



# CRC Memorandum

## ELECTION OF DETROIT CITY COUNCIL MEMBERS

At the August 6 primary election, voters in the City of Detroit will be asked as a result of state legislation whether the method of selecting city council members should be changed from the current at-large system to an election from districts. The question – which will not have a letter or numerical designation because the Wayne County Circuit Court declared it shall appear on the ballot as “State of Michigan Proposal for the City of Detroit” – raises several distinct issues:

1. Should the basis of representation of the Detroit City Council be changed from at-large to districts?
2. Should changes in city structure, such as the basis of representation, be made through the charter amendment process as provided in state law?
3. Is a vote in favor of election of council from districts a tacit endorsement of state infringement on home rule?

### At-Large v District Elections

The August 6 ballot issue will ask a single question:

Shall the existing 9-member at-large city council be abolished, shall the city be reapportioned into 9 single-member election districts, and shall district residency requirements be imposed on candidates for the city council?

The ballot question raises two further questions that will not appear in the ballot language:

Shall the method for determining city council district boundaries involve a 3-member apportionment commission, with 2 members appointed by the mayor and 1 member appointed by the city council?

Shall the method of determining the president of the city council be changed from the person elected to council with the highest number of votes to the person elected in a majority vote of the city council members elected and serving from single-member districts?

### Election of Detroit City Council

There have been numerous changes in the legislative branch of Detroit city government since the early charters that have affected the size of the legislative body, the term of office, and the system of election.

**Early History.** Detroit’s first three charters (in 1802, 1815, and 1857) were written by the Michigan Legislature in times that predated home rule for local units of government. In both the 1802 and 1815 charters the legislative body consisted of 5-member so-called trustees, appointed by the Governor on an at-large basis, serving a 1-year term of office.

Significant changes in the selection and composition of the legislative branch were introduced in the 1857 charter. The legislative body was made elective, on a partisan ballot, for 2-year terms. It also was increased in size to 20 members, called aldermen, with 2 elected from each of 10 wards. As Detroit’s population grew, the number of wards was periodically increased to 21 with 42 elected aldermen, in 1917.

Detroit’s first home rule charter of 1918 was greatly influenced by the municipal reform movement of the era, which advocated changes in municipal election procedures. Among the reforms advanced were changing from district to at-large elections and reducing the size of the city council. The 1918 charter reduced the number of council members from 42 to 9, changed the system of electing council members to at-large, and provided for nonpartisan elections.

Since 1918, Detroit has elected 9 council members, in at-large, nonpartisan elections. The term of office has been 4 years since a charter amendment in 1951.

**Charter Revision, 1970-73.** While the 1974 charter made no change in the provision for electing city council, the 1970-73 charter commission gave extensive consideration to the composition and selection of city council. The issue of returning to district elections was central to this debate.

The proposed revised charter submitted to the voters in

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November 1972, had ballot issues on council election. The proposed charter was defeated; however, the voters gave the commission clear indication of their preferences on the separate questions. The voters, by a 67 percent majority, selected a 9-member city council elected at-large over a 15-member mixed council (8 from districts, 7 at-large), and, by 63 percent, favored nonpartisan city elections.

The commission incorporated these preferences in a second proposed charter, which was approved in 1973.

**Charter Revision, 1993-96.** The City Charter Commission that drafted the 1996 City Charter could agree on all matters within the proposed Charter except the method of selecting council members. Rather than risk defeat of the proposed charter over

this single issue, voters were confronted with two questions: should the new charter be adopted; and if so, should council members be elected in an at-large system or in a system that elected 9 members from districts and 2 members at-large. The voters, by a 56 percent majority, chose to maintain the 9-member, at-large method of council elections.

### Alternative Systems of Electing City Councils

City council elections are at the core of any democratic system of local government. In concept, elections provide a communications process enabling the voters to transmit their values, attitudes and beliefs about how government should be managed and who should manage it. How council members are elected reflects the way voters prefer to be represented in the legislative body of the city.

There are three systems of electing council members: at-large; district; and mixed, a combination of at-large and district.

