsibilities for the city.

If Proposal P is Rejected the current charter will remain in effect. The question of convening a new charter commission would automatically appear on the 2034 ballot. Residents and city leaders could introduce amendments to address changes submitted in the proposed charter.

Major Issues to Consider: Beyond proposing some changes to the organizational structure of city government and altering the balance of power between the executive and legislative branches, the proposed charter endeavors to improve quality-of-life issues by ensuring increased representation and equity for Detroit residents; increasing access to city services and programs; and including strategies to increase citizen involvement and government transparency through an equitable development framework. These efforts are likely to affect the efficiency of city government operations and come with a financial cost.

Introduction

The nine-member Charter Revision Commission, elected in November of 2018, has proposed a new charter for Detroit to be presented at the August 3, 2021, primary election. The revision process started on August 7, 2018, with the passage of a ballot proposal to revise the 2012 charter. Only 14.2 percent of registered Detroit voters voted on this question at that 2018 August primary, resulting in a slim margin of victory with a difference of 184 votes for the revision of the charter.

The question to revise the city charter is usually brought to voters every 16 years. However, when the 2012 Detroit city charter was adopted, the timetable set by the 1997 charter was not amended resulting in another charter revision question being placed on

the ballot just six years after the last revision was adopted.

If the ballot question fails at the August 3 election, the charter revision process will end. The commission will not be able to re-submit the proposed charter or a revised proposal at a subsequent election because the three-year life of the Charter Revision Commission will expire on August 6, 2021. If the question fails, the 2012 charter will remain in effect. Voters would then be asked in 2034 whether to call for a charter revision commission.

The proposed charter represents an unprecedented break with former charters in its scope and breadth of changes. Public documents like city charters are

Pending Michigan Supreme Court Ruling

On June 4th, the Michigan Supreme Court halted a decision by lower courts to remove Proposal P from the August 3rd primary ballot. The fate of Proposal P could change depending on how the Michigan Supreme Court rules on its qualification for the ballot. If the high court decides to keep the charter question on the ballot, voters will be voting on the draft charter that was rejected by Governor Whitmer due to deficiencies identified in the review mandated by state law. This report provides a thorough analysis of that draft charter and intends to inform voters of the important provisions proposed by the Detroit Charter Revision Commission. Oral arguments for the case will be made before the Supreme Court on July 7th.

products of the events and issues that precede them. The revisions of the 2012 charter were guided by a mission that sought to expel the corruption and malfeasance in city government which resulted in the indictment, conviction, and incarceration of a former mayor and council member. The revisions brought forth by the current Detroit Charter Revision Commission tell the tale of “Two Detroits”: one city that can boast of immense progress and a burgeoning economic recovery, and another city on the outskirts looking in at this progress. The “People’s Charter”, as referred to by the Charter Revision Commission, proposes revisions that are emblematic of the concerns of many who feel neglected and forgotten in the recent resurgence in the post-bankruptcy era. It is a charter driven by an almost exclusive focus on progressive governmental reforms without equal attention dedicated to efficient governmental function and structure.

One of the biggest challenges for government and public officials in Detroit is a lack of trust among its citizens. Many Detroiters have felt let down by the system, and as a result have grown a pessimistic view of government and what it can do to improve

their quality of life. The proposed city charter is a document that is responsive to this mistrust in government. It is a document that attempts to resolve all the perceived failings and misgivings of government over the past few decades.

City Charters

A charter can be thought of as a city’s constitution. It is a public document created and adopted by electors defining the city government’s organization, powers, and responsibilities. City charters in Michigan must operate within the legal framework established by the U.S. and the Michigan laws. They have three essential purposes:

- To outline the election process for city government.
- To create the structure and powers for providing city services such as establishing the form of government, key departments, commissions, or boards.
- To provide enough structure to ensure efficiency in city operations, but not be too prescriptive as to limit the ability of elected officials to respond to changing times.

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Proposed Changes

Changes proposed to the existing charter can be broadly categorized as expansive and ambitious progressive policy reforms that would address quality-of-life issues. Some of these categories include the redefinition of elected and appointed positions; formation of structures and processes to ensure

increased representation and equity for Detroit residents; increased access to city services and programs; and inclusion of strategies to increase citizen involvement and government transparency through an equitable development framework.

Highlights of Changes in Proposed Detroit City Charter

Elected and Appointed Officers:

- Authorizes 47 new elected positions and creates 102 new appointed positions
- Makes corporation counsel a joint appointment by the mayor and the city council
- Requires chief of police to be chosen by the mayor, city council, and board of police commissioners rather than just the mayor

Organizational Changes:

- Restructures the police and fire departments
- Creates new Department of Disability Affairs
- Creates new Department of Environmental Justice and Sustainability
- Creates new Task Force on Reparations and African American Justice
- Creates new Offices of Veterans Affairs and Immigrant Affairs
- Creates new Office of Economic Justice and Consumer Empowerment

New Programs, Services and Activities:

- Provides reduced, income-based fare system for public transportation
- Creates new transportation standards
- Provides reduced income-based, affordable water-rate system requirements
- Creates Water Bill Assistance Fund
- Provides free sidewalk maintenance
- Provides free public Internet broadband
- Provides residency requirements for all city workers
- Provides affordable housing
- Creates property overassessment relief program
- Creates Environmental Justice Health Fund
- Institutes standard provisions for utilities and public utility franchises

New Governmental Processes:

- Creates new intragovernmental agencies
- Requires binding arbitration to be available to all city government negotiations for labor relations
- Creates Wage and Standard Boards
- Institutes “responsible contracting” requirements for city contracts
- Relates retirement provisions to adjustments in pension benefits
- Eliminates “qualified immunity” in police officer evaluations
- Changes to the city’s participation in the regional water authority
- Provides proportional funding for oversight agencies
- Diverts budget reserve interest to capital

City Organization

The proposed charter makes no changes to the form of government, ostensibly retaining the strong mayor-council structure, an elected city clerk, and a nine-member city council represented by seven districts and two at-large seats.

