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Detroit City Charter Revision

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On November 2, 1993, as provided in the 1974 charter, voters of the City of Detroit will determine whether a charter commission will be established to revise the current charter. This series is being financed in part by grants from Community Foundation for Southeastern Michigan, Hudson-Webber Foundation, and Matilda R. Wilson Fund, and NBD Bank.

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DETROIT CHARTER REVISION--A BRIEF HISTORY

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Home Rule in Detroit

An enduring improvement in the way cities in Michigan are incorporated occurred early in this century when local home rule was authorized by the 1908 Michigan Constitution. Before then, city charters were drafted in Lansing, by the state Legislature, and handed down to local communities. Indeed, Detroit's first three "charters," in 1802, 1815 and 1857, were written by the Michigan Legislature.

A home rule charter is the city's articles of incorporation. It creates the offices of city government. It prescribes the manner for selecting people to hold those offices. And it defines the nature and extent of the powers and duties of the officeholders.

The Constitution of 1908 (Article 8, Section 21) and the Home Rule Cities Act (P.A. 279 of 1909, as amended) authorized the citizens of a city to elect a commission to frame a charter to provide for the governance of the city. Detroit's first try for a locally drafted or home rule charter ended in failure in 1914. But the city tried again, and in 1918 adopted a home rule charter that instituted the strong mayor-council

form of government.

The 1918 charter served as Detroit's constitution for 56 years, until replaced by the current charter in 1974. Besides the strong mayor-council plan, the 1918 charter reduced the size of Detroit's legislative body from 42 to 9, and changed the manner of its election from wards (two from each of 21 wards) on a partisan basis, to at-large and nonpartisan.

True to its era, this charter also contained numerous legal constraints that intended to ensure that "rascals" would be kept out of city employment. This early 20th-century negative emphasis was reflected in the minute detail found in the charter for functions such as personnel, accounting, and purchasing systems. With the passage of time, these constraints came to be seen as counter-productive, preventing desirable action. In its 56 years, the 1918 charter was amended over 200 times.

By the late 1960s, many were convinced that Detroit's horse-and-buggy-era charter was unduly hampering the administration of urban renewal, social programs, affirmative action and other new programs that were characteristic of

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the 1950s and 1960s. Thus, in 1968, Mayor Jerome P. Cavanagh appointed a charter study committee chaired by Judge John D. O'Hair (now Wayne County Prosecutor) to evaluate the much-amended 1918 city charter and to recommend whether necessary changes could best be accomplished by a series of amendments or by a complete revision. The O'Hair committee recommended that the city's constitution be completely rewritten.

The primary goal was not to change from the basic plan of executive government which was judged to have served the city well, but to retain that governmental form in a shorter, clearer, more generic charter and to eliminate many legal constraints that restricted elected leadership like handcuffs.

Experience has shown that, for effective governance, there is no substitute for a modicum of trust in elected leadership. Charter restraints were powerless to compel "good faith" official action, but often did have the unintended consequence of impeding innovation in administrative problem-solving. The Detroit charter revision effort two decades ago attempted to eliminate obstacles that the currently popular book by Osborne and Gabler, Reinventing Government, is still talking about: "If by making corruption virtually impossible we also make quality performance virtually impossible, have we done a good thing?" (page 137).

The Report of the Mayors Charter Study Committee was submitted in November 1969. In 1970, the city council placed on the August 4 primary election ballot both the question of electing a charter commission and the nomination of 18 candidates for the commission. The voters approved the calling of a charter commission in August (109,000 "yes" to 82,000 "no") and in November 1970 elected at-large on a nonpartisan ballot nine charter commissioners.

The 1970-1973 Charter Revision Effort

A charter commission's task is to draft and approve a proposed, revised city charter, and submit it first for gubernatorial review and then for voter adoption or rejection. A charter commission has a maximum of three years to complete its task, but may end sooner if a revised charter is adopted by the voters or if three revision proposals are rejected by the voters.

The state enabling act limits the compensation to be paid a charter commissioner to a per them for not to exceed 90 meetings. The Detroit City Council set the amount of the 1970-73 charter commission per them at \$75, and has now set the same compensation for the 1993 charter commissioners. The annual salary of the Detroit City Council 20 years ago was \$17,500 and is today \$54,000 (\$60,000 less a 10% pay cut).

The procedures of the 1970-73 Detroit Charter Revision Commission provide a good example of how charter commissions operate. The charter commission elected on November 3, 1970, held its initial meeting on November 30 and proceeded to organize, elect officers, and adopt rules of procedure. The main work of the 1970-73 commission was accomplished in a 20-month period beginning in early 1971. During this period, the commission had a staff comprised of an executive director, two deputies, an administrative secretary, and three clerical secretaries. Its budget, appropriated from the City general fund, was \$125,000 in fiscal 1970-71, \$190,000 in fiscal 1971-72, and \$170,000 in fiscal 1972-73--a total of \$485,000.