**Election At-Large.** The at-large system is designed to elect council members who will represent the interests of the city as a whole. In the case of Detroit, each resident is a constituent of 9 council members, and can approach any or all of them with his/her concerns. The at-large system of electing council remains the preferred system of the National Civic League, a national association that maintains a model city charter. In large cities, however, residents may feel disconnected from city government without some geographic basis of representation on city council. A council member elected at-large may have less knowledge of local community problems and be less responsive to the constituent. Cities with significant dif-

ferences in, or conflict among, ethnic, racial or economic groups may find that one of the alternative systems could achieve more equitable representation of the city's residents.

A variation of the at-large system is nomination and election at-large with district residence requirements. A complaint frequently lodged against the at-large system is that a majority of the council may live in the same area of the city. This situation can give rise to questions concerning the equitable distribution of services with allegations that particular sections receive preferential treatment. This objection can be met while still maintaining a council elected at-large by creating districts of equal population with the voters of the city at-large nominating two candidates and electing one from each district.

**District Systems.** An alternative to the at-large system is the district system, either from single-member districts as is proposed for Detroit or from multiple-member districts as is found in Ann Arbor. The growing recognition that membership on councils should represent all racial and ethnic groups more adequately has spurred increased use of the single-member district system. It is easier to elect minority council members from districts. In addition, district elections

can open the way for more diversity among candidates because the costs of running a district campaign are less than those of running citywide. Finally, citizens feel closer to district elected council members, whom they can hold responsible for addressing their community concerns.

The district system does have its drawbacks. An inherent problem is that the pursuit of parochial concerns by district-elected members will result in inadequate attention to city-wide concerns. The potential for "logrolling" or vote swapping is ever-present. Some district council members will be more effective than others in "working the system" with the result that disproportionate benefits may be received by their districts. Conformity with the federal Voting Rights Act becomes an issue in adjusting election district boundaries following each census.

**Mixed At-Large and District System.** The mixed system for a council with some members elected at-large and some elected by and from districts has become increasingly popular in recent years. One reason for this is the approval it has received from the U.S. Department of Justice as a method of electing a city council that complies with the requirements of the Voting Rights Act in cities where the at-large system has been challenged and where

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there is opposition to a pure single-member district system.

The mixed system combines the citywide perspective of the at-large council members with the local con-

cerns and accountability of district council members. It can allow minority groups (ethnic, racial and economic), who live in concentrated areas greater influence in determining the outcome of elections in their districts.

Problems can arise in this system when at-large council members consider their positions to be superior in importance to district members and are perceived as rivals to the mayor.

### Superseding the 1996 Detroit City Charter

Public Act 432 of 2002 amends the Home Rule Cities Act (PA 279 of 1909) to require a question be put before the residents of Detroit: Should city council elections be changed from at-large to single-member districts? The act, signed by the Governor and filed with the Secretary of State on June 6 – the filing deadline for the August primary ballot – does not amend the Detroit City Charter and a vote of the electorate in favor of districts would not directly amend the Charter. If the voters opt in favor of districts, the 9-member at-large Council would be abolished on January 1, 2006, and replaced by a 9-member Council elected from districts in 2005.

Sections 21 through 25 of the Home Rule Cities Act provide the methods of introducing and enacting city charter amendments. In general, these sections specify that charter amend-

ments may only be introduced by a 3/5 vote of the city council or through an initiatory process. All proposed charter amendments must be submitted to the electors of the city.

While the wording of subsection 7 of PA 432 is somewhat ambiguous, a fair reading would seem to indicate that, should Detroiters indicate a preference for districts, the normal charter amendment process is to be bypassed. Sections 21 through 25 of the Home Rule Cities Act would be suspended and the City Council would be permitted to amend the Charter in the same manner provided by law and charter (Section 4-115) for the adoption of an ordinance. Although the Detroit City Charter specifies in Section 4-116 that a two-thirds majority vote is necessary for an ordinance to have immediate effect, subsection 7 states that, "... this section shall take

effect immediately upon adoption of the council." While such a charter amendment would be made to reflect the vote of the people, allowing a city council to directly amend a charter is unprecedented in Michigan. Whether introduced by city council or through the initiatory process, city charters are otherwise amended through a vote of the people.

The process necessary to amend or repeal the changes made as a result of this charter amendment in the future is also somewhat ambiguous. While the common reading of subsection 7 would suggest that the provisions for introducing and voting on charter amendments are suspended solely for the purpose of adopting the proposed amendment, opponents argue that subsection 7 could be read to protect this amendment from future amendments or repeal.

### Public Act 432 and Home Rule

Michigan has a strong tradition of home rule for local governments, which means that most decisions regarding the affairs of local governments are left to the local governments' discretion. The Michigan Constitution of 1963 reaffirmed this tradition in Article VII, Section 34, which provides that "The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor." As a protection of home rule, the Constitution (Article IV, Section 29) provides that the legislature shall pass no local or special acts where general acts can be made applicable and that the enactment of a local act requires a 2/3 super-majority vote in each house of the legislature and a vote of the people. The rationale for this provision includes preventing the legislature from becoming entangled in detailed local matters to the detriment of dealing with matters of statewide importance.

In a practice that runs contrary to the intent, if not the letter, of the Constitution, laws are enacted using population and other characteristics of a local unit to narrow the number of affected units to as few as a single city. This practice has long been tolerated because laws following this practice have tended to be permissive and to enable special authority or powers. Public Act 432, on the other hand, singles out Detroit – the act applies only to the primary election to be held on August 6, 2002, and only one city could conceivably meet the population threshold – to prescribe a vote of the electorate that could result in a basic change in governmental structure. For all other Michigan cities, this decision is left to the residents acting through their locally-adopted charters.

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## An Apportionment Commission

PA 432 provides for a 3-member apportionment commission, with 2 members appointed by the Mayor and a single member appointed by the City Council. The inclusion of the executive branch in the apportionment process in this way is fairly unusual. The governor is not included in the apportionment process at the state level, nor is the county executive involved in this process at the county level.

Of Michigan's 10 largest cities, only 3 have city councils elected from districts. Grand Rapids and Flint rely on their election commissions – consisting of the city clerk, city attorney, and city assessor – to adjust the district boundaries in a reapportionment process. In Grand Rapids, the attorney and clerk are appointed by the city council and the assessor is appointed by the city manager, who is appointed by the council. In Flint, the attorney and assessor are appointed by the city

council and the clerk is independently elected.

In Ann Arbor, the mayor, who is independently elected but has a vote on city council, appoints an apportionment commission that must be approved by the city council. Following the 2000 census, one of the two city council members serving each election district was appointed to an apportionment commission with the mayor also serving.

## At-Large v. Districts as They Apply to the Detroit City Council

The method of electing city council is a fundamental aspect of local home rule and a basic component of representative democracy. Although the question has been asked and answered twice in the last 30 years in Detroit, legislative members and many residents hope district elections would reduce feelings of disenfranchisement and increase accountability.

It is not clear how much would change in the delivery of services in a city with a council elected from districts since the Detroit City Charter goes to great lengths to establish a “strong mayor”

form of city government. Whether the council is elected at-large or from districts, the independently elected mayor will wield a great deal more power – appointment powers, budgetary powers, and policymaking powers – than the city council. (For more on this, see the CRC publication, *Powers of the Mayor of the City of Detroit*, [www.crcmich.org/PUBLICAT/2000s/2001/mayorpowers.pdf](http://www.crcmich.org/PUBLICAT/2000s/2001/mayorpowers.pdf), September 2001.) The mayor will continue to wield significant power and will continue as the leader of the executive branch, which is responsible for the actual delivery of city services.

**State-Level Attempts to Amend Charter.** Although PA 432 is the first time a proposal of this nature has become law, it is not the first time an attempt has been made to superimpose on the City of Detroit specific systems of council representation in contravention of a home rule charter. The most recent attempt came in 1994, when a Senate bill was introduced to amend the City Home Rule Act to provide in Detroit that “the at-large city council provided by charter is ... abolished, and ... replaced by a city council of nine members from single member neighborhood election districts at regular municipal elections ....”