

Powers of the Mayor of the City of Detroit

A Summary

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Preface

The executive powers of the Mayor of the City of Detroit begin, but do not end, with the formal powers and duties detailed in the Detroit Charter or in state law. The Mayor can make appointments, formulate and execute a budget, and plan the reorganization of city government. These formal powers are important, but they do not paint a complete picture. Other powers, largely involving communication, are available as well, and the effectiveness of a Mayor will in part depend on how well these informal powers are used.

This summary emphasizes the formal powers, but the ability of a Mayor to use the media, to represent the City on official or ceremonial occasions, to communicate a vision of a political direction may be as important as the formal powers that may be available. Success as an executive will require skillful utilization of both the formal and informal powers available to the Mayor.

Executive Power: Nature, Derivation, and Limits

The Nature of the Executive

A brief dictionary definition of “execute” is to “carry out,” not a bad two-word description of the executive power. The role of the executive in government, including city government, is to “carry out” the laws and policies of the jurisdiction. Formulation of those laws and policies may involve the legislative branch and interpretation may involve the judicial branch, but carrying out, or execution, is the province of the executive branch.

The success of an executive will depend in large measure on 1) the extent to which executive powers are available in a formal sense and 2) how well they are employed.

Municipal executive power. The federal government and the 50 states employ “strong” executive forms of government, in which the president and the governors have their own bases of electoral support and may be removed from office only under exceptional circumstances. The U. S. Constitution and the several state constitutions place checks on the executive power that range from relatively mild to fairly restrictive, but the executive function is essentially the same in each state. In addition, although the president and the vice-president are the only elected executive branch officials in the U. S. Government, governors typically share the executive power with other elected state officials, most commonly attorneys general, which are elected or chosen by the legislature or judiciary in all but five states.

Municipalities are another matter. In the strong mayor form, the mayor is separately elected, may be removed only with great difficulty, and shares the executive power with no other elected official, or very few. In the city manager form of government, in which the council appoints a professional manager to administer city affairs, the city manager may exercise executive power only in a fashion deemed acceptable by the council.

Executive power is relatively more significant to municipalities than it is to the national or state governments. Unlike the federal government or the states, cities are not sovereign units of government. They are creatures of the state and have only those powers granted to them by the state constitution or the legislature (which, in a home rule state, such as Michigan, may nonetheless be significant). As a consequence, most of the time and resources of the city are taken up by the administration of municipal functions. Because many major policy decisions, such as how to raise revenue and which services may be provided, are heavily constrained by state law, city councils tend to act as oversight bodies and as checks on the executive, with relatively less emphasis on policy and program development.

Derivation of Executive Power in the City of Detroit

The powers of any governmental official flow from both formal and informal sources. Formal sources include the laws governing the jurisdiction; informal sources include the position of the official as public figure and as representative of various interests.

The primary formal source of power for the Mayor of the City of Detroit is the 1997 Home Rule Charter. The relationship between the Mayor and the City Council are governed by the charter and this relationship largely defines the powers of each branch of city government.

Although the charter is the basic governing document of the City of Detroit and most mayoral powers may be found there, the charter is not the only source of mayoral power.

Charter. Articles 5-8 of the 1997 City of Detroit Home Rule Charter deal with executive power, and other portions of the charter contain references to it as well. Generally, the charter provides for a separately elected mayor, who retains the veto power, and shares executive power only with the city clerk, who is responsible for elections. The Detroit Charter creates a “strong mayor” form of municipal government.

State law. State legislation prescribing powers for the mayor is relatively limited principally because Michigan has strong provisions, both statutory and constitutional, regarding local home rule. In addition, the 1978 Tax Limitation (“Headlee”) Amendment to the Michigan Constitution requires the state to reimburse local units for the cost of state mandates. Nevertheless, state statutes providing power to the mayor exist, the most notable recent example of which is Public Act 10 of 1999, which provided the Mayor of Detroit with the power to appoint a 7-member School Reform Board to supplant the existing elected School Board. A more mundane example is found in Public Act 621 of 1978, the Uniform Budgeting and Accounting Act, which provides the mayor with certain budgetary powers and responsibilities even if there are no relevant charter provisions.

Ordinance. Much of what the city does in the way of regulating its affairs is done by means of ordinances, which may prescribe a role for the executive in their enforcement. Unlike powers conferred on the mayor by charter or state law, however, powers conferred by ordinance may be altered or withdrawn by action of the city council.