In a strong mayor-council form of government, the city council is the legislative branch while the mayor is the chief executive of the executive branch. The mayor usually has veto power with city council often having the ability to override a veto. The mayor also has full powers to appoint all non-civil service department heads and officers as well as executive commissions and boards. Detroit has used this form since the early 1800s.

With some of the proposed changes, there would be a shift in the balance of power from the executive to the legislative branch. These changes weaken the appointment power of the mayor and strengthen the appointment power and confirmation authority of city council, thereby altering the organization and administration of city government.

Legislative Branch

The city council adopts ordinances and resolutions, approves the budget and capital agenda, exercises an oversight role, and has several other responsibilities. City council would continue to appoint the nine-member city planning commission and would continue to appoint seven members to the board of zoning appeals, with one from each of the seven non-at-large council districts.

The charter expands city council's confirmation authority over senior mayoral appointments, and approval of their employment contracts, including the chief of police, executive fire commissioner, director of Department of Health, director of Planning and Development, and the director of Human Resources.

The proposed charter alters the process for filling some vacancies in elected offices. A mayoral vacancy will continue to be filled by the city council president who would serve until a newly elected mayor takes office. However, vacancies occurring on city council, the board of police commissioners, the board of fire

commissioners, and the election commission would now be offered in successive order to the candidate who received the next highest votes in the previous election.

The proposed charter creates a new seven-member public broadband and technology commission for sustainable development, which would be appointed by and serve at the pleasure of the city council. One member would be appointed from each non-at-large district. Its powers and duties would include advising city council and the mayor on public broadband issues and development matters, as well as encouraging the city to implement a free public broadband network.

In addition, the charter mandates the establishment of at least one geographic area dedicated to the culture and heritage of Africans and descendants in the diaspora, as well as similar cultural designations for other cultures. This provision of the charter could also be addressed through public-private partnerships and programming that may better serve the recognition and celebration of various cultures creating a more culturally inclusive, diverse, and tolerant city.

Executive Branch

In a traditional strong mayor-council form of government, all administrative officials and employees are ultimately responsible to the mayor. The mayor appoints the director of each executive branch department and often has full appointment powers for all other appointed offices within the executive branch. The mayor is also fully responsible for the administrative and intergovernmental affairs of the city, as well as the enforcement of ordinances established by the city council.

The executive branch includes both operating departments that provide services directly to citizens and staff departments that support the operating departments by supplying various services such as human resources and financial management. The current charter allows the mayor to alter service delivery by assigning the functions of staff and operating departments, as well as creating, dissolving, reorganizing, or combining departments within the governance structure.

The mayor cannot create more than 36 departments in the executive organization plan, exclusive of any department created under specific statutory authority. The proposed charter makes no reassignments of any operating departments to staff departments. However, the organization of operating departments enforcing programs, services and activities in the executive branch differs in the proposed charter compared to the current charter. **Table 1** (on page 6) provides a side-by-side comparison of the current and proposed city charters.

Executive Branch: Staff Departments

The proposed charter would make some changes to a few of the current staff departments. The Finance Department would become the Office of the Chief Financial Officer, with the chief financial officer appointed by the mayor, subject to approval of the city council.

The Office of the Chief Financial Officer will be required to give preference to legacy businesses in Detroit (those with at least a 20-year history) when bidding on city contracts. While this policy aims to ensure the preservation of legacy businesses in the city, it may be more appropriate if implemented through ordinance.

The Human Resources Department would be mandated to establish and expand residency requirements for city employment. New hires to the city must live within 20 miles of city boundaries, while on-call firefighters must live within city boundaries. The mayor must prepare and submit to city council

a comprehensive coordinated residency policy and program for purposes of increasing residency among city employees. State law places restrictions on public employers from enforcing mandatory residency requirements as a condition of city employment, but provisions in the proposed charter comport with the law and present no legal discrepancies¹.

Executive Branch: Operating Departments and Offices

The proposed charter provides for several new programs, services and activities and would create new operating departments.

It provides for few structural changes within the Fire and Police Departments, with only the selection of commissioners for each board being restructured or changed. The board of commissioners for both Fire and Police Departments would continue to supervise and oversee their respective departments, as well as maintain subpoena power.

The current charter establishes a seven-member fire advisory commission, with all members appointed by the mayor. This would be replaced with a nine-member elected body. The Fire Department would be headed by the executive fire commissioner changing the role of the commission to that of supervisory control and oversight similar to the operational structure of the board of police commissioners. The mayor would be responsible for appointing the executive fire commissioner from a list of qualified candidates provided by the board of fire commissioners, subject to city council approval.

¹ MCL 15.602 Residency requirements of public employees. Sec. 2.

(1) Except as provided in subsection (2) a public employer shall not require, by collective bargaining agreement or otherwise, that a person reside within a specified geographic area or within a specified distance or travel time from his or her place of employment as a condition of employment or promotion by the public employer.

(2) Subsection (1) does not prohibit a public employer from requiring, by collective bargaining agreement or otherwise, that a person reside within a specified distance from the nearest boundary of the public employer. However, the specified distance shall be 20 miles or another specified distance greater than 20 miles.

