



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the Assembly Standing Committee on Cities on the Process of City
Charter Amendment
March 5, 2010

Good morning Chair Brennan and members of the Assembly Committee on Cities. My name is Rachael Fauss, and I am the Policy & Research Associate for Citizens Union of the City of New York. Citizens Union is an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. We thank you for holding this hearing and giving us the opportunity to present Citizens Union's views on this important topic.

Throughout its history, Citizens Union has advocated for periodic substantive review of the New York City Charter via the appointment of an independent charter revision commission to ensure that city government is operating effectively and efficiently.

Though there have been many charter revision commissions over the past twenty years, the last major substantive review and evaluation of the city charter that resulted in a wholesale analysis and reorganization of city government took place in 1988 and 1989 under the leadership of commission chairs, Richard Ravitch (1988) and Frederick A. O. Schwarz (1989). With more than twenty years of experience to evaluate how those changes have affected city government, combined with a substantial increase in the role of technology in our government and major changes in the way in which city services are delivered, CU is pleased that Mayor Bloomberg has now appointed a new commission to conduct a welcomed and needed comprehensive review of the city charter changes to government.

Citizens Union has put forth the following principles that should guide the formation and operation of charter revision commissions, including the charter commission created this week by Mayor Bloomberg:

1. We ultimately believe that charter revision commissions, regardless of whether they are created by the mayor, the city council or through public initiative, should be broadly representative, including citizens appointed by or upon the recommendation of elected officials in addition to those of the Mayor to include suggestions from the Public Advocate, Comptroller, Borough Presidents and City Council, and should represent the diversity of the city, including, but not limited to gender, geographic, political and racial diversity. We are pleased that it appears that the Mayor in making his appointments to the commission appointed this week consulted with a number of fellow elected officials and created a rather diverse and broadly representative group of New Yorkers.

2. We believe that commissions should independently hire their staff and should not be staffed solely by city hall staff, city agency staff, or other elected official staff. Given the severe fiscal challenges currently faced by the city, an accommodation of relying upon staff outside of the mayor's direct control might be an acceptable alternative for the newly appointed commission.
3. We are pleased to acknowledge that the newly formed commission will examine the entirety of the city charter, conducting its review over as many months as needed to ensure comprehensive analysis and ample opportunity for public consideration. Any commission, however appointed, should allow for thorough analysis and adequate review.
4. We also believe any commission should conduct hearings throughout the city in each of the five boroughs to ensure sufficient opportunity for public input, comment and deliberation.
5. We believe that while this particular commission should examine the entirety of the city charter, the newly appointed commission should give priority to thorough study of the following items:
 - a. The roles and responsibilities of all current elected officials and the existing balance of powers among the branches of government and elected offices based on the experiences of the last twenty years with a particular focus on the positions of public advocate and borough president and how and whether they should be continued and/or strengthened.
 - b. Whether charter mandated agencies and offices are designed to execute their responsibilities in the most efficient way and if agencies should be consolidated or their missions refocused. For example, transferring prosecutorial authority to the Civilian Complaint Review Board to improve public oversight of police misconduct to instill greater integrity to, and public confidence in, the system.
 - c. The effects of instituting term limits on the functioning of city government, the resulting composition of elective office holders and the ability of elected officials to govern effectively.
 - d. The current types of local laws subject to mandatory referendum and whether additional types of city charter amendments, such as how term limits are modified, should be subject to mandatory approval by the voters.
 - e. The way in which oversight and administration of campaign finance, ethics, lobbying and voter assistance activities are structured and function.
 - f. The community planning and zoning provisions of the city charter under section 197-a, the Uniform Land Use Review Process (ULURP), and the Zoning Resolution.

- g. Supporting measures that encourage local elections are competitive and strong voter participation.
 - h. The cost effectiveness of the delivery of services and how to efficiently and appropriately spend taxpayer dollars, such as improving the procurement process.
6. We believe that any commission should conduct widespread public education about any recommended changes to the city charter to inform the public about the rationale for and necessity of such changes and are confident that the commission appointed this week will do so.

Citizens Union would also like to take this opportunity to go beyond the broad principles Citizens Union has outlined for the City Charter Commission to effectively conduct its work, and comment on two specific proposals the state legislature has put forth related to commissions.

Chairman Brennan has proposed A-4122, a bill that would amend the Municipal Home Rule Law that would require a charter commission in New York City created by the mayor to consist of between nine and seventeen members. Additionally, the mayor would be required to choose at least one member for the commission nominated by the city comptroller, one member nominated by the public advocate, one member nominated by the borough presidents acting together, and one member nominated by each of the borough delegations to the city council. Together, this would require the mayor choose eight members from those nominated by different elected officials in New York City out of a total commission membership of between nine and seventeen members. The bill also bars the participation on the commission of lobbyists of the city, employees of such lobbyists, officers or employees of the city, and officers of a political party. It further prevents commission members from making campaign contributions to those holding or seeking city offices during their service.

As stated earlier in our principles of an effective commission, Citizens Union supports the idea of a diverse charter commission, and agrees with Chairman Brennan that commission members should reflect the input of the public advocate, comptroller, borough president and city council. While we support the intent behind the legislation, we believe that the exact composition and specific details around appointment are better left to officials representing the city in city government to decide and not the state legislature. As a good-government group representing the citizens of New York, Citizens Union supports expanded home rule and respectfully submits that this measure goes too far in dictating to the city minute particulars relevant to charter commissions.

Simply put, the idea of reforming government structure and function should not be focused on the city of New York at this moment, but rather on the state of New York.

Addressing this issue is better left to the duly elected representatives of New York City, as is written in current law. Subsection 4 of section 36 of the Municipal Home Rule Law gives this power to the mayor of New York City when the mayor creates a commission, stating, "Original appointments to such a commission shall be made by the mayor by a certificate of

appointment which shall specify the number of, and names of, the members to constitute the commission.” Alternatively, a charter commission created by the New York city council may specify the number of members and the composition of the commission through local law or by placing a question or questions on the ballot related to the creation and composition of the charter commission. This is stated in subsection 2 of section 36 of the Municipal Home Rule Law, that reads “The legislative body may adopt a local law providing for the establishment of a commission to draft a new or revised city charter... Such local law shall fix or provide the method of determining the number of members of such commission and determine whether the members shall be elected or appointed, or partly elected and partly appointed. It shall also prescribe the manner of appointment of appointive members, the manner of election of elective members and whether elective members shall be elected by the city at large or by districts described in such local law.”

The other proposal relevant to the Charter Commission that Citizens Union would like to comment on today is A6019, a bill proposed by Assemblyman Richard Gottfried which passed the Assembly in 2009. The bill would strike subsections 5(e),(f), and (g) of the Municipal Home Rule Law, thereby removing prohibitions that limit the ability of local referendum, ordinances, resolutions or petitions to be placed on the ballot when a city charter commission has been convened or when a city charter commission puts a proposal on the local ballot for consideration by the city’s qualified electors.

Most glaring among these limitations is the rule more commonly known as “bumping”, which provides that whenever a city charter commission puts a proposal on the local ballot, all other local referendum proposals are barred from the ballot. This law prevents consideration by the voters of issues that may be timely and important when a city charter commission has put a proposal on the ballot. The voters of New York City are certainly capable of simultaneously weighing proposals forwarded by the charter commission in addition to other referendums, ordinances, resolutions or petitions that may be advanced under local law. Good governance and needed reform should not be delayed because of the presence of charter commission proposals on the ballot which may not fully address the scope of needed changes in city government. However, one idea the sponsor may wish to consider is adding language that more explicitly allows for reconciling proposals on the ballot that may be in conflict with each other. Additionally, the sponsor may want to consider using the standard of the largest proportion of votes given a certain minimum threshold of voters rather than the most overall votes when determining which proposal is approved when conflicting proposals are on the ballot. The city’s corporation counsel may be charged with determining which ballot proposals may be in conflict with each other, and identify them as such prior to the election.

Thank you again Chairman Brennan and members of the committee for inviting Citizens Union to testify today. We appreciate the opportunity to provide input on the principles of an effective charter commission and make our opinion known on particular bills related to it. Holding hearings on issues of importance is essential for transparent government and effectively crafted policy. Too often that is not the case in Albany, and so we commend the Commission for its commitment to soliciting the opinions of experts and stakeholders in this area.