Implied. In the Michigan Constitution, separation of powers among the three branches of state government is secured by sections that provide that the legislative, executive, and judicial powers are vested in their respective branches. For example, Article V provides very simply that

Sec. 1. The executive power is vested in the governor.

No definition of “executive power” is given. Executive power is such a broad concept (as is legislative power) that any attempt to define it would almost certainly be inadequate and result in a false appearance of comprehensiveness and precision. As a result, “executive power” is understood by the courts to include substantially more than the relatively few executive functions detailed in the Constitution.

The situation is not quite the same with respect to separation of powers in municipalities. Many cities have city managers to handle the executive responsibility, but who function only with the consent of the city council, and the “mayor” may be a member of the council. In a strong mayor city, however, implied power may be granted by the charter. In Article 5, the City of Detroit Charter provides that

The mayor is the chief executive of the city and, as provided in this Charter, has control of and is accountable for the executive branch of city government. (5-101)

Except as otherwise provided by law or this Charter, executive and administrative authority for the implementation of programs, services and activities of city government is vested exclusively in the executive branch. (5-102)

The Charter, therefore, acknowledges executive powers that may extend beyond those specifically granted in the Charter.

Limitations on Executive Power

Government at all levels in the United States is based on a system of checks and balances. Municipalities, in addition to having their own internal sets of checks and balances, are subject to state law and oversight. The powers of the mayor in Detroit are limited in four ways.

Subject to Council amendment and/or veto. While the mayor may propose a budget, plans, ordinances, contracts,

appointments, and other policies or actions, the Council frequently has the authority to delay, alter, or block such policies or actions.

Subject to provisions of state law. Although Michigan is a strong local home rule state, Michigan law contains numerous provisions prescribing or limiting actions by cities in general and mayors in particular. Perhaps the most notable example is in the area of public employee relations in which the Public Employment Relations Act (PERA) and Public Act 312 of 1969 set out public employee relations policy in Michigan in significant detail.

Circumscribed by charter. Charter provisions may limit the mayor's powers. In the 1997 charter, for example, a provision ostensibly aimed at facilitating privatization of city services contains so many restrictive requirements that it is more likely to hinder efforts at providing city services through the private sector.

Exercised through commission. The directors of certain major functions—police, fire, water and sewerage, and human rights—are not appointed directly by the mayor, but by commissions, a layer intermediate between the mayor and the department. The commissioners are appointed by the mayor and can be removed by the mayor, but the lines of authority are not as clean as they are with direct appointments.

Charter Powers of the Mayor of the City of Detroit

Implied Executive Power

Sections 5-101 and 5-102 provide that the mayor is responsible for the executive branch, in which is vested executive authority.

Appointments

The mayor has appointment authority derived from the City Charter, from state laws that provide that authority to all municipal chief executive officers, and from state laws that provides specific powers to the mayor of the City of Detroit.

Charter Provisions

Section 5-103 provides for the basic appointment authority of the mayor. Unless otherwise provided by law or charter, the mayor appoints the director of each executive branch department, who then serves at the pleasure of the mayor. Certain departments are excepted from this rule.

Standard appointments. Department directors identified in the charter appointed by and serving at the pleasure of the mayor are:

Budget	Community & Economic Development	Chief of Police
Planning	Consumer Affairs	Public Lighting
Finance	Public Works	Recreation
Human Resources	Fire Commissioner	Transportation
Environment	Historical Commission	Zoological Parks
Building	Board of Water Commissioners	Arts Commission

Directors of departments created under authority of the charter, but not specified in the charter fall under this provision as well.

Exceptions. Departments with appointment methods that are conditioned in some way are:

Department

Nature of condition

Corporation Counsel	Subject to approval of City Council, which must act within 30 days
Arts	Director & deputy appointed by Arts Commission, with approval of Mayor. Serve at pleasure of Arts Commission.
Fire Chief	Appointed by Fire Commissioner
Human Rights	Director & Deputy appointed by Mayor to four-year terms. May not be removed without approval of Human Rights Commission. Human Rights Commission appointed by the Mayor with approval of City Council.
Police Commissioners	Appointed by Mayor to five-year staggered terms, subject to approval of City Council, which must act within 30 days. Serve at pleasure of Mayor.
Water & Sewerage	Director & Deputy appointed by Board of Water Commissioners. Serve at pleasure of Board.