(3) A requirement described in subsection (2) does not apply to a person if the person is married and both of the following conditions are met:

(a) The person's spouse is employed by another public employer.

(b) The person's spouse is subject to a condition of employment or promotion that, if not for this section would require him or her to reside a distance of less than 20 miles from the nearest boundary of the public employer.

(4) Subsection (1) does not apply if the person is a volunteer or paid on-call firefighter, an elected official, or an unpaid appointed official.

Table 1
Charter Departments in the Current and Proposed Detroit City Charters

<u>Current Charter</u>	<u>Proposed Charter</u>
Staff Departments	
Budget	Budget
Planning and Development	Planning and Development
Finance	<i>Office of the Chief Financial Officer</i>
Human Resources	Human Resources
Buildings, Safety Engineering, and Environmental	Building, Safety Engineering, and Environmental
Operating Departments: Programs, Services and Activities	
Health and Sanitation	Health NEW Health Advisory Commission
Arts	Arts
Public Works	Public Works – NEW SERVICES
Fire	Fire – NEW SERVICES NEW Board of Fire Commissioners
Historical	Historical
Human Rights	Civil Rights, Inclusion and Opportunity NEW Task Force on Reparations and African American Justice NEW Office of Veterans Affairs NEW Office of Immigrant Affairs NEW Immigration and Refugee Commission
Police	Police
Public Lighting	Public Lighting
Recreation	Recreation NEW Advisory Commission
Transportation	Transportation – NEW SERVICES NEW Advisory Transportation Commission
Water and Sewerage	Water – NEW SERVICES NEW Advisory Commission
Zoological Park	Zoological Park
Television Channels	Television Channels NEW Department of Disability Affairs NEW Disability Justice Commission NEW Office of Environ. Justice and Sustainability NEW Environmental Protection Commission NEW Office of Econ and Consumer Empowerment NEW Small Business Advocacy Council
Independent Departments and Offices	
Auditor General	Auditor General
Law Department	Law Department
Office of Inspector General	Inspector General
Ombudsperson	Ombudsperson

The structure of the police department was left mostly unchanged; however, provisions were added that would change the composition of staff and personnel, commission selection, the method for appointments, and requirements for police training and police protocol. The current charter provides for 11 commissioners, seven elected and four appointed by the mayor. The proposed charter would keep the seven elected members but eliminate the commissioners selected by the mayor.

The current Human Rights Department would be changed to the Civil Rights, Inclusion and Opportunity Department. It would contain a new permanent taskforce, two new departmental offices, and a new advisory commission. The Task Force on Reparations and African American Justice would be charged with identifying the history and impact of slavery and discrimination upon African Americans and the culpability of Detroit. A reparations package would be developed and implemented to provide descendants of enslaved Africans by Detroit with compensation. The taskforce would be supervised by the human rights commission, an 11-member board all appointed by the mayor. An added provision to this section mandates a monument dedicated to the memory and service of Mayor Coleman Young to be erected somewhere in Detroit.

The Water and Sewerage Department would continue to be headed by a seven-member board of water commissioners whose role is to advise city council on policy matters pertaining to the municipal utility systems and direct the department in its supply of water, drainage and sewerage services.

The proposed charter establishes a small business advocacy council within the Office of Economic and Consumer Empowerment, all members of which would be appointed and serve at the pleasure of city council. The council would consist of seven members, one from each non-at-large council district to advocate on behalf of Detroit-based small and minority businesses and monitor programs and initiatives that assist Detroit-based small and minority businesses.

Independent Departments and Offices

The current charter created a new category of departments referred to as “Independent Departments and Offices” that can be thought of as an extra branch of government functioning outside the authority and jurisdiction of the mayor and the city council. They include the Auditor General, the Law Department, the Office of the Inspector General, and the Ombudsperson. While the mayor heads the executive branch and city council heads the legislative branch, neither the current charter nor this proposed version provides for an entity to head these independent departments presenting a problem when all the constituent departments in this new branch of government are engaged in oversight of other departments. The proposed charter makes no organizational changes to these chapters of the charter but proposes amendments to these existing independent departments and offices.

One of the most significant provisions changes the way the city’s top lawyer will be appointed. In the current charter the corporation counsel is appointed exclusively by the mayor. In the proposed charter the corporation counsel would be jointly appointed by the mayor and the city council.

The proposed charter provides for intra-governmental dispute resolutions managed by the law department allowing for disputing branches of government to obtain outside counsel and meet at least once to resolve issues. It removes the required facilitation provision that prevented the disputing branch of government from achieving resolution within a reasonable time. This is problematic as it omits the timeline set by the current charter to settle intra-governmental disputes allowing them to drag on and potentially not be resolved. This could create deadlock between different branches of government as government is only able to effectively function when the executive and legislative branch work together.

The current charter provides that the inspector general be appointed by a majority of the city council

members and serve six-year terms. The proposed charter would have the inspector general serve a ten-year term. It adds provisions to the enumerated powers and duties of the inspector general expanding the oversight jurisdiction to include any legal entities, agencies or public authorities that have an agreement, contract, memorandum of understanding, etc. with Detroit. In addition, the inspector general would now have the power to conduct forensic audits and be required to provide mandatory training for all entities under the office's jurisdiction. To increase government oversight, the proposed charter provides that failure to cooperate in inspector general-led investigations is punishable by forfeiture of office, workplace discipline, debarment, etc.

