THE CITY OF
COLUMBUS
CHARTER REVIEW
COMMISSION

SUMMARY OF RECOMMENDATIONS

Initiated petitions reforms
New Sections 42-16 and 42-17; (likely) Sections 42-7 and 42-9

The Charter Review Commission recommends adding new sections to the Charter to address the initiated petition process pertaining to self-dealing measures such as monopolies, oligopolies, and cartels, increasing transparency and accountability; as well as amending existing sections to add additional time for signature collection on petitions and allow for 10 additional days for signature collection in cases of initial insufficiency.

Self-dealing ballot initiatives have become more commonplace nationwide since the 1990s, with individuals and entities looking to gain special privileges, especially monetary, within the governing documents of states and municipalities. These individuals and entities formed political organizations to look for gain in the Ohio Constitution in areas as varied as casinos, marijuana, and clean energy. In response to these attempts, the state amended its Constitution to include new language that would prevent the creation of a state monopoly and prevent against self-dealing through the initiative process.

Last year, an initiative process that would have clearly resulted in self-dealing was attempted but rejected by Columbus voters. To prevent future abuses of the initiative process, the Charter Review Committee is proposing new changes that attempt to mirror the changes made to the Ohio Constitution that would ban monopolies and similar special privileges in Columbus. Specifically, the newly proposed language states that:

- Restraint of trade or commerce being injurious to this state and its citizens, including citizens of the City of Columbus, the power of the initiative shall not be used to pass an ordinance or an amendment to the city charter that would grant or create a monopoly, oligopoly, or cartel; specify or determine a tax rate; or confer a commercial interest, commercial right, or commercial license to any person, nonpublic entity, or group of persons or nonpublic entities, or any combination thereof, however organized, that is not then available to other similarly situated persons or nonpublic entities.

- The power of the initiative shall not be used to pass an ordinance authorizing the city to become a stockholder in any joint stock company, corporation, or association of any kind; or to raise money for, or to loan its credit to, or in aid of, any private company, corporation, or association of any kind in such manner as to violate Article VIII, Sec. 6 of the Ohio Constitution.

Additionally, the commission is also proposing language that would safeguard the city and its residents from further attempts to circumvent the language above. This recommendation also attempts to mirror the safeguards added into the Ohio Constitution. These changes are two-fold: 1) should an initiative be found to violate the Charter in this way, two ballot issues must appear for it to be considered by City residents. The first would indicate that the initiative violates the Charter, and asks residents if they would approve the initiative appearing on the ballot regardless. The second would be approval of the initiative itself. And 2) if an initiative petition is determined to violate the new provision, any petition

turned in must include the names and addresses of all who would gain commercial benefit from the initiative, and how much public money they would receive in the three years following passage.

In consideration of why the Charter should just not contain a ban of these special privileges in Charter to keep these issues off the ballot, the Commission had to consider the current case law concerning citizen-initiated petitions in Ohio. The Ohio Supreme Court has consistently weighed in favor of allowing residents to vote on an issue, regardless of its constitutionality, should all administrative processes be followed according to current law. With that, the adoption of similar language to the Ohio Constitution is recommended.

The Commission would note that the original proposal for self-dealing reform contained amendments to Sections 43 through 46, which would add signature thresholds from 5 of 9 new Council districts in order to get an ordinance, charter amendment, referendum, or recall on the ballot. This requirement would have applied to all initiated petitions, not just those found to violate the self-dealing provisions of Charter. The Commission found this provision would have been operationally difficult for petitioners to adhere to because of the newness of the council districts, so it was struck from the final recommendation.

Also, in response to several public comments and proposals, the Commission considered and decided to recommend two additional changes to the initiative petition process: 1) lengthening the time for gathering signatures for petitions from one year to two years; and 2) allowing an additional ten days for petitioners to collect signatures should the petitions collected be found insufficient due to the signature threshold not being reached. With the onset of the pandemic, one community group had not been able to collect enough signatures in time for the one-year limit, and the Charter would not allow the City to grant any temporary extension for petitioners to collect signatures under conditions where social distancing was expected and many establishments were locked down. While some local volunteer petitioners had asked the Commission to consider an unlimited time to collect signatures, it was decided that adding an additional year would assist in overcoming situations such as the emergency health orders at the onset of the pandemic, while also not allowing outdated initiatives. The Commission also found allowing a 10-day "curing" period as a commonsense addition that would align the Charter with state requirements.

Open Meetings
Sections 8 and 240.

The Charter Review Commission recommends amending the Charter to allow Council and other public bodies of the City to conduct business in a virtual format, subject to ordinance of Council as its necessity arises.

With the onset of the COVID pandemic, quarantine and social distancing became not only household terms, but best practices. However, there was the possibility that public meetings could not be conducted in Columbus, as prescribed by the state, without potentially spreading the virus. Ohio law places strict mandates on elected and appointed members of public bodies being in-person to conduct business in meetings. Thought the state legislature did pass temporary exemptions to these mandates, the City remains subject to the sunsets of these exemptions, given that we must follow the general laws of the state. However, home rule allows for local exceptions to state statute in this situation. Other

cities in Ohio, including Cleveland in 2021, have allowed for Council ordinance to determine the need for virtual meetings.[1]

The Commission considered two proposals to allow for use of virtual open meetings. The first replaced references to calling and conducting public meetings "as provided by the general laws of the state" with "as provided by ordinance of council," allowing ordinance to create guidelines for open meetings of public bodies in the City. The second proposal would continue to require public bodies to hold meetings in accordance with state law, except in the case of permitting Council to allow for virtual meetings for both itself and other public bodies of the City. The Commission considered both, but decided that the limited scope of the second proposal would be more appropriate, given the extraordinary nature of circumstances that could necessitate virtual meetings. The Commission appreciates the ability that could be afforded to elected and appointed officials, as well as the public, in allowing for virtual meetings, while also recognizing that some (residents without internet access, for example) could be limited by a virtual format. The Commission would also urge Council to take these limitations into consideration when crafting code language to accommodate for virtual meetings in the future.

Civil Service
Sections 148-1, 149, 149-1, 151, 152, and 158.

The Charter Review Commission recommends the amendment of the Civil Service portions of the Charter to create additional flexibility in City hiring, modernize language, and remove outdated or illegal language.

In the current and difficult environment in which to recruit and hire employees, especially in the public sector, it is important to modernize the Civil Service provisions of the Charter. One of the central reforms addresses test banding in the Charter. Currently, the rigid language places outsized importance on test scoring, possibly to the exclusion of other factors involved in the process of hiring the best employees for City jobs. The proposed language would replace the requirement that Civil Service have no fewer than three bands with a requirement that there be no *more* than three bands. This is especially valuable in a tight job market where the City has fewer than average applicants and the current language creates less flexibility rather than more in finding candidates. Banding could be determined then by ordinance or administrative rules set by the Civil Service Commission. Other changes would modernize language in the section, as well as remove outdated and illegal language. For example, repealing the residency requirement and allowing for rules in line with state law removes an unconstitutional requirement in Charter and gives us flexibility in the future for Council to consider residency by ordinance in the future, pending developments in state law.

These changes to Civil Service will allow the City to adapt to changing market conditions in recruiting and hiring the best employees possible, and make long overdue changes to outdated portions of the Charter. The Commission also recognizes that there are several sections and subsections recommended for amendment. However, the commission cautions that adopting all of these prospective changes could result in an extraordinarily long ballot, which could overwhelm voters.

[1] Cleveland City Code § 101.021 - Open Public Meetings and Hearings.

Acting Mayor
New Section 62-1; existing sections 60, 64, 64-1.

The Charter Review Commission recommends changing the Charter to allow for greater flexibility in the acting mayor provisions, above and beyond the limitations of the current language.

As exists currently in Charter, only the directors of the Departments of Public Service and Public Safety, as well as the Council President, can be named as "acting mayor" in the absence of the mayor, or their temporary inability to serve in the role. This is largely because these are the only director positions that existed in the original Charter. Proposed changes would include: 1) introducing a definition for the "mayor's cabinet," that includes department directors and appointed executive staff; 2) allowing the mayor to name and acting mayor from their cabinet; and 3) removing the Council President as an option for acting mayor.

Most other Ohio chartered municipalities allow for a clearer set of options for acting mayor, while Columbus has remained with similar options for acting mayor since the document's 1914 enactment. And while some Ohio cities designate the president or member of council/commission as first in line for acting mayor, those are typically in cities with where the mayor is a member of the legislative body itself (council/manager or commission/manager), such as Dayton or Cincinnati.

City Auditor and finances
Sections 26, 84, 91, 93, 120, and 226.

The Charter Review Commission recommends the modernization of language in Charter sections pertaining to Auditor functions and city finances

Many of these changes came at the recommendation of the City Auditor, following a review by that office. They range from simple language updates (replacing "and" with "or") to clarifying the duties of the office and allowing flexibility to update the technology that can be used related to these functions. For example, one change would allow the form of a warrant (document entitling the holder to receive money) to be determined by the Auditor as prescribed by state law or Council ordinance. Another would align the function of Auditor with state law. The Charter currently requires Auditor's Office to keep a record of oaths of office for elected officials. These changes would place that function with City Clerk, who already keeper of public records for the City.

The Commission is recommending these changes to modernize language and ensure alignment with the Ohio Revised Code where necessary.