

**SUMMARY
OF
FINAL PROPOSALS
1988**

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Introduction

These are the final proposals of the New York City Charter Commission. The commission adopted these proposals at a public meeting on August 10, 1988 at New York University School of Law. These proposals will appear on the ballot on Election Day, November 8, 1988.

The commission, an independent body of 15 members, was created in December, 1986 with a mandate to examine every element of the City Charter and recommend changes to the city's voters.

The commission began its work with a series of public hearings in the spring of 1987 in all five boroughs. The commission then analyzed the work of its staff and consultants, sought the comments of scholars, civic groups and community leaders, took testimony at private hearings and publicly debated the issues. The process ended with another round of public hearings on the commission's preliminary proposals.

Throughout the process the commission has made every effort to keep the people of New York informed about the process and its deliberations. Thousands of individuals and civic organizations receive regular communication from the commission; the press is informed of all activities; educational materials have been produced and widely distributed. Many organizations throughout the city have participated in shaping these final proposals.

In addition to the proposals summarized in this report, the commission has recommended a number of changes to the charter suggested by the city's executive branch agencies and considered technical by the commission's staff. Copies of those proposals, as well as those summarized here, are available at the commission's offices.

Campaign Finance Reform:

Limiting Campaign Spending and Contributions And Encouraging Electoral Competition

Guiding Principles

- *Election to city office should not require great personal wealth or access to large campaign contributors.*
- *Campaign contributions should be limited because of the danger that large campaign contributors can have undue influence in government decisionmaking.*
- *There should be reasonable limits on the costs of running for public office and on the amount that may be spent on election campaigns.*
- *City government should encourage broad public participation in the funding of local election campaigns.*

Highlights of the Commission's Final Proposals

- **The Campaign Finance Board would be established in the City Charter.**
In February 1988, a local law was enacted establishing a program of campaign finance reform for New York City elections. The law established a bipartisan campaign finance board to administer the program. The commission proposes that the Campaign Finance Board be included in the charter in the same manner as virtually all other city agencies.
- **Candidates who limit campaign contributions and expenditures can earn matching grants.**
Local Law 8 was designed to cut the costs of running for office, reduce candidates' dependence on large campaign contributors, and open up the electoral process to a broader range of candidates. It set voluntary limits on campaign contributions and expenditures and established a formula for partial public funding of candidates agreeing to those limits. Candidates in the 1989 elections who abide by these limits would receive the matching grants which they earn under the law's formula.
- **The Campaign Finance Board would be made responsible for publishing and disseminating multi-lingual, nonpartisan information on candidates and issues facing the voters.**
Specifically, before each city election, the board would be directed to mail to the homes of all registered voters a pamphlet that would provide information about where, when and how to vote; biographical information on candidates and concise statements by each; and easily understandable descriptions of any ballot proposals or referendum questions to appear on the ballot.

Conflicts of Interest:

Establishing Clearer Rules and Stronger Enforcement

Guiding Principles

- *Public confidence in city government and its public servants must be renewed and enhanced.*
- *The integrity of honest public servants must be protected.*
- *The definitions of prohibited interests and activities for public servants must be clarified.*
- *Efficient and fair enforcement of the regulations on prohibited conduct by city public servants must be insured.*

Highlights of the Commission's Final Proposal

- The charter's provisions on ethics would be clarified, strengthened and made easier to enforce.

The charter's current conflicts of interest provisions are often vague. For example, the charter prohibits public servants from holding "substantial" interests in companies or firms doing business with the city, but fails to define what constitutes a substantial interest.

Many concerned citizens and city officials also believe that the charter's conflicts of interest standards do not go far enough in checking the "revolving door" syndrome--the actual or perceived practice of former high-level public servants cashing in on their inside knowledge and contacts in city government on behalf of their new employers.

The Charter Revision Commission proposes that:

- Public servants be barred from acquiring interests of either 5 per cent or \$25,000 (whichever is less) in any firm doing business with their agencies and in any non-publicly traded company doing business with any city agency.
- All former public servants be prohibited from appearing before their former boards or agencies on any matter for one year after leaving public service.
- High-level officials will be prohibited from involvement with any city board or agency for one year after leaving public service.
- All former public servants be perpetually banned from involvement with a city board or agency on matters that they were involved in while working for the city.

- The existing Board of Ethics would be restructured, renamed (the Conflicts of Interest Board) and be given increased powers.

The Charter Revision Commission proposes the establishment of one board with three citizen members not holding government or political party office. They would be appointed by the mayor with the advice and consent of the City Council. The board would have the power and responsibility to interpret and implement the conflicts of interest provisions of the charter and be required to conduct on-going educational activities concerning the provisions for all public servants.

- The board would be required to give advisory opinions about possible conflicts of interest to public servants seeking guidance.

- The board would have the power to determine whether a public servant has violated conflicts of interest provisions, unless the official is covered by civil service law in which case the official's agency would make such a determination.

Public servants would be subject to a range of penalties including fines of up to \$10,000. The City Council, however, would have the authority to punish its own members and staff, if necessary.