Elections

The proposed charter provides various changes to the composition and duties of the election commission. The Department of Elections would be led by an election commission composed of the city clerk and five voting members, three of which are elected at-large and two of which are appointed by the elected members of the board. City employees, other city elected officials, candidates, and city contractors and their employees will be ineligible to serve on the commission.

The election commission would oversee how the Department of Elections conducts elections. It would also be responsible for assessing the Department of Elections and engaging the public for recommendations in improving the elections process and increas-

ing voter turnout through activities such as holding candidate debates and forums for all city elections and ballot initiatives.

These provisions create multiple potential issues. The conduct of elections is largely a ministerial function with duties specified in state law. Local governments do not have much latitude to stray from those responsibilities. Additionally, to avoid perceptions of bias or exclusion, voter education often is performed and candidate debates are hosted by non-governmental organizations.

In addition, the charter prescribes specific instructions for the election commission to establish and implement election day procedures. These provisions are intended to guarantee transparency, procedural integrity, and increased voter participation in the elections process. They are direct responses to much of the criticism the Office of the City Clerk has received over the past decade related to the city's election process. These provisions might be too prescriptive to be included in a charter as it would restrict the ability of the city to adapt to new technologies that may need to be incorporated in the future. These procedures may be more appropriate for an ordinance established by city council.

Another noteworthy addition to the charter addresses voter participation among city employees. The charter mandates that holidays be created for city employees for all elections held within Detroit. This would, at a minimum, create two election holidays for city employees in most years.

Themes of the Proposed Charter

Shift in Power between Executive and Legislative Branches

The proposed charter makes no specific changes to the authority of the executive branch to implement and manage programs within staff and operating departments. However, the vesting of authority of the executive branch for the implementation of programs, services and activities is diminished by sections of the proposed charter related to advisory commissions.

Previous Detroit charters maintained a separation of powers between the executive and legislative branch having the legislative branch serve as an oversight check and balance of the executive branch. City council has traditionally had the power to develop task forces to provide information to the legislative body to make informed decisions on policy matters. Similarly, advisory commissions were created to advise the executive branch in carrying out its administrative function and the mayor was to select those the executive believed would provide the best information in carrying out their executive duties.

Throughout the proposed charter, several new and amended sections provide for advisory commissions where members are not appointed by or serve at the pleasure of the mayor. The proposed charter does not alter language in the current document (Article 7-103) that provides, “*Appointments to all advisory commissions shall be made by, and members serve at the pleasure of, the Mayor*”.

The diminishment of the mayor’s appointment power with other public boards or officers is also present in various sections throughout the proposed charter. Provisions that grant appointing authority elsewhere, such as to city council, can create conflicts in the process of governing and may prove to be counter-productive to the mission of running an efficient city government. It would have city council acting in the capacity of administering executive functions blurring the lines of the separate branches of government.

In the current charter, the chief of police is appointed exclusively by the mayor. Under the proposed charter, the chief of police would be jointly appointed by the mayor, city council, and the board of police commissioners.

The current charter provides that the mayor is responsible for proposing a master plan of policies for the social, economic, and physical development and conservation of the city, and the full range of transportation, access, and mobility options. This master plan is to be approved by the city council with the modifications it deems necessary.

Under the proposed charter, the planning commission, appointed by and serving at the pleasure of the city council, would prepare and submit the master plan to the city council for approval. The planning commission, in coordination with the Planning and Development Department, would be responsible for the periodic review of the master plan. Completely removing the mayor from developing the city’s master plan could be problematic as the mayor is the chief executive responsible for managing the departments that would enforce the guidelines and policies set by the master plan.

The current charter provides that the council of the arts be comprised of 15 members all appointed by the mayor. The proposed charter provides that the

council now be comprised of 15 members, nine appointed by city council and six appointed by the mayor.

The following are other appointed commissions and officers, or responsibilities, that have traditionally been the jurisdiction of the mayor in the current and past charters but would either be jointly appointed or fully appointed by, or the responsibility of, city council:

- Health Advisory Commission
- Advisory Recreation Commission
- Advisory Transportation Commission
- Board of Water Commissioners
- Immigration and Refugee Commission
- Disability Justice Commission
- Environmental Protection Commission

Government, by its very nature, is a deliberative body. Unlike businesses that operate under direction of a chief executive officer, the checks and balances of the executive and legislative branches create inefficiencies. The blurring of responsibilities and lines of accountability could create confusion in the separation of powers between the two branches, thus creating further inefficiencies.

Transparency

The proposed charter attempts to increase transparency in city government. Many provisions give specific directives for executive and legislative agencies or departments to provide reports or post city documents online or to public boards. One example provides that the board of zoning appeals would now be required to send notifications of hearings about ordinances on non-conforming uses and structures and requests for variances to community organizations and other organizations that are registered with the city.

The proposed charter adds a provision for the purchasing director to prepare a contractor employee report for each entity performing contract services with the city. These reports, which will include the contractor employee’s name, city of residence, wages, and any union affiliation must be submitted prior to the beginning of services and be updated monthly. The purchasing director is required to work with the city clerk to post these reports on the city’s website.

These provisions would increase the level of transparency as it relates to the business transactions, but it may hamper the city's ability to secure contracts due to the resource-intensive nature of these reports. Contractors may be less willing to work with the city because of the disclosure of personal information about private citizens.

Another provision would require city council members who cast a vote to abstaining, supporting, or opposing a matter to state for the record the basis and reasoning for their vote. While such a provision is intended to increase transparency and facilitate accountability to the public, stating a reason on the record will not necessarily reveal intent or provide an accurate, in-depth explanation for their actions. Procedurally, it would add a time burden to the formal agenda process. It is important to note that council members already have the right to provide statements explaining their votes on controversial issues, and routinely exercise that right.

