

## **CITYWIDE REVIEW OF REPORTING REQUIREMENTS AND ADVISORY BODIES**

The 2005 Charter Revision Commission took a detailed look at the issue of reporting requirements. Currently, the Charter and the Administrative Code contain a large number of requirements for detailed periodic reports on various aspects of agency programs. These requirements have steadily increased over the years in attempts to increase agency efficiency, effectiveness and accountability. Many reports are extremely useful to the public and to city managers, providing information about what agencies are doing, how well they are performing, and how to improve their performance. The most relevant and frequently updated reports enable the City to manage itself effectively and base its plans on precise performance indicators.

Many reporting requirements, however, have become outdated. Concerned that the continued production of unnecessary reports may be a waste of time and resources for strapped agencies, the 2005 Commission ordered two expert reports to examine the usefulness of 33 charter-mandated reports. In one of the reports, the experts noted that they could not even find 13 of the reports because they were difficult to locate online, not posted or not produced; and, of the remaining reports, many were not widely used or familiar to either the public or city managers. That report found that the best-known and most used reports were the Mayor's Management Report and the Preliminary Mayor's Management Report, the Executive Budget and the Adopted Budget. The report also recommended posting the meaningful reports online in order to make them more accessible to the public. The second expert report noted that there were close to 175 reports required by the Charter and Administrative Code combined, and that they do not form a coherent structure in support of performance and accountability: there is overlap and duplication, an ineffective linkage between spending and results, and little ability to trace connections among documents so that they provide an integrated picture of city government. The same general findings apply to the plethora of advisory bodies mandated by current provisions of law. An updated chart of required reports is attached in Appendix C.

Both expert reports advised the Commission that it was not feasible for the Commission itself to try to identify and excise reports that are no longer useful. Rather, they proposed amending the Charter to create a commission to study the usefulness of each report, as well as of the type of advisory bodies described below, and to recommend elimination of those that failed to meet certain criteria of continued usefulness. The 2005 Commission drafted proposed legislation to create such a commission but ultimately did not propose it. The expert reports, as well as the Preliminary Recommendations of the 2005 Commission, which contains a long discussion of the background and theory of reporting requirements, can be found on the Charter Revision Commission's website (<http://www.nyc.gov/html/charter/html/archives/reports.shtml>) in the Archives section.

With reference to bodies that are solely advisory in nature, it is the intent of this proposal to cover bodies that prepare reports or offer advice or recommendations, but do not themselves implement city programs or initiatives or have the power to bind agencies or the public to their determinations. Thus, for example, the Commission would have no jurisdiction over community boards, whose members have been found by the Corporation Counsel to be public officers and which exercise an array of powers and duties under the Charter, or over the Voter Assistance Commission, which is empowered to undertake activities to facilitate voter registration and voting.<sup>1</sup>

This Commission agrees with the 2005 Commission finding that reporting requirements and advisory bodies should be reviewed to assess their continued usefulness. The proposal set forth below would establish a seven-member Report and Advisory Board Review Commission charged with reviewing periodic reports required by the Charter, Administrative Code, or other local law, and the advisory commissions, committees, boards and task forces required therein. The members of the Commission would be: the City Council Speaker and two other Council members chosen by the Speaker, the Corporation Counsel, the Directors of the Mayor's Office of Operations and the Office of Management and Budget, and the Commissioner of Information Technology and Telecommunications. The Director of the Mayor's Office of Operations would

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<sup>1</sup> This would still be the case if voters approve the Commission's ballot proposal to merge the Voter Assistance Commission into the Campaign Finance Board and reconstitute it as the Voter Assistance Advisory Committee.

chair the Commission. The composition of the Commission is meant to allow the council and the relevant mayoral agencies to work together in order to increase the City's ability to govern itself and keep the people informed using the most up to date and important indicators.

The proposal charges the Report and Advisory Board Review Commission with soliciting the views of groups and organizations that are the subject of these reports or advisory bodies or are affected by them. After reviewing a reporting requirement, the Commission could retain it, waive it in whole or in part, or dissolve an advisory body, subject to review by the Mayor and City Council. The Commission would file any decision to waive a requirement or dissolve an advisory body with the Council and the Mayor, and provide copies of the information to interested groups. The Council could either vote to approve or disapprove the waiver; failure to act would constitute approval of the Commission's recommendation. The Mayor could veto the Council's disapproval, and the Council could override the Mayor by a two-thirds vote.