Internal Controls:

Mandating More Effective Management Tools

Guiding Principle

- *Encouraging efficient management and preventing possible corruption should be a responsibility of top city management.*

Highlights of the Commission's Final Proposals

- **Establishing and maintaining internal controls in all agencies and programs would be made a duty of the mayor and agency heads.**

Internal controls are the techniques that detect, prevent and correct problems in organizations, whether in government or in the private sector. These techniques include: top management responsibility to assess, minimize and remedy risks of mismanagement and fraud; administrative procedures to provide information on operations, monitor performance and assure that transactions are based on proper authorizations; accounting controls that safeguard assets and the reliability of financial information; and internal audits.

Currently, the charter does not systematically discuss internal controls. The Charter Revision Commission proposes that the mayor and agency heads be given the responsibility to institute and maintain internal controls which maximize effectiveness, efficiency and integrity in the management of government programs.

- **The mayor and executive agency heads would be required to report regularly and publicly on the city's efforts to institute and maintain internal controls.**

Every year, city agency heads would be required to report to the mayor on their efforts to identify and correct internal control problems. The mayor would be required to report on the city's internal control environment in the mayor's annual Management Report.

Infrastructure Maintenance:

Avoiding Problems and Fixing Accountability

Guiding Principles

- *Preventive maintenance of vital public structures and facilities saves public money and ensures public safety.*
- *Public officials should be held accountable for such maintenance.*

Highlights of the Commission's Final Proposals

- Government agencies responsible for the city's major capital assets including, for example, bridges, parks, schools, prisons, sewers and streets, would be responsible for preparing current and accurate inventories indicating the condition of these assets, as well as a schedule of the maintenance activities necessary for keeping them in good repair. Registered engineers or architects would be required to issue written opinions and recommendations on the schedules.
- Each year, the city would be required to publish a plan indicating the estimated amount of money necessary to carry out the certified maintenance activities over the next four years. Such estimates would be prepared by registered engineers or architects.
- As part of the annual budget process, the mayor would be required to request the amounts necessary to carry out the maintenance or explain the reasons for not doing so.
- As part of the annual budget process, the mayor would be required to report on the differences, if any, between the amounts appropriated for maintenance during the previous year and the amounts actually spent.

Administrative Procedures:

Providing an Open Process in Agency Rulemaking

Guiding Principles

- *City-controlled agencies should inform the public and seek its comments in developing and promulgating the many administrative rules that directly affect the public.*
- *All government administrative rules should be published, accessible and regularly updated in easily understandable volumes.*
- *Minimum, standard protections of the due process of law should be provided to all individuals subject to enforcement proceedings for serious infractions of government laws and rules.*

Highlights of the Commission's Final Proposals

- **The city's rule-making authority would be defined and standardized.**

Many city agencies promulgate rules directly affecting city residents in a variety of ways, including: determining how and when a license should be issued, suspended or revoked; setting fees; and imposing penalties such as fines for noncompliance.

The charter currently requires city agencies to publish notice of proposed rules and seek public comments on them. However, the charter does not define what a "rule" is, and agencies frequently use such devices as directives, guidelines and special orders--which do not require public notice or comment--to establish city policy.

The Charter Revision Commission proposes that city agencies, when making rules such as the building code and day care regulations, must notify the public, conduct public hearings, and publish the rule before it becomes effective. (Rules governing the internal operation of city agencies, including personnel matters and the allocation of agency resources, would not be covered by this requirement.)

- **No city rule would be effective unless published in a regularly updated compilation of all agency rules.**

The charter currently requires the publication and regular updating of a compilation of all city agency rules. The most recent such compilation, however, was published in 1967. (The city is currently working on a new compilation to be published in 1989.) The city's failure to publish its rules makes them difficult to comply with. The proposed charter would address this problem by requiring that no rule can become effective until it is published. An easily understandable compilation of rules would be updated at least every six months.

- **Minimal procedural standards for adjudicating serious disputes arising under city rules and laws would be established. The Office of Administrative Trials and Hearings, created by mayoral order in 1979, would be established in the charter to provide hearing officers to preside over these proceedings.**

Tax Appeals:

Providing Fair Hearings on Tax Disputes

Guiding Principles

- *Taxpayers are entitled to an independent, fair and expert review of challenges to government tax assessments and penalties.*
- *Citizens who challenge government tax assessments and penalties are entitled to the due process of law.*

Highlights of the Commission's Final Proposals

- **The charter would establish an independent tax tribunal to hear appeals of many city taxes for which an independent appeal is currently unavailable.**

This tribunal would have jurisdiction over such levies as the commercial rent tax, the general corporation tax and the unincorporated business income tax paid by many of the city's self-employed persons, including artists and writers.

Currently, appeals concerning such taxes are heard and decided by the bureau of hearings of the city's department of finance--the same agency that assesses and collects the taxes in question. An independent tax tribunal would give taxpayers an independent review of the department of finance's actions.

This tribunal would consist of three members appointed by the mayor for six-year terms; all would be attorneys with tax expertise and at least ten years practice in New York State. The mayor would need the approval of the City Council to remove any member of the tribunal. The tribunal would set rules governing its proceedings that would ensure a fair and prompt process.