The mayor would now be responsible for holding a minimum of two community meetings in each council district between March and November annually. This requirement for the mayor to hold at least 14 meetings in seven-month periods may prove to be quite onerous. Further, the charter requirements for these meetings are quite detailed, requiring the mayor to post an "actionable" agenda that is specific to the district to address issues including unemployment rates of city residents (broken down demographically), plans to address unemployment, development plans, tax projections, etc. One could think of these community meetings as "mini state of the city" addresses specific for each district. While meritorious in its intent, the requirement will undoubtedly consume much of the valuable time of the mayor and would sacrifice other important executive duties.

Transparency in government is important and very much fits with the concept of a "People's Charter." It should be encouraged in every way. A lack of openness in local government creates an environment where there is potential for the lack of accountability and abuse of power. When any form of government is not forthcoming with information as to how it operates, it causes the public to be skeptical. This is a major challenge particularly in the current political

environment. However, one of the challenges in making local government more transparent is budget and resource capacity. Provisions that take transparency to the extreme can threaten to slow both branches of government to a crawl.

Citizen Involvement in City Government

The new charter authorizes 47 new elected positions and creates 102 new appointed positions. It provides that mayoral and city council appointments to commissions, boards and public authorities must be city residents and as demographically representative of the city as possible.

The proposed charter mandates the creation of seven new advisory commissions to the executive branch assisting many of the operating departments that provide important services, activities, and programs. The legislative branch will also receive a new seven-member advisory commission that will be tasked with encouraging the city to implement a free public broadband network.

In an effort to sustain and strengthen citizen involvement in the operations and decision making of city government, this would be the third charter proposing community advisory councils. These bodies have proven very difficult to implement since their inception decades ago. Some challenges have included a lack of interest in serving on merely advisory bodies and even considerable opposition to these bodies that have been expressed in previous implementation attempts. These community advisory councils failed to be implemented after adoption of the 2012 Charter.

One implementation obstacle facing past community advisory councils was a lack of resources. The proposed charter allocates resources to these advisory councils and incentivizes community participation in them. It is important to note that several boards, commissions, and elected offices in city government do not receive compensation.

The proposed charter mandates a referendum prior to the establishment or participation in a public authority or public agency of any kind that requires or allows the use of city funds, assets, or resources, or that impacts the city's revenue stream. It also

requires the mayor to annually evaluate the social and economic impact of all public authorities and public agencies, which must then be submitted to city council for approval and posted online. This provision is intended to address concerns of the public about the creation and role of public authorities but may be too prescriptive for a charter and would result in the impediment of the city’s authority to create bodies to accomplish certain goals best handled through a public authority or agency.

A “People’s Charter” should establish and encourage citizen involvement in city government. There are many concerns Detroiters face in their local communities such as vacant housing, access to resources, crime, etc. To address these concerns, it is important for Detroiters to understand their relationship to local government and actively engage in the political process. By being civically engaged, or having active participation, Detroiters can voice their concerns, needs, and issues. Local government exercises power closest to the people, making it the most accessible level of government. Detroiters can influence decisions that impact their daily lives. Hence, a city charter that establish and encourages citizen involvement in local government is important for the well-being of the city itself.

The proposals in the document, however, raise two important governance questions: 1) Will the many commissions confuse the chain of command, lines of accountability, and decision-making authority? A strong mayor system is predicated on having a chief executive at the top of the organization. The mayor appoints directors and deputy directors to carry out the directives of the administration as determined with city council.

2) Will the lack of meaningful authority possessed by the commissions doom this model? The city council will retain the power of the purse. It has been proven on many occasions that the power to control spending trumps all other powers. With little meaningful power and no compensation for commission members, will the roles of citizen input and advise be sufficient to attract citizens to the commissions and sustain this model?

Social Justice and Equity

A prominent theme in the proposed charter, also referred to as the “People’s Charter”, is a focus on providing more government assistance to low income and marginalized residents. The proposed charter provides for several new programs, services and activities, and would create new operating departments to address various social justice and equity-based issues for low income and marginalized residents.

Starting with the health of Detroiters, the proposed charter would change the current Health and Sanitation Department to the Health Department providing that sanitation be addressed in Public Works and a new Office of Environmental Justice and Sustainability. The description of this new Health Department has been updated to elaborate and clarify its objectives and tasks, including:

- detailing what approach will be taken to address matters of an epidemic or pandemic
- assessing the level, quality, and access to healthy food options
- establishing an emergency mental health crisis response team
- providing public health services for homeless citizens

The enumerated powers of the amended Health Department are all extremely important and meritorious. They respond to current and past health-related issues that have disproportionately affected Detroiters in a manner unequal to the rest of the state. However, they may be overly prescriptive for a charter and may limit the ability of the department to respond to new health related issues that may emerge.

New general provisions mandate a specific policy framework in the approach that departments must implement their services, programs and activities. They provide that a health in all policies taskforce be established which would be chaired by the Chief Public Health Officer and would be composed of heads of the Department of Public Works, Department of Planning and Development, City Planning Commission, Transportation Department, and Department of Water and Sewerage, as well as any others the mayor chooses to appoint.