The proposal requires that, in deciding whether to waive a reporting requirement, the Commission consider several criteria, including but not limited to whether the report provides useful information for evaluating the results of programs, activities and functions and their effectiveness in achieving their goals; whether the report provides useful information to assess the effectiveness of the City's management of its resources; whether the report is duplicative of any other mandated report; whether the report remains relevant in light of changing circumstances, current information needs and technological advances; and whether the report's benefits outweigh the costs to produce it. The proposal specifically exempts certain reports from the Commission's power: the Mayor's Management Report, required by Charter § 12(c), the Comptroller's annual statement of the City's revenues and expenditures, the Comptroller's annual audit and actuarial audit, and any reports required by charter chapters concerning the Expense Budget, Capital Projects and Budget, Budget Process, and the Independent Budget Office; as well as any reports required by state or federal law.

When deciding whether to recommend the dissolution of an advisory body, the Commission must consider whether the body substantially furthers the mission of its City agency; whether its function or jurisdiction duplicates the work of any other mandated body;

whether its function is limited to producing reports that have been waived under this section; whether its function or jurisdiction remains relevant; and whether the body's benefits outweigh the costs of supporting it.

The legislation would also empower the Commission to recommend to the Mayor and the Council the modification of reports and advisory bodies to make them more effective; this would include recommendations to modify or consolidate reporting requirements in light of technological advances and additional data needs. In this respect, the 2010 Charter Revision Commission views the applicability of and compliance with electronic filing requirements in the Charter to be a very important tool for increasing the transparency of government, accessibility of the public to important information and public awareness. The Council could also repeal or limit any reporting requirement or advisory body at any time, or extend or enhance such requirements, provided that any such extensions or enhancements are subject to review by the Report and Advisory Board Review Commission. It also imposes a three-year waiting period before the Commission may review a newly enacted reporting requirement.

### **Proposed Text**

Section 1. The New York city charter is amended by adding a new section 1113 to read as follows:

§1113. Report and Advisory Board Review Commission.

a. Notwithstanding any inconsistent provision of this charter, the administrative code or any local law and except as provided in this section, any requirement in this charter, the administrative code or otherwise in any local law that mandates the issuance of periodic or multiple reports by public agencies, officers or employees where at least one such report is due on or after the effective date of this section, and any requirement that mandates the establishment of a commission, committee, board, task force or other similar body that is solely advisory in nature, shall be subject to waiver in accordance with the provisions of this section.

b. There shall be a report and advisory board review commission, which shall consist of the speaker of the city council, two members of the council to be chosen by the speaker, the corporation counsel, the director of the mayor's office of operations, the director of management and budget, and the commissioner of information technology and telecommunications or

designated officers or employees of the agencies headed by such members or in the case of the council members, designated employees of the council. The director of the mayor's office of operations shall be the chair of the commission.

c. The commission shall meet on a regular basis, at intervals determined by the chair, to perform the reviews required by this section. The commission shall hold at least one public hearing each year to solicit comment from members of the public on matters required to be reviewed by the commission pursuant to this section. The chair shall have charge of the organization of the commission and shall have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this section. In addition, the speaker of the city council, the commissioner or head of any agency or office represented on the commission or the commissioner or head of any other appropriate city agency or office may, if requested by the chair or the commission, provide staff and other assistance with respect to any matter within the jurisdiction of the commission.

d. (1) Except as provided in paragraph six of this subdivision, the commission shall have the power and responsibility to review all requirements in this charter or the administrative code or elsewhere in the local laws of New York city that mandate the issuance of periodic or multiple reports by city agencies, officers or employees where at least one such report is due on or after the effective date of this section, and all requirements that mandate the establishment of commissions, committees, boards, task forces or other similar bodies that are solely advisory in nature. Notwithstanding any inconsistent provision of this charter, the administrative code or any local law, the commission shall further have the power and responsibility, subject to review by the council and the mayor as provided in paragraphs four and five of this subdivision, and except as provided in paragraph six of this subdivision, to waive any such requirement. The commission shall be empowered to review requirements in effect on and after the effective date of this section regardless of the date of enactment of such requirements; provided, however, that the powers and duties of the commission shall not extend to the mayor's management report required pursuant to subdivision c of section twelve of this charter as in effect on July first, two thousand ten, or to requirements mandating the issuance of reports, or the creation of bodies, that are required pursuant to any state or federal law, rule or regulation or that are both (i) in effect on July first, two thousand ten and (ii) set forth in or required by sections ninety-three, ninety-five or ninety-six, or by chapters six, nine, ten or eleven of this charter.

(2) Prior to making any determination to waive a requirement pursuant to this section, the commission shall, to the extent practicable, solicit the views of groups, organizations, or entities representing the interests of persons and entities that the chair or the commission reasonably determines are the subject of or are otherwise affected or benefited by the requirement under review. Any such determination made by the commission shall include a statement that the commission has solicited input in accordance with this paragraph.

