



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony before the City Council Committee on Governmental Operations,
State & Federal Legislation
City Hall – May 29, 2024

Introduction 908-2024 (Adams)
A Local Law to amend the New York city charter, in relation to requiring council advice and consent for certain commissioners

Summary of provisions

Intro 908-2024 (Adams) would amend the City Charter to require the advice and consent of the City Council for 21 commissioner appointments.¹ The mayor would have 60 days to present a nomination before the Council, and if the Council rejects such nomination, the mayor will have 60 more days to present another nomination. A deputy commissioner would be acting commissioner until a new commissioner is confirmed to head the relevant agency. The bill requires the mayor to “make all reasonable efforts” to get a commissioner confirmed within 120 days. The bill does not mandate the Council to take action within a certain timeframe or limit the number of times nominations and rejections can occur. Because this bill “abolishes, transfers or curtails”² the power of an elective officer, state law mandates that it be presented as a ballot question in a voter referendum.

Summary of Citizens Union’s position

- Substantial changes to the City’s system of checks and balances, like the ones proposed by Intro 908-2024, should be given substantial time for deliberation, research, consideration, and public input.
- The City Council should not rush through this Charter amendment process, and it should allow for more time, committee meetings, and public hearings to fully consider the implications of this proposal.
- Neither should Mayor Adams rush through his own efforts to amend the City Charter through a recently formed Charter Revision Commission.

¹ The bill would expand advice and consent to the commissioners of buildings, children’s services, citywide administrative services, consumer and worker protection, cultural affairs, design and construction, emergency management, environmental protection, finance, health and mental hygiene, homeless services, housing preservation and development, information technology and telecommunications, parks and recreation, sanitation, small business services, social services, transportation, veterans’ services, and youth and community development, and the commissioner for the aging.

² Municipal Home Rule Law §23(2)(f)

- Given the short time allotted to review this proposed bill, Citizens Union could not fully consider the merits of this proposal and take a position on it.
- However, we believe the list of commissioners in the bill deserves more scrutiny and a case-by-case review, as it includes disparate agencies of different sizes and functions, and it is unclear why some were included and others excluded.
- The Corporation Counsel is subject to advice and consent because that officer represents both the Mayor and Council, and the Commissioner of Investigation is subject to advice and consent because they must be sufficiently independent to conduct oversight of City Government. The commissioners proposed in the bill do not necessarily fall into one of these categories.
- Citizens Union does support making the Police Commissioner subject to the advice and consent of the Council because of the unique role it serves and the status of the NYPD in City Government, but that officer is omitted from the bill. Most of the commissioners proposed in the bill do not fall into that category.

Details of position

Citizens Union is a nonpartisan good government group dedicated to political reform and accountability in New York City and State governments. For over a century, Citizens Union has been involved in various efforts to restructure City Government and amend the City Charter, and we have traditionally supported expanding the City Council's oversight powers, increasing its investigative capabilities, and strengthening the review of appointments before the Council.³ We therefore have a keen interest in any proposed changes that could impact the balance of powers between the legislative and executive branches of New York City Government.

COMMENTS ON THE LEGISLATIVE PROCESS

Citizens Union believes substantial changes to the structure of City Government and its system of checks and balances, like the ones proposed by Intro 908-2024, should be given substantial time for deliberation, research, consideration, and public input.

Previous expansions of the Council's advice and consent powers were achieved through charter revision commissions (CRC). In 1989, a mayoral-appointed CRC proposed giving the Council the power to approve the Commissioner of Investigations. In 2019, a council-appointed CRC proposed giving the Council the power to approve the Corporation Counsel. A charter revision commission is not the only way to achieve substantial revisions of the City Charter, but it does provide the time and resources for extended study of issues, including comparative research, discussion, and public input.

Intro 908-2024 was introduced on Thursday last week, less than a week before this public hearing. **We urge the Council not to rush through this Charter amendment process, and to allow for more time, committee meetings, and public hearings to fully consider the implications of this proposal.**

³ See for example, Letter from good government groups to Council Speaker Adrienne Adams: Conduct a Meaningful Public Hearing Before Appointing the Next Board of Elections Commissioner, December 19, 2022 <https://citizensunion.org/wp-content/uploads/2022/12/Group-Letter-to-City-Council-on-BOE-commissioner-Appointment-Dec-2022.pdf>

By the same token, **we also urge Mayor Adams not to speed up his own efforts to amend the City Charter through a recently formed Charter Revision Commission**⁴. The advantage of a blue-ribbon charter revision commission is its ability to conduct a comprehensive review of the Charter through a lengthy and thorough process, and previous commissions were given plenty of time to complete their work.⁵ As currently set up, the mayor's Charter Revision Commission would only have three months during the summer to recruit professional staff, thoroughly review the Charter, seek meaningful public input, and draft proposals before a September 2024 deadline.