This taskforce would promote the health of citizens and eliminate racial and socioeconomic health disparities through public policy. The mandate set through this provision is intended to function as a framework of guidelines using a health in all policies (HiAP) approach and equity practices. It would be applied in all the city's decision making, policy development and implementation, budget priorities, delivery of services, partnership engagements and every other facet of its operations. One example of this are the new services and programs that will be implemented through the water and sewerage department. A new water-rate system and the creation of a water amnesty program for residential customers will be established along with a water bill assistance fund to assist low-income households having trouble paying for services.

The city must also establish an agreement with organizations requesting a tax abatement valued at a total of at least \$25,000 with a five-year cap on certain tax abatements. The provision setting a five-year cap on certain tax abatements may deter future economic development because Michigan laws provide the discretion to determine the term of an abatement certificate pursuant to the statutory scheme set by the state. Other communities may have the latitude to offer richer attraction packages.

The proposed charter reimagines policing by altering the role of the police. The city budget would be required to equitably fund social service programs, projects, and activities that impact and may decrease costs associated with the provision of police services. For example, the establishment of the emergency mental health crisis response team mandated for the Health Department is to be funded from the Police Department's budget. This provision aims to mount evidence-based, public-health interventions to social disturbances when appropriate, and to utilize public safety resources to address the root issues of crime, such as social inequity. There are no sections in the proposed charter, however, that specify which department operates social service programs.

Other provisions in the charter that alter the role of the police through a social justice lens include:

- Implementing public databases of police

officers who have engaged in misconduct and excessive force

- Removing qualified immunity provisions from police officer evaluations
- Outlining prohibited conduct and the prohibited use of toxic agents and military weapons
- Requiring disciplinary records to be considered in police officer promotions

Another important facet of the proposed charter is the establishment of civilian rights in police provisions. Several provisions in the proposed charter are intended to increase police accountability and address social justice issues related to the unfair treatment of Black and Brown bodies by police officers. These provisions respond to the recent "Black Lives Matter" movement protesting incidents of police brutality and all racially motivated violence. These provisions are also intended to improve the quality and manner of law enforcement, which some say have adopted a more authoritative and militant approach in recent years. Some of these provisions include:

- Mandating the board of police commissioners to hold a minimum of three community meetings on the Police Department budget
- Establishing youth engagement programs
- Requiring Police Department employees to reflect the city's demographics
- Providing unrestricted access to all unedited body cam, police vehicle and other video or audio footage

The Buildings, Safety Engineering and Environmental Department (BSEED) would see some changes implemented to its list of enumerated powers and duties. Some of BSEED's powers and duties would be consolidated or deleted, including provisions related to environmental and sustainability issues. The proposed charter would clarify that the enforcement of local and federal environmental laws includes "vigorous enforcement" against commercial entities engaged in blatant violations. The department would be responsible for assisting a new Office of Environmental Justice and Sustainability in providing technical support and assistance to other city departments in environmental matters.

In addition, the proposal directs BSEED to establish two strategic plans: one that would develop programs for the protection and conservation of natural resources within the city and one that would develop a long-term strategic plan for establishing green initiatives, technologies, and businesses.

The objective of the new Department of Disability Affairs would be to provide equity, access, and inclusivity for all disabled persons. Enumerated powers and duties of the Department of Disability Affairs includes advocating on behalf of the city's disability community, providing training and information to the City on disability related issues, educating residents and organizations regarding issues and concerns impacting the disabled community, etc.

The new Office of Environmental Justice and Sustainability would be charged with ensuring environmental protection and developing sustainable, healthy, and accessible neighborhoods for all residents. The purpose of the office would be to assure an equitable distribution of and access to environmental benefits for residents leading to the development of city-wide projects that would address environmental concerns in the city. The provisions pertaining to the department's enumerated powers and duties are laudable but may be overly prescriptive for a charter and would be more appropriate through ordinance by the city council.

The new Office of Economic and Consumer Empowerment would provide services related to financial literacy, economic and employment opportunities, and consumer rights for all residents. The office would be tasked to research, educate, and create opportunities for residents to access government, private, and not-for-profit services that provide education and financial services on financial literacy training, employment readiness, financial resource referrals, educational opportunities, etc.

Another significant provision in the proposed charter implements a property tax relief program. The proposed charter strips away authority granted in the current charter to maintain a personal action against the debtor for collection of unpaid property taxes and the ability to use any means permitted by law to

collect the debt. It would prevent the city from creating property tax ordinances pursuant to the General Property Tax Act. Added provisions require the city to establish an overassessment relief program where residents would have the right to present proof and contest a property tax overassessment within 14 years of the overassessment.

Access to public Internet broadband, which is addressed in the proposed charter, is necessary for students and all Detroiters to access academic, medical, and business resources; it is also necessary to be successful and competitive in the changing labor market. Lack of access to public broadband is a serious problem in Detroit and presents one of the biggest challenges to addressing equity-based issues. For this reason, the proposed charter creates a new seven-member public broadband and technology commission for sustainable development.

The proposed charter also provides for the creation of a reduced fare program for all public transportation. City council would be required to establish an ordinance within one year of the adoption of the new charter regarding reduced fare programs for low-income citizens, military veterans, unemployed individuals, the homeless, seniors, youth, returning citizens, individuals with disabilities, and other groups for whom a reduced fare is deemed necessary by city council. The provisions appear meritorious but may present some problems in the enforcement.

The provisions and policy ideas in the draft charter that deal with social justice and equity-based issues are all extremely important and relevant to the time. They are issues that have been ignored for a long time and need to be addressed for Detroiters to have a better quality of life. Many of the proposed provisions, however, seem to be overly prescriptive for a city charter and should be pursued through other means of governmental action. Other states and cities across the nation are passing legislation pursuing initiatives for increased equity and social justice. Detroit can look to these cities and model policy programs that will ensure Detroiters receive a good quality of life by the services their local government provides.

