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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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EXECUTIVE BRANCH ORGANIZATION

The 1974 Detroit City Charter establishes the mayor as the head of the executive branch of the city government, with responsibility for implementing programs, services, and activities. Me charter created and protected from reorganization five staff departments (Budget, Finance, Law, Personnel, and Planning) and -six operating departments (Arts, Historical, Human Rights, Police, Water and Sewerage, and Zoological). Eight other operating departments were created but not protected from reorganization under the executive reorganization powers granted to the mayor. The charter created, assigns very specific responsibilities to, and carefully defines structures and procedures for some departments (Finance, Personnel, Budget, and Police), while making very general statements about the city's responsibility in other departments (Recreation, Environmental Protection). In other areas (health, library), the charter creates responsibilities but does not establish departments. In addition to creating specified departments and protecting some of those departments from reorganization, the charter also assigns to the mayor the authority to organize the activities of the executive branch by defining, assigning, and reassigning other activities, programs, and services.

The charter provides that the mayor generally appoints the heads of executive departments without City Council approval. The mayor also appoints the members of numerous boards and commissions.

Reorganization Powers

The 1974 Charter (Section 7-102) establishes and defines the executive branch reorganization powers of the mayor. The mayor is required to prepare an executive organization plan that identifies all executive agencies and their programs, services, and activities; executive agencies existing at the time the charter was adopted were protected until superseded by the executive organization plan. The plan must be filed with City Council, which may request modifications. Sixty days after filing, the plan becomes effective with those modifications that the mayor approves, unless disapproved by a two-thirds majority of City Council. Only the mayor may submit amendments to the plan.

According to the charter, the executive organization plan must include the mayor's office, five staff departments and six of the operating departments established in the charter. The mayor's authorized to reassign functions, combine departments, and create other departments. Not more than 35 departments may be included in the plan unless an ordinance is passed by City Council to allow for a larger number.

An executive organization plan containing 33 departments was submitted to the Detroit City Council on April 2, 1974. That plan reflected charter mandated changes such as the consolidation of the Controller's Office, Board of Assessors, Purchases and Supplies, and City

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Treasurer into the new Finance Department and the elevation of the Budget Bureau of the Controller's Office into a separate department, and other changes that were not mandated, such as combining the Parking Enforcement Division of the old Streets and Traffic Department with the Municipal Parking Authority to create the Municipal Parking Departments and the creation of a new department from the City Engineer's Division of the Department of Public Works. Most of the existing city executive departments received new names, particularly those that were previously labeled "Commissions" and "Mayor's Committees," and some functions were transferred to new departments.

The structure of Detroit city government has continued to change since 1974. Changes in federal grant programs have driven the evolution of the new city departments of Employment and Training and Neighborhood Services. The city government no longer includes departments of Hospitals, Human Resources, Model Neighborhood, Youth, or Corrections, all of which were part of the 1974 executive reorganization plan. A nonprofit trauma hospital replaced the last of the municipal hospitals, some federal grant programs were eliminated, and the county and state assumed responsibility for operating correctional institutions. The Council of the Arts Department was established and then submerged in the Recreation Department. The most recent of various amendments to the executive reorganization plan was submitted to the City Council on May 14, 1992; this amendment transferred Hart Plaza from the Civic Center Department to the Recreation Department and Traffic Engineering Division from the Department of Transportation to the Department of Public Works.

1974 Executive Organization Plan

Key: Charter Protected Departments in **BOLD CAPITALS**

Charter Established Departments in **Bold**
Executive Organization Plan Departments
in Lower Case

Staff Departments:

BUDGET

FINANCE

LAW

PERSONNEL

PLANNING

City Engineering

Data Processing

Public Information

Operating Departments:

ARTS

HISTORICAL

HUMAN RIGHTS

POLICE

WATER & SEWERAGE

ZOOLOGICAL PARKS

Airport

Building

Civic Center

Community & Economic Development

Consumer Affairs

Corrections*

Environmental Protection

Fire

Health

Hospitals*

Human Resources Development*

Model Neighborhood*

Municipal Parking

Public Housing

Public Lighting

Recreation

Senior Citizens

Transportation

Youth*

* Since eliminated. New departments are Employment and Training, and Neighborhood Services.