The competing efforts to amend the Charter are reminiscent of political battles over ballot questions between then-mayor Rudy Giuliani and then-Speaker Peter Vallone,⁶ and during the Bloomberg administration.⁷ **As Citizens Union stated in those instances, revising the City Charter (whether through a commission or legislative action) should be conducted deliberately and judiciously by engaging a broad spectrum of experts and ordinary New Yorkers.** It would be in the City's interest if both co-equal branches of City Government avoid misusing the City's foundational document to score tactical political wins.

COMMENTS ON THE CONTENT OF THE PROPOSAL

Given the short time allotted to review this proposed bill, Citizens Union could not fully consider the merits of this proposal and the impact it would have on City Government. However, **we believe the list of commissioners included in the bill deserves more scrutiny.**

Advice and consent by legislative bodies can serve as a useful tool to bring talented leaders to top positions in a transparent process that provides consensus and accountability. City councils and mayoral administrations have often worked well together to ensure qualified and agreeable candidates are confirmed in the roles where advice and consent were required.

However, advice and consent can also be politicized to further the immediate interests of one branch of government over the other, regardless of the identity of a candidate or the needs of the public office. We have seen this play out in Washington, D.C. in recent years.

The right approach depends on the circumstances of the position. The Commissioner of Investigation is subject to advice and consent because they must be sufficiently independent to conduct oversight of City Government. Citizens Union supported making the Corporation Counsel subject to Council advice and consent because that officer represents both the Mayor and Council. Citizens Union has also supported Council advice and consent be extended to cover the Police Commissioner because of the unique role it serves and the status of the NYPD in City Government. The officials proposed for confirmation in the bill do not fall into either category.

⁴ May 21, 2024 Press Release, Mayor Adams Announces New Charter Revision Commission <https://www.nyc.gov/office-of-the-mayor/news/401-24/mayor-adams-new-charter-revision-commission>

⁵ The 2021 Racial Justice Commission was appointed in March 2021 and put a question on the ballot in November of 2022. The 2019 Council CRC held its first meeting in July 2018 and worked for more than a year. The 2018 mayoral CRC was appointed in April of that year. The 2010 mayoral CRC was appointed in March of that year.

⁶ Andy Newman, The New York Times, Sept. 3, 1998, Giuliani and Vallone Battle Over Charter Lawsuit <https://www.nytimes.com/1998/09/03/nyregion/giuliani-and-vallone-battle-over-charter-lawsuit.html>

⁷ Michael Cooper, The New York Times, Oct. 21 2003, Appeals Court Blocks Vote On Lowering City Class Sizes <https://www.nytimes.com/2003/10/21/nyregion/appeals-court-blocks-vote-on-lowering-city-class-sizes.html>

Intro 908-2024 proposes to expand advice and consent to 21 commissioners heading disparate agencies. They include some of the largest and some of the smallest agencies in City Government, as well as agencies that mainly provide services to citizens and those that mainly support other parts of government. **It is unclear why some agencies are included in the list and others are excluded.**

Citizens Union believes a case-by-case review and scrutiny of the list of commissioners should be conducted.

One clear omission from the list is the Police Commissioner. Because of the importance of the Police Commissioner and the impact of the NYPD on the daily lives of the City's residents, **CU had previously recommended that the appointment of the Police Commissioner be made subject to the advice and consent of the Council,⁸ and we repeat this recommendation here.** A 2021 bill by Speaker Adrienne Adams (then chair of the Committee on Public Safety) proposed making such a change.⁹ We recommend this on the assumption that the Council, in evaluating the qualifications of nominees for Police Commissioner, will do so in a responsible manner and without the introduction of extraneous political considerations.

Thank you for giving us the opportunity to address you today. For information and questions, please contact Ben Weinberg, Director of Public Policy, at bweinberg@citizensunion.org.

⁸ Citizens Union Agenda for Police Reform – 2021 Issue Brief and Position <https://citizensunion.org/wp-content/uploads/2021/03/citizens-union-agenda-for-police-reform-part-1-governance-and-accountability-mar-2021.pdf>

⁹ A Local Law to amend the New York city charter, in relation to requiring advice and consent of the council for the police commissioner, Pub. L. No. Int 2209-2021. <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4771042&GUID=510F929A-DDB6-4C8C-9F28-93069BD24873&Options=&Search=>