



**Speaker Christine C. Quinn
City Charter Revisions
Committee on Cities
New York State Assembly
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Chairman Brennan, thank you for the opportunity to share my views on proposals to reform the way charter revision commissions work in New York City. The charter commission plays the key role in structuring our City's government – for good or ill. This process, set forth in State law, has reshaped City government, established its elected offices, assigned power among agencies and officials, set the rules for legislating, community participation, approval of the City budget, and how we use land. When it comes to charter commissions, process matters. Only a democratic process can ensure a democratic result. Today's process tilts too sharply toward Mayoral power. We must assess whether there should be greater checks and balances between the Mayor and other branches of government in this process. And, we must make sure that the charter commission hears perspectives that are as diverse as the millions of residents of this great City. I commend Chairman Brennan and this Committee for doing just that. Your review could not be more timely.

This Committee is considering legislation which, if enacted into law, would balance the Mayor's power and change how our City Charter is periodically revised.

A.4122a would alter the process by which the Mayor makes appointments to charter revision commissions by requiring nominations by other elected officials and allowing for at least 9, and not more than 17, commission appointees. The bill restricts

who may serve and would require that those appointed be subject to conflict of interest provisions. It also sets certain deadlines for appointment of a commission.

A.6019 would repeal the “bumping” provision of the Municipal Home Rule Law, which allows a charter revision commission to effectively block another referendum from the ballot in any particular year.

Finally, the Committee is considering a third proposal, not yet introduced, that would enable the City Council to block a Charter Revision Commission proposal from being placed on the ballot by a 2/3 vote of the Council.

I would like to focus my testimony on A6019, the bill concerning the so-called “bumping” provision. I consider this to be, perhaps, the most significant proposal under consideration this morning.

As you know, Municipal Home Rule Law § 36 (5) (e) provides that “the placement on the ballot of a validly derived proposal initiated by a Charter Revision Commission will "bump" other referenda off that ballot.”¹

The courts have affirmed that this rule holds even in cases where there is a near universal recognition that a charter revision commission has been created for the express purpose of keeping another proposal off the ballot.²

As I am sure many of us remember, there have been several recent instances in which this type of “bumping” occurred. In 2003, for instance, Mayor Bloomberg appointed a commission whose ballot questions blocked a referendum on City class size. And, perhaps more controversially, Mayor Giuliani appointed a commission in 1998 whose proposal relating to campaign finance blocked a Council-initiated ballot question

¹ Council of the City of New York v. Giuliani, 248 A.D.2d 1

² Id.

on whether public funds should be spent on a new Yankee Stadium. That commission's modest proposals led to widespread criticism of Mayor Giuliani and his motives. Many, at the time, saw the charter commission as a tool used to achieve narrow political goals.

According to the state courts, which have affirmed both of those recent "bumps" along with many others over the years, this provision of state law is justified because it allows the voters to "give their full attention to the important task of reviewing the City Charter."³

Such reasoning is unpersuasive and this provision makes for bad policy. Indeed, the ability of a Mayor to block a citizen or Council-initiated ballot proposal he or she finds undesirable simply by appointing a charter revision commission curtails the power of the legislature and of the people. It also cheapens legitimate charter revisions, which, in most cases, are carried out in a thoughtful manner by dedicated New Yorkers volunteering their time. A.6019 would restore much-needed balance to the referendum process in New York City and ensure that no Mayor would have the ability to sideline a ballot proposal on his or her own initiative. The current system effectively creates an electorate of one; the Mayor who decides what shall and shall not appear on the ballot. It curtails the power of the Council and impairs the power of the people.

A.4122a would change certain provisions of state law regarding the appointment of a charter revision commission. This legislation would change the appointment process and subject members of a charter commission to the City's Conflicts of Interest laws. These changes would make future charter commissions more independent, a change that I support.

³ Id. See also Appeals Court Blocks Vote On Lowering City Class Sizes, N.Y. Times, October 21, 2003, B3.

I am very hopeful that the Mayor's charter commission, appointed earlier this week, will conduct a full and independent review of City government. We have a Mayor who has shown a commitment to hearing from a diversity of views. But the charter reform process is not about this Mayor or this commission. It is the process for the orderly evolution of our City government. And just as we want a democratic, transparent, open and modern government, we need a charter reform process that embodies these values. As the charter commission does its work in the months ahead, I urge you to pass legislation to assure that the charter process is what it has been not at its worst, but at its best: not a process for achieving a narrow political victory, but a participatory forum for shaping a better City.