

## CITIZENS UNION'S POSITIONS ON THE 2024 BALLOT PROPOSALS

### **Proposal Number 1, an Amendment: Amendment to Protect Against Unequal Treatment**

*This proposal would protect against unequal treatment based on ethnicity, national origin, age, disability, and sex, including sexual orientation, gender identity and pregnancy. It also protects against unequal treatment based on reproductive healthcare and autonomy. A "YES" vote puts these protections in the New York State Constitution. A "NO" vote leaves these protections out of the State Constitution.*

### CITIZENS UNION **SUPPORTS** THIS PROPOSAL

The New York State Constitution's Bill of Rights currently protects individuals from discrimination only on the basis of race, color, creed or religion. This proposal would also bar discrimination on the basis of a person's ethnicity, national origin, age, disability, sex, including sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy.

Those classes of individuals are currently protected from discrimination under state law. Abortion rights are also codified in state law. The proposed constitutional language would enshrine these protections, making them far more difficult to alter than by a simple act of the Legislature. The proposed amendment also clarifies that protections from discrimination based on one characteristic cannot interfere with the civil rights of a person based on any other characteristic.

Citizens Union recommends a YES vote on Proposal 1.

The immediate impetus for seeking to constitutionally protect reproductive rights was the U.S. Supreme Court's 2022 decision in *Dobbs v. Jackson Women's Health Organization*, which held that the federal constitution does not protect the right to abortion. Following *Dobbs*, a number of states have sought to restrict or ban abortions, with alarming impacts regarding women's reproductive health. Similar proposals exist on the national level. On the other hand, several states have enhanced reproductive rights, including in their constitutions. Indeed, New York is one of 11 states that will have ballot measures related to abortions this November.

Some opponents of the amendment argue it could lead to transgender males competing on women's sports teams. However, protections for sexual orientation and gender identity and expression have long been established in New York law, and the balance of interests strongly lies in favor of those individuals being able to live their lives protected from discrimination. Many of these individuals have faced traumas throughout their lives and are not free from aspects of discrimination despite protective laws.