Government Efficiency

It is important to remember that the purpose of a charter is to give general authority and guidance on the operations and management of the city. Detroit's current and proposed charters prescribe more departments than does the average Michigan city charter. Departments listed in the charter are protected by the charter and are required to be maintained by city government. The consequences of prescribing too many departments in a city charter are the potential for overlap and duplication between departments and/or departments that unintentionally interfere with one another's roles and responsibilities. These potential scenarios reduce the efficiency of government offices. The prescription of too many departments can constrain the ability of the mayor and city council to react to changing service and financial needs.

While there are some departments that will always be critical to a city (such as the Fire and Police Departments), others may be a reflection of the time or a certain administration. These departments may not need to be included and protected by the charter. The elimination of a department from the charter does not mean that the department would cease to exist, only that its special charter protection would be removed. This creates latitude for elected officials to make changes if deemed necessary. Additionally, when provisions are added to the charter that provide specific detailed directives for a department, those provisions go beyond the general purpose of a charter and may cause the unintended consequence of restricting city government in its ability to adapt to changing times. Governments require flexibility to adopt organizational structures that maximize effective, efficient, and equitable performance.

Financial Impact

The proposed charter will have a sizable impact on the city's budget. It will mandate new costs, some of them relatively expensive. Because the city has employed all revenue generating sources available to it, the incursion of new costs must come at the expense of resources used to fund existing costs or by incurring budget deficits that risk returning the city to financial insolvency and bankruptcy.

The creation of a low-income reduced fare program for public transportation would be based on income levels at or below 200 percent of the federal poverty line. Implementing such a program may prove to be prohibitively difficult because it would require city transportation employees to be able to identify which citizens are part of the reduced fare program. It would present challenges in enforcement and regulation of the program and would cut into city transportation revenue.

New water-rate system requirements would be implemented through a water affordability plan and a water bill assistance fund would be established to assist low-income households having trouble paying for services. Rates for water and sewerage services combined would not be allowed to exceed three percent of any household's monthly income up to a maximum amount. Added provisions prohibit the city from terminating residential water or sewerage services to customers who have outstanding payments due to inability to pay. The charter directs such a program be to be paid out of the water bill assistance fund. The proposed charter provides various methods of funding, including revenue from water and sewerage rates; grants; donations; proceeds from fines, fees, surcharges; or an annual appropriation made by the city. Even with these proposed funding methods, it is not clear how such a program is sustainable for the city. The alternative methods of funding are not going to make up for cost that would be required to sustain such an amnesty program.

The reparations package developed by the new task force on reparations and African American justice could present a huge financial burden to the city. The cost of administering a perpetual task force and providing reparation compensation to descendants of enslaved Africans would be tremendous in scope, and it is unclear where the funding for a reparations package would come from. Other municipalities have championed similar reparation programs and these programs should be reviewed in the development of any reparations package the city would propose.

Ultimately, programs for reparations or to right the wrongs of overassessment would involve taking funding from other city functions or services to provide

reparations to Detroit residents. No new sources of funding exist to provide these types of reparations or overassessment relief. Funding for such programs come from the pockets of Detroiters and to implement such programs would mean to redistribute money among Detroit taxpayers. The creation of new departments (See the Executive Branch discussion starting on page 4) are important and meritorious in their intent and purpose. The financial implications, however, for creating new departments with new staff and personnel may prove burdensome.

The proposed charter would prescribe new services to the Public Works Department with the most significant being sidewalk maintenance. Sidewalk repair would be effectively free by making the city responsible for maintenance except in the case of damage caused by adjacent owners or contractors. Michigan's Public Act 170 of 1964 protects the city from legal liability for unsafe sidewalks but does not preclude the city from assuming responsibility for sidewalk maintenance and repair. The burden of proof has been shifted to the city to prove the damage was caused by an adjacent owner or contractor.

Among the miscellaneous provisions included in the new charter, the city would be authorized to make financial appropriations and allocations to private and public nonprofit institutions to fund the arts. This is a well-intentioned attempt to fund cultural workers in Detroit, but it raises questions and concerns about the propriety of public money being funneled to private institutions that contribute to the arts, and the method for funding oversight. Also of note, the proposed charter provides specific annual funding for the Charles H. Wright Museum of \$3.5 million, adjusted for inflation. The city would also be required to contribute an annual minimum of \$550,000 to an endowment fund for the museum. This provision is unusual because no other article or section in the charter specifies a dollar amount for an annual appropriation. There is also no other instance in the city charter or by ordinance where the city is required to contribute annually to an endowment. Such provisions would lock the city into paying a specified, fixed amount annually.

The proposed charter provides for new programs and services related to affordable housing, responsible

contracting, labor neutrality, labor relations, community benefits agreements, compensation equity, and the creation of Wage and Standard Boards. The city would be responsible for creating measures to address housing affordability and would create new median income calculations which would cost Detroit federal block grant dollars. The city would be charged with establishing an affordable housing development and preservation fund. The proposed charter would require Wage and Standards Boards to be created for industry sectors operating with the city to support, maintain, and encourage local industries and jobs.

The city would be required to establish a proportional method to fund the planning, monitoring, and administration of elections. The funding system would include a formula to distribute funds to the election commission and Department of Elections not falling below 95 percent of the median budget for the previous five election years, unless otherwise enacted by ordinance.