Museums	Director & Deputy appointed by and serve at pleasure of Historical Commission.
Arts Council	Appointed by Mayor to four-year terms. Members serve at pleasure of Mayor. Council may appoint executive director, who serves at pleasure of Council.

State Laws Providing Authority to All Municipal Chief Executive Officers

<i>Act Name</i>	<i>Authority</i>
Business Improvement Districts	The governing bodies of BIDs are appointed by the chief executive officer with the concurrence of the legislative body. If the BID is coterminous with a DDA district, the governing body of the municipality may provide that the board of the DDA, which manages the downtown district, shall compose the board of the BID. (Public Act 120 of 1961, M.C.L. 125.981)
Economic Development Corporations Act	In Detroit, the mayor serves as chairman appoints eight members of the board of directors, with the advice and consent of the city council. (Public Act 338 of 1974, M.C.L. 125.1604)
Neighborhood Development Corporations	In Detroit, the EDC board also serves as the governing board for this corporation. (Public Act 338 of 1974, M.C.L. 125.1604)
Downtown Development Authority Act	Detroit's DDA is under the supervision and control of a board consisting of the mayor and 12 members (this number could be reduced as low as 8 members) appointed by the mayor, subject to the approval of the city council. (Public Act 197 of 1975, M.C.L. 125.1654)
Tax Increment Finance Authority Act	In Detroit, the nine-member EDC board also serves as the governing board for this authority (state law provides that the board may be between 7 and 13 members in size). (Public Act 450 of 1980, M.C.L. 125.1804)
Local Development Finance Authority Act	In Detroit, the LDFA is governed by an 11-member board: seven members appointed by the mayor, with city council approval; two members appointed by the school board; one member appointed by the Wayne; and one member appointed by Wayne County Community College. (M.C.L. 125.2155)
Brownfield Redevelopment Financing Act	Public Act 381 of 1996 established an incentive-based tax credit program to foster redevelopment of contaminated industrial and commercial sites. The governing body is a nine-person board (this number could be reduced but not expanded) appointed by the mayor, subject to the approval of the city council. (M.C.L. 125.2655)
Housing and Slum Clearance Projects	Among the provisions of the act is the establishment of municipal housing commissions. These are to be five-member commissions, appointed by the chief administrative officer. These members serve five-year staggered terms. (Public Act 18 of 1933 (Extra Session), M.C.L. 125.654)
Civil Service for Police and/or Fire Departments	The civil service commission for the police and/or fire department shall consist of three members, one of whom shall be appointed by the principal elected officer of the city, village or municipality with the approval of the legislative body; and he shall serve for a period of six years from the date of his appointment. (Public Act 78 of 1935, M.C.L. 38.502)

State Laws Providing Authority Specifically to the Mayor of Detroit

Act

Authority

Detroit School Reform Board	Public Act 10 of 1999 abolished the elected school board for the City of Detroit School District and replaced it with a seven-member reform board. Six members are appointed by the Mayor of the City of Detroit, and the state superintendent of public instruction or his or her designee serves as the seventh member for the first five years. The seventh member is an appointment of the Mayor after that time. The board members serve at the will of the mayor for four-year staggered terms. (M.C.L. 380.372)
Hertel-Law-T. Stopczynski Port Authority Act	An authority which is established in a county having a population of two million or more (Wayne County) is governed by a five-member board. Two members of that board are to be appointed by the Mayor of Detroit. (Public Act 639 of 1978, M.C.L. 120.105)
Transfer of Certain Medical Buildings to Detroit Medical Center	Public Act 217 of 1979 provided for the transfer of certain powers to the Detroit medical center corporation. The transfer was contingent upon the creation of a 10-member operating board of directors, among other things. The board of trustees of the Detroit medical center corporation had the power to appoint that board, but a majority of the members must be representatives from the City of Detroit, nominated by the Mayor, and from Wayne State University, nominated by the president of the University. (M.C.L. 331.622)
Empowerment Zone Development Corporation Act	<p>Public Act 75 of 1995 was enacted to facilitate Detroit's participation in the federal Empowerment Zone program. Supervision and control is provided by an empowerment zone development corporation. The chief executive officer appoints the members of the board of directors, with the approval of the governing body. (M.C.L. 125.2573)</p> <p>The chief executive officer may impose sanctions upon the corporation board based on periodic reviews as prescribed by an ordinance of the municipality and with the approval of the governing body of the municipality. (M.C.L. 125.2585)</p>
Public Health Code	Two or more counties, or the City of Detroit, by a vote of their governing bodies and with approval of the Michigan Department of Community Health, may unite to create a district health department. If the city is involved, the district board of health shall be composed of two members from each county board of commissioners and two representatives appointed by the mayor of the city. (Public Act 368 of 1978, M.C.L. 333.2415)

Representation

The Mayor, as the chief executive officer, often acts as a spokesperson and representative of the city. While this capacity is generally unofficial, at least one state law formalizes this capacity.