The commission held over 50 general open meetings at which it heard views expressed by officials and citizens, including eight meetings in Detroit neighborhoods that were televised on WTVS. In addition, its eight subject-matter subcommittees held an even greater number of

open meetings at which charter policies were formulated and initial drafts prepared. Policy drafts on charter subjects from the subcommittees were introduced and underwent “three readings” of debate and approval at general meetings of the commission.

By Memorial Day 1972, a single, consolidated revised charter was finally assembled and approved by the commissioners as a “Discussion Draft.” This draft called for converting from nonpartisan to partisan elections and continuing at-large election of the city’s legislative body. Five thousand copies were distributed throughout the city and additional public meetings were held in June and July of 1972.

The comments generated by this “Discussion Draft” convinced the commission that, in addition to asking voter approval for the main revision proposal, it would offer two separate proposals allowing the voters to decide directly whether to convert to partisan elections and whether to continue at-large council elections. On September 7, 1972, the commission set in motion the gubernatorial review and other steps necessary for the vote by the people on November 7, 1972.

At the November 1972 election, the main revision proposal itself lost narrowly (51-49%), but the separate items were settled decisively: 67% wanted to retain at-large elections of the council, and 63% opposed changing to partisan elections.

Since its three-year tenure had time remaining, the commission met again in early January 1973 and decided to try a second time. It modified its revision proposal by incorporating the voters’ preferences on the two separate items. The other principal modification involved the rewriting of the chapter on the police department to include a civilian police commission to advise on policy and to review disciplinary cases. On August 3, 1973, the commission approved this revision proposal, and directed that it again be

presented at the November 6, 1973, election for adoption or rejection by the voters.

In summing up its work in the Final Report to the People of Detroit, the commission expressed confidence that Detroit’s second home rule charter would be “a great improvement over the present charter,” because it better defined the respective roles of the two branches of government, was less wordy, and more flexible:

It strengthens both the executive and legislative branches and more clearly defines their respective roles. It attempts to address today’s problems. Yet it provides a greater flexibility in responding to changing circumstances. It is clearer and easier to read. And having reduced the number of words from 145,000 to 25,000 (1/6 the old charter’s length), it is much briefer.

On this second opportunity, Detroit voters adopted the proposed charter (186,283 to 140,697), and it took effect as the city’s constitution on July 1, 1974.

Charter Revision and Amendment

The 1970-73 charter commission recognized that circumstances change and no charter can be expected to last forever. State law provides alternate procedures for charter change--amendment and general revision by an elected charter commission. Both proposed amendments and the question of general revision of the charter can be placed on the ballot by three-fifths vote (6) of the city council or by initiative petition of five percent of the registered voters (5% = 28,638 signatures). Adoption in either case requires voter approval. In addition, the charter provides that periodically—in 1993 and every 16 years thereafter—voters should decide whether to undertake a “general revision of the City charter.” This is an idea the charter commission borrowed from the 1963 Michigan Constitution.

Amendment The 1918 charter had been amended over 200 times by the time it was replaced in 1974. There have been 17 proposed amendments to the 1974 charter submitted to the voters, 13 of which were approved. All 17 proposed amendments were submitted by the city council. None has been initiated by the voters.

The only explicit restrictions on amendments in the Home Rule Act are:

1. A proposed amendment shall be confined to one subject;
2. If the subject covers more than one related proposition, each proposition shall be submitted separately; and,
3. A defeated amendment cannot be resubmitted for two years.

The courts have held that “A change in a city charter that only amends, alters, or improves within the lines of the original charter, is an amendment; but if the change totally disrupts, cancels, abrogates or makes inoperable the original charter, it is a revision.” Proposed changes of either type are subject to review by the governor and to approval by the voters.

Revision A change in the basic form or system of city government can be done only by revision of the charter drafted by an elected charter commission and approved by the voters. A charter commission could rewrite and revise the entire charter, or alternatively, it could conclude that no change is needed or that only selected changes are required. If no change is needed, the commission would simply adjourn after completing its review. If selected changes were

needed, the commission would incorporate those

in a revised charters submit it to the governor for review, and to the voters for approval . A charter commission cannot submit only amendments to the voters. It can, however, submit a proposed revised charter along with specific alternative provisions to the voters for their separate approval as was done in the original charter revision submitted in 1972.

On November 2, 1993, the voters will decide whether there shall be a general revision of the city charter and will elect at-large nine charter commissioners from among the 18 nominated at the September 14, 1993, primary election. If the question of calling a commission is approved, then the commissioners will convene on November 16, 1993. If the question is rejected, the election of the commissioners is a nullity.

In deciding what position to take on the issue of charter revision, voters will want to consider the strengths as well as the weaknesses of the present city charter. Voters will further want to consider whether any problems they perceive are the result of the form, structure, powers and procedures of city government as set forth in the charter or of the elected leadership of the city.

As Alexander Pope pointed out over 250 years ago, “For forms of government let fools contest, What'er is best administered is best.” This is not to discount the importance of the form and structure of city government found in the charter, but to caution against over-optimism about what a charter can accomplish. The skills, good faith, and spirit of cooperation of the people elected to lead the city may be just as important as perfection in the drafting of the charter.