Voter Assistance:

Encouraging Voter Registration and Participation

Guiding Principles

- *Government should aggressively encourage citizens to vote in order to increase public participation in political life.*
- *Government efforts to promote voter registration and education should be strictly nonpartisan.*
- *All government agencies should be made a part of these efforts.*

Highlights of the Commission's Final Proposals

- **A voter assistance commission responsible for increasing voter registration and voting in the city would be established.**

The commission would have 16 volunteer members. Seven would be high-level city officials, including the first deputy mayor, the president of the board of education, the president of the City Council, the corporation counsel and the chair of the Campaign Finance Board. Nine would be citizen members drawn from community and civic organizations, civil rights associations, groups representing disabled persons and the business community. Three would be appointed by the mayor and six by the City Council. (The commission will be part of the new campaign finance and voter assistance department.)

The commission would hold annual public hearings on voter registration and participation and make recommendations to appropriate city officials on encouraging voter participation.

- **A city coordinator of voter assistance appointed by the commission would be responsible for monitoring voter registration and voting and for developing programs to increase voter participation.**

The coordinator of voter assistance would organize efforts by city agencies to distribute voter registration forms and report annually on the state of voter registration and participation in the city. The coordinator would pay particular attention to identifying groups in the city with low rates of voter participation and recommend ways to encourage their voter participation.

- **The commission and coordinator would be required to conduct their activities in a strictly nonpartisan fashion.**

Special Elections:

Filling Vacancies in Public Office More Democratically

Guiding Principles

- *Vacancies in elective offices should be filled by prompt elections rather than by succession or appointments.*
- *Special elections should be open to all viable candidates and not restricted to those chosen by political party leaders.*
- *Special elections should not require a runoff, thereby cutting campaign and election expenses for candidates and the public.*

Highlights of the Commission's Final Proposals

- **Special elections would be held to fill vacancies in all elective offices.**
Currently, when a vacancy occurs with City Council members, borough presidents or the comptroller, the seat is not filled immediately by the voters in an election. Their replacements are either elected by colleagues or appointed.
The Charter Revision Commission proposes that promptly held special elections would replace these current procedures. (Because City Council president succession is governed by state law rather than the City Charter, the commission's proposal for special elections to that office will require state legislation to become effective.). In most cases, these special elections would be held 45 to 61 days after a vacancy occurs. The only exceptions would occur during periods just before regular primary and general elections.
- **Candidates would be nominated by petition rather than by political party**
Candidates would gain access to special election ballots by filing independent nominating petitions as governed by state law. There would be no party designation of candidates in special elections.
- **The elections would not involve runoffs, the candidate with the largest number of votes would win.**

Mayoral Inability:

Providing an Orderly Process for Determining When a Mayor Cannot Serve

Guiding Principles

- *Stability and continuity in the administration of the city's affairs are essential.*
- *Any procedure for declaring a mayor temporarily or permanently unable to carry out the duties of the office because of illness, injury or other reason should be open and accountable and have an appropriate appeal mechanism.*

Highlights of the Commission's Final Proposals

- The charter would permit the mayor to transmit voluntarily a declaration of temporary inability to discharge the powers and duties of that office to the city clerk and the City Council president (who is the official next in line of succession to the mayoralty).

The City Council president would serve as acting mayor until the mayor declares that the inability has passed.

- A committee on mayoral inability would be established.

That committee would consist of the corporation counsel, comptroller, a borough president, Council majority leader and a deputy mayor designated by the mayor. The members of the inability committee would all be highly placed city officials in regular contact with the mayor and, thus, able to recognize when an illness, injury or other factor would prevent the mayor from discharging the duties of that office.

- The committee would be responsible for declaring, on its own initiative, a mayor temporarily or permanently unable to perform the duties of the office.

Four of the five members of this committee could make a declaration of temporary or permanent inability. This would mean that at least one of the mayor's closest appointed advisors—either the corporation counsel or deputy mayor—would have to support the inability declaration. The charter would require that a written statement accompany any decision on inability reached by the committee.

If a mayor who has been declared temporarily disabled by this committee states his or her intention to resume the duties of the office, four of the committee's members would have to disapprove in order to prevent such a resumption.

- The City Council will be required to review any declaration of permanent inability within 21 days. It will also review any declaration of temporary inability challenged by the mayor; a two-thirds vote of the members of the Council will be needed to uphold either decision.

Reorganizing the Charter:

Beginning to Make the City's Constitution a More Useful and Understandable Document

Guiding Principles

- *The City Charter should be coherent and readable and clearly state the duties and responsibilities of public officials.*

Highlights of the Commission's Final Proposals

- A new chapter in the charter would describe the generic responsibilities of the heads of mayoral agencies.
Currently, the descriptions of the powers and duties of these administrators are scattered throughout the charter, making it difficult for them and the public to know what their responsibilities are. The new charter chapters would clarify and codify these descriptions.
- A revised charter chapter on "officers and employees" would make coherent the obligations and guidelines affecting city employees.