The city is to establish a pre-bankruptcy procedure in the case that the city must file for bankruptcy again. The provision adds that the city council and the mayor must provide the public at least a five-day notice. This provision may conflict with the state law, Public Act 436 of 2012, related to the bankruptcy agreement the city made with the state. In addition, if the city were to fall back into a dire financial situation the appointment of an emergency manager to manage the fiscal crisis would put these provisions at risk for being ignored as emergency managers have the power to suspend any ordinances and charter provisions found inconvenient.

Lastly, the city would be required to establish a budget reserve in the General Fund to be funded and maintained at no less than five percent of projected expenditures. While creation of a budget reserve is a laudable goal and generally looked upon favorably by outside credit rating agencies, future Detroit residents might question locking up scarce resources in recessionary times at the expense of city services.

Other new cost pressures stand to be less significant on their own but may be significant in the aggregate, including:

- Elections department (additional voter education, outreach, staffing, and training required)
- Paid time off so city employees can vote
- Compensation of community advisory councils
- New training methods required for police officers
- New Mayor Coleman Young monument
- Environmental justice health fund (mandatory annual funding of 0.02 percent of city budget)
- Youth summer employment program (number of teens to be hired to be determined jointly by mayor and city council)
- Police officer annual psychological and physical examinations
- Overassessment relief program

Detroit has a relatively weak tax base. As such, it levies taxes at the highest rates authorized by state law and levies every tax at its disposal under state law. Local tax revenues for the city include income tax, property tax, utility users' tax, and casino wagering tax. It receives state revenue sharing amounts out of proportion to other Michigan cities which include a sales tax and a gas and weight tax. Detroit's opportunities to increase funding rests in expanding its tax base.

Under these circumstances, the city council and mayor will be challenged to maintain balanced budgets under the proposed charter. It would mandate spreading a finite amount of resources over a larger number of cost centers. Doing so will require policy makers to divert funding currently allocated to public safety, parks and recreation, refuse collection, and other services.

Detroit filed Chapter 9 bankruptcy in 2013. Failure to divert current funding in the event that the proposed charter passes may result in budget deficit and the risk that it returns to bankruptcy. In December 2014 Detroit confirmed the plan of adjustment which trimmed \$7 billion in debt from the city's balance sheet and promised improved resident services. A state-appointed Financial Review Commission (FRC) was installed in 2014 to oversee city finances and was given final say on all city budgets, collective bargaining agreements and contracts larger than \$750,000. In 2018, Detroit regained control of its finances when it emerged from the strict oversight of the FRC as a result of successfully balancing the budget for the preceding three years. Under the terms of its bankruptcy agreement, the city is to maintain a balanced budget and must submit a balanced four-year plan to the FRC requesting a waiver every year. The FRC granted the city its third annual waiver of active oversight on June 29, 2020, and must consider a fourth annual waiver by June 30, 2021.

Conclusion

A new Detroit City Charter will be presented to voters at the August 3, 2021, primary election. Detroiters will be voting on the February 27 draft that was rejected by Governor Whitmer due to its legal deficiencies. Since this charter presents many legal deficiencies, city leaders will want to plan for several charter amendments soon after adoption. If adopted, these amendments should attempt to bring the charter in compliance with state law. Otherwise, many provisions in the charter would be subject to legal challenges and ruled on in a court of law.

The proposal is the result of three years of work by the nine-member Charter Revision Commission which was elected to office and impaneled by Detroit voters in 2018 to address quality-of-life issues such as water access, affordable transit, affordable housing, increased citizen participation, and strengthened oversight. The proposals brought by the commission were driven by citizen input and serve to address long standing issues in the city related to social equity, social justice, racial justice, criminal justice, government transparency, and citizen representation. However, many of the provisions seem to be specific to the time we are living in now. Provisions that create specific taskforces, mandate fixed annual appropriations, enforce election processes and technologies, mandate the provision of specific services, and memorialize specific individuals or groups of people may be appropriate today, but may not be relevant in the future. This charter seems to be written specifically for 2021 as it addresses many issues and problems in our political and social climate. Is it, however, a charter for 2030 or 2050?

If adopted by a vote of the citizenry, it can only be changed by an amendment put forth to the voters or by a periodic general revision which would next take place in 2038. Taking this into consideration, it is important for voters to understand that the charter functions as a nearly immutable document. It provides the framework for city government and, generally, avoids overly prescriptive measures that would prevent city government and city officials the

flexibility to respond to changes the city will inevitably undergo. Many of the specific provisions that are proposed in the new city charter can be addressed through the ordinance process or amendments to the current charter. Other options for enforcing some of the specific provisions proposed by the charter include developing public and private partnerships in the city to implement and fund programs; engaging the city's vast non-profit sector to assist with the provision and implementation of services and programs; engaging the vast number of foundations that work and serve the city on a variety of social justice and equity issues; utilizing state and federal resources and programs that are in discussion by the current administrations to address a range of issues including, but not limited to public health, disability rights, access to transit, police reform, water access, environmental justice, housing accessibility, and infrastructure.

It is important for voters to understand that not every issue concerning local government belongs in the city charter; some issues may be better handled in other ways. Before voting on whether to revise the charter, voters should consider a few questions:

Can this problem be addressed by a change in policy or the passage of an ordinance by city council?

Should a solution to this problem be sought by putting new officials in office?

Might state or federal legislation and programming address this problem more effectively?

Can the change be made by a charter amendment brought forth by city council as opposed to a charter revision?

If the answer to any of these questions is "yes," that issue is probably not suited to be a provision that is included in the city charter or is an issue that can be added to the charter by amendment rather than complete revision.

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