Appointment Authority of the Mayor The 1974 charter (Section 5-103) expanded the appointment authority of the mayor: except as otherwise provided, the mayor appoints the director of each executive department. Mayoral appointment of the corporation counsel requires the consent of the City Council; other appointments of department directors do not require council consent, but the charter does require Human Rights Commission approval for the mayor's appointments to the positions of director and deputy of the Human Rights Department.

The charter provides that, in some cases, the mayor appoints a department board or commission which has responsibility for appointing the department director. The mayor must obtain City Council consent for appointments to the board of police commissioners, but not to other boards and commissions. The mayor appoints the members of the civil service commission, who appoint the personnel director subject to the approval of the mayor. The mayor also appoints the members of the board of water commissioners who appoint the Water and Sewerage Department director and deputy with the approval of the mayor. The city's cultural departments (Arts, Historical, and Zoological) are headed by commissions appointed by the mayor; those commissions appoint the department director and deputy subject to the mayor's approval.

The mayor is authorized by charter to appoint specific deputy directors and division heads: the deputy fire commissioner; the three members of the board of assessors, which heads the assessments division of the Finance Department; and the head of the labor relations division of the Personnel Department.

The charter (Section 5-105) specifies that, except as otherwise provided, each executive department director shall, with the consent of the mayor, appoint a deputy. Certain department heads may appoint designated division heads:

the finance director is authorized to appoint, with the consent of the mayor, the chief accounting officer, the treasurer, and the purchasing director; and the fire commissioner appoints the fire chief, two deputy chiefs, and the fire marshall subject to the approval of the mayor. The right of department directors to appoint their deputies and designated division heads was abridged immediately. The 1974 Executive Organization Plan submitted to council listed deputy director and designated division head positions among the 85 paid mayoral appointments (there had been 62 mayoral appointments prior to reorganization).

There are two very unusual appointment relationships. The mayor appoints both the chief of police to administer the Police Department and the members of the Board of Police Commissioners to establish policies, rules, and regulations for the department and to investigate complaints concerning the department. The Board of Police Commissioners appoints a board secretary, investigative staff, and other board staff, as well as the director of police personnel, who must be a civilian. The chief of police, with the consent of the board, appoints deputy chiefs. Interestingly, the 1974 Executive Organization Plan lists police commissioners (but no other commissioners), the board secretary, chief investigator, chief of police, two deputy chiefs, and the director of police personnel all as mayoral appointments. In the other unusual appointment situation, which is established not in the charter but rather in state law, the independently elected members of the Detroit Board of Education appoint the Library Commission which appoints the director of the semi-independent Detroit Public Library.

Although the charter limits the appointment authority of the mayor to members of boards and commissions, executive department heads and a few other specified positions, the goals of affirmative action and the realities of political control have resulted in Mayor's Office ap-

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proval of promotions to the higher levels within the civil service system for both uniformed and civilian employees. This degree of control has no charter or other legal basis.

Boards and Commissions

In addition to establishing 19 executive departments other than the Mayor's Office, the charter also established 18 executive branch boards, commissions, or councils, and provides (Section 7-103) that the mayor may establish an unlimited number of additional advisory commissions to advise any agency or branch office.

A Board of Ethics composed of the corporation counsel, the personnel director, and three city residents appointed by the mayor was created (Sec. 2-106) and charged with responding to written requests for advisory opinions from elective officers, appointees, employees, or the superiors of appointees or employees of the city.

The five-member Civil Service Commission, which appoints, with the consent of the mayor, the personnel director, has operational responsibilities. It is charged (Section 6-513) with providing a procedure for the final resolution of any grievance brought by or against a classified employee of the city and is authorized (Section 6505) to hold hearings, subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

Duties of the Board of Police Commissioners are listed in the charter (Sec. 7-1103) and include establishing policies, rules, and regulations; reviewing and approving the Police Department budget request; receiving and resolving complaints; disciplining Police employees; and making annual reports.

The boards of the Arts, Historical, and Zoological Parks Departments appoint the department directors and deputies subject to mayoral approval and have no other charter responsibility. The Council of the Arts may appoint a director

subject to the availability of appropriations; the appropriation has been eliminated.

The Executive Planning Council (Sections 6-206 through 6-208) is composed of the planning director, the directors of departments charged with eight specified responsibility areas or their designees, and other persons whom the mayor may appoint. This council is charged with advising the Planning Department concerning the development needs of, and activities within, the city.