(3) The commission shall review all requirements within its jurisdiction. Except as provided in this subdivision, the chair may establish the agenda and priorities of the commission with respect to the order in which the commission reviews requirements and with respect to similar matters. Upon completing its review of each such requirement, the commission shall issue a written determination whether or not to waive such requirement and, if the commission determines such requirement shall be waived, stating the reasons therefor. A report waived by the commission, subject to the review process set forth in paragraphs four and five of this subdivision, shall cease to be required. In the event that the commission determines to waive the requirement that mandates the establishment of an advisory body, if such waiver is approved by the council and the mayor pursuant to the provisions of this section, such body shall cease to exist following such approval. The commission may waive a reporting requirement in part rather than in whole by identifying particular required elements of such report that should be waived or retained. The commission shall issue determinations with respect to requirements that are in effect on the date of adoption of this section no later than November first, two thousand fifteen, and shall issue determinations with respect to requirements enacted after such date of adoption no later than five years after the date of enactment of such requirements. The commission may from time to time make further determinations with respect to the waiver of any such requirement; provided, however, that when a requirement has been retained by the commission or as a result of the review process set forth in paragraphs four and five of this subdivision, the commission shall again review such requirement within five years of the date of the determination to retain the requirement.

(4) The commission shall promptly file with the council and the mayor, publish in the city record and post on the city website each determination to waive a requirement, whether in part or in whole, that is issued pursuant to paragraph three of this subdivision, and shall promptly provide copies of such determination electronically or by any other reasonable means to groups,

organizations or entities from which the commission has solicited input in accordance with paragraph two of this subdivision. Within one hundred twenty days of the filing of a determination by the commission, the council may either approve or disapprove such determination by the affirmative vote of a majority of all the council members. If, at the end of such one hundred twenty days, the council has failed to act on a determination of the commission, the council shall be deemed to have approved such determination, and such determination shall take effect.

(5) All actions of the council pursuant to this subdivision shall be filed by the council with the mayor prior to the expiration of the time period for council action under paragraph four of this subdivision. Any approval by the council pursuant to this subdivision, whether as a result of council action or failure to act, shall be final. Any disapproval by the council pursuant to this subdivision shall be final unless the mayor within ten days of receiving a filing with respect to such action files with the council a written disapproval of the action. A mayoral disapproval pursuant to this paragraph shall have the effect of vetoing any council disapproval and shall be subject to override by a two-thirds vote of all the council members within fifteen days of such filing by the mayor.

(6) Notwithstanding any other provision of this section, in no event shall the commission make a determination to waive a requirement otherwise subject to its jurisdiction for three years following the date of enactment of the most recent local law imposing any such requirement.

e. The commission shall base its reviews and determinations on such criteria as it may deem appropriate. Such criteria shall include but not be limited to the following:

(1) With regard to requirements mandating the issuance of reports: whether the report provides useful information for evaluating the results of programs, activities and functions and their effectiveness in achieving their goals and objectives; whether the report provides useful information for assessing the effectiveness of the management of city resources; whether the report is entirely or partially duplicative of the subject matter of any other mandated report; whether the report remains relevant in light of changing circumstances, current information needs and technological advances; and whether the benefits and usefulness of the report outweigh the expenditure of public resources to produce it.

(2) With regard to requirements mandating the establishment of advisory commissions, committees, boards, task forces or other similar bodies: whether the body substantially furthers

the mission of city agencies with which it interacts or within which it is located; whether the function or jurisdiction of a body is entirely or partly duplicative of the function or jurisdiction of any other mandated body; whether the function or jurisdiction of a body is limited to the production of reports that have been waived pursuant to this section; whether the function or jurisdiction of a body remains relevant in light of changing circumstances and needs; and whether the benefits and usefulness of the body outweigh the expenditure of public resources to support and interact with it.

f. In addition to the powers set forth in subdivisions a through e of this section, the commission may recommend to the mayor and the council the modification of existing requirements with respect to the issuance of reports and the establishment of solely advisory bodies in order to make the implementation of such requirements more effective in achieving their intended purposes; such recommendations may include, but not be limited to recommendations designed to modify or consolidate reporting requirements in light of technological advances, and may also evaluate, and make recommendations to the mayor and the council concerning, additional data needs.

g. Nothing in this section shall be construed to prevent the city council from acting by local law to limit or repeal any requirement otherwise subject to this section at any time, or to enhance or extend such requirement. Any such enhancement or extension shall be subject to commission review pursuant to this section, provided, however, that such review is limited by the three-year period set forth in paragraph six of subdivision d.