Act Name

Authority

Metropolitan Transportation
Authorities Act of 1967

Public Act 204 of 1967 specifically addresses the provision of public transportation in southeast Michigan. Among its provisions is the establishment of the Regional Transit Coordinating Council. This body is comprised of the Mayor of the City of Detroit, the chief executive officers of Wayne County, Oakland County, and Macomb County. (M.C.L. 124.404a)

Budgeting

The principle that the power of the purse rests with the legislative branch goes back to the Magna Carta. The U. S. Constitution and the constitutions of the 50 states contain requirements that no money is to be withdrawn from the treasury except pursuant to appropriations made by law, an appropriation being a legislative authorization to spend.

Public Act 621 of 1978, which prescribes uniform local budgeting in Michigan, requires legislative appropriations to occur before spending may be authorized. The Detroit charter (Section 8-302) provides that “no obligations shall be incurred against, and no payments made from, any allotment or appropriation except in accordance with appropriations duly made.”

Despite the central role of the legislative branch in the budget process, the Mayor, nevertheless, has significant budgetary powers. The City Council may have the responsibility for adopting the budget, but the Mayor has major responsibilities in preparation, amendment, administration, and financial reporting.

Preparation.

The Uniform Budgeting and Accounting Act says that the mayor, as the chief administrative officer, has final responsibility for budget preparation, presentation of the budget to the legislative body, and the control of expenditures under the budget and the general appropriation act.

The mayor, as the chief administrative officer, must prepare the recommended annual budget for the ensuing fiscal year in the manner provided in sections 15 to 20a of the Uniform Budgeting and Accounting Act.

Section 8-203 of the charter provides that the Mayor is to prepare the budget for consideration by the Council. Section 8-204 requires the budget to be a complete financial plan for the next fiscal year, including all estimated revenues and all proposed appropriations.

Adoption.

The Uniform Budgeting and Accounting Act says that the mayor, as the chief administrative officer, must transmit the recommended budget to the legislative body according to an appropriate time schedule developed by the local unit.

The Uniform Budgeting and Accounting Act requires the mayor, as the chief administrative officer, to furnish to the legislative body information the legislative body requires for proper consideration of the recommended budget. (M.C.L. 141.434)

By charter, the Council is responsible for budget adoption, which constitutes 1) making appropriations; 2) levying the property tax; and 3) authorizing any specified bonds. (Section 8-209) Appropriations are to be

made in the form recommended by the Mayor. (Section 8-205) The proposed budget is subject to amendment by the Council and may be adopted with or without amendment. The Mayor may veto any amendments, which are subject to a 2/3 Council override vote. (Section 8-208)

Amendment.

The Uniform Budgeting and Accounting Act says that the mayor, as the chief administrative officer, is responsible for keeping expenditures in line with revenues during the fiscal year. If, during a fiscal year, it appears to the chief administrative officer or to the legislative body that the actual and probable revenues from taxes and other sources in a fund are less than the estimated revenues, the chief administrative officer shall present to the legislative body recommendations which, if adopted, would prevent expenditures from exceeding available revenues for that current year. (M.C.L. 141.437)

The Detroit Charter provides that if, during the fiscal year, the Mayor advises the Council that revenues in excess of those estimated in the budget are available, the Council may make supplemental appropriations. (Section 8-210) Upon written request of the Mayor, the Council may transfer the unencumbered balance from one program, service, or activity to another. (Section 2-211)

Administration.

The budget powers prescribed to the Mayor of the City of Detroit by state law are those prescribed to all chief administrative officers of all local units of government. In general, state law requires that the mayor, or chief administrative officer of a local governmental unit, be responsible for the financial affairs of the unit.

Public Act 2 of 1968, Uniform Budgeting and Accounting Act, requires that the state treasurer prescribe uniform charts of accounts for all local units of similar size, function, or service. The official who by law or charter is charged with the responsibility for the financial affairs of the local unit shall insure that the local unit accounts are maintained and kept in accordance with the chart of accounts. (M.C.L. 141.421)

The budget director is responsible for making allotments (periodic allocations of appropriations) in Section 8-301 of the Detroit Charter in accordance with work programs submitted by the agencies.

Financial reporting.

The Uniform Budgeting and Accounting Act requires the mayor, as the chief administrative officer, to prepare an annual financial report (local unit fiscal report) which is uniform for all local units of the same class. (M.C.L. 141.424)

The Municipal Finance Act requires that the mayor, as the officer of the city in charge of the financial records, must file with the state department of treasury each year a report setting forth as of the end of its fiscal year the amount and description of all outstanding bonds, notes, purchase contracts, and other obligations, if any, whether governed by this act or not, and the debt retirement or sinking fund assets applicable thereto. (M.C.L. 133.5)

Section 6-301-306 of the Detroit Charter provides that the finance department is to encompass 1) accounting (financial records and reporting); 2) treasury (collection and disbursement of funds); and 3) purchasing (procuring property and services; selling, leasing, or transferring city personal property).

Auditing is the responsibility of the Auditor General, an appointee of the City Council.

Organization

Under the Charter, the Mayor is to prepare an organization plan setting forth all agencies of the executive branch and assigns authorized programs, services, and activities to each agency (Section 7-102).

The reorganization power of the Mayor is somewhat limited. First, the plan must include the six city departments created in Section 6 of the Charter (Budget, Planning, Finance, Law, Human Resources, and Environmental Affairs). Second, it may not provide for more than 36 departments, unless provided for by ordinance. Third, the Mayor may not reassign or combine the functions of the six Charter-mandated departments, but may assign functions of operating departments (except for Arts, Historical, Human Rights, Police, Water and Sewerage, and Zoological Park) to staff departments. Finally, the Mayor's plan can be disapproved by a 2/3 vote of the City Council.

Purchase and Disposal of Property

Requests for the purchase or disposal of city property originate in the executive branch. Section 4-112 of the Charter requires approval of the City Council to sell or in any way dispose of property. Sale of assets required for city-owned transportation service or water and sewerage service requires majority voter approval. (Sections 7-1404 and 7-1504)

Negotiating Labor Agreements

The Labor Relations Division of the Human Resources Department acts for the city, under the direction of the mayor, in negotiation and administration of collective bargaining agreements. Any negotiated contracts must be ratified by city council before becoming effective.

The process established under Public Act 312 of 1969 providing compulsory binding interest arbitration to police and fire employees, and other emergency personnel, consolidates greater powers with the mayor than is the case for non-emergency personnel provided for in PERA and the City Charter. If the Labor Relations Division proves unable to negotiate a contract, the process goes before a three-person arbitration panel with the decision binding on the municipality and the employees. When Act 312 says, "the employer shall choose a delegate," the Charter grants that responsibility to the Labor Relations Division. While the Charter specifies that the city council must ratify the contract, past court decisions have left the municipalities with little leeway for avoiding the decisions of the arbitration panel.

Ordinances and Resolutions

The Mayor may veto both ordinances and resolutions passed by the City Council. A mayoral veto may be overridden by a 2/3 vote of the City Council. (Section 4-119)

Power and Duties of Department Directors.

Much executive power is exercised through department directors, who have certain powers and duties specified in the Charter (Section 5-106):

- Hire, promote, supervise, discipline, and remove department employees (in accordance with personnel procedures laid out in Article 6);
- Assign duties and supervise performance;
- Prescribe rules (in accordance with collective bargaining contracts and rule of the Human Resources Department);
- Prepare reasonable rules governing dealings between the department and the public;
- Report on departmental performance;
- Respond to inquiries or investigations of the Ombudsperson, Auditor General, or City Council.

Conclusion

The term “strong” mayor refers to the structural attributes of a particular form of municipal government. Whether the mayor appears weak or strong in any subjective sense will depend on the skill with which the executive power is employed. It will also depend on the extent to which the mayor uses the informal powers of the office, such as access to the media and the ability to speak as the representative of the city.

It is often these informal powers that put a mayor in the public eye. The office puts the mayor in a position to address social concerns of the city’s residents and in a position to influence city council. The office puts the mayor front and center as a spokesperson: welcoming groups to the city and representing the city in such bodies as the U.S. Conference of Mayors. The office allows the mayor to represent the city in certain public/private partnerships. Finally, the office carries a ceremonial role, wherein the mayor is permitted to present the key to the city and asked to appear at weddings, birthdays, funerals, and other events.