The charter requires that all members of advisory commissions be Detroit residents unless the mayor expressly states otherwise in the executive order and indicates the reason for allowing nonresidents to serve. The mayor must endeavor to make city-wide advisory commissions as representative of the entire city as possible and any commission created to advise a branch office of any agency as representative of the people being served as possible (Section 7-103). The Advisory Commission for Recreation is to include one representative from at least eight districts.

Charter established boards and commissions include the following (number of members in parenthesis):

Advisory Commission for Environmental Protection (at least 5)

Advisory Commission for Recreation (members from 8 or more districts)

Advisory Commission for Health (5) Advisory Commission for Transportation (at least 5)

Arts Commission (7)

Board of Assessors (3)

Board of Ethics (Corporation Counsel, Personnel Director, 3 public members)

Board of Police Commissioners (5)

Board of Water Commissioners (7)

Civil Service Commission (5)

Consumers Council (department director plus 12)

Council of the Arts (15)

Executive Planning Council (9 department directors and others)
 Fire Advisory Commission (4 may be appointed)
 Historical Commission (5)
 Human Rights Commission (11)
 Public Lighting Commission (5) Zoological Department Commission (5)

The 1974 executive organization plan included additional multi-member advisory bodies for the Airport, Civic Center, Corrections, Housing, Hospital, Human Resources, Model Neighborhood, Municipal Parking, Senior Citizens, and Youth Departments.

The Issues

Although the 1974 executive reorganization plan has been amended, no new plan incorporating all those amendments has been prepared, nor does the charter specifically assign to any agency responsibility for maintaining an updated plan and making that plan available to the public. There is no requirement that a new executive organization plan be filed at regular intervals, such as after every mayoral elections nor that each new mayor must file a plan. An existing executive organization plan presumably continues in effect from one mayoral administration to another until superseded or amended. The Personnel Department prepares organization charts of city departments at intervals of several years; these charts are not compared to the executive organization plan to insure compliance or to detect needed amendments.

The city executive has accrued greater appointment authority than would be assumed by a reading of the charter. The mayor's appointment authority has been extended beyond that prescribed in the charter to include not only deputy directors but also commission administrative coordinators who function as political extensions of the mayor's office.

Advisory and policy making boards and commissions have not functioned as planned. These

bodies do not regularly provide constructive input about departmental policies or operations, provide effective oversight, or insure accountability. Instead, they are generally composed of figurehead positions used to acknowledge and reward political supporters of the mayor. Boards and commissions diffuse responsibility; extensive use of boards and commissions could be reevaluated.

The charter recognizes the possibility of city agencies and activities being taken over by another unit of government and of activities of another private or public organization being taken over by the city, and provides for the protection of city employees in these transfers. Authors of the 1974 Detroit City Charter recognized community services areas and included provisions that could have led to decentralization and community level government.

There is no explicit acknowledgment in the charter that the service area for certain functions is regional. The charter protects from reorganization the Arts, Historical, Zoological, and Water and Sewerage Departments. There is a question as to whether amendment of the charter would be required to eliminate any of these functions or transfer any of them to a regional authority. The city's declining tax base and reductions in state and federal funding make continued city provision of regional services increasingly difficult. Although the charter recognized the need and provided the opportunity for the city to restructure or shift responsibilities in health, hospitals, sanitation, and other functions, some charter provisions actually impede regional solutions. A city Transportation Department was created, but a regional public transportation system capable of moving Detroit residents to job opportunities in the suburbs was discouraged by charter limitations Section 7-1404 provides: the city may not sell or dispose of property needed to continue the operation of the city's public transportation operation without voter approval; the city may not grant any

public utility franchise for transportation services that is not subject to revocation by the City Council unless approved by three-fifths of the voters; and contracts franchises, grants, leases, or other transfers that violate the limitations section are declared void. The charter allowed the city government to eliminate city operated hospitals and jails, but impedes the restructuring of public transportation and of protected cultural facilities.

The 1974 Detroit City Charter defined and protected departments and functions that reflected the concerns of the charter commissioners and

the voters at the time the charter was being developed. The structure created in the charter is often too fragmented to be effective and certain of the departments protected by the charter lack sufficient resources to adequately address problems or provide services. If the city is to be administered under a strong mayor-council form, it may be advisable to allow the elected chief executive to structure staff and line agencies with maximum flexibility. General functions that voters determine should be part of city government may be protected, but the charter should provide only the broad framework of the city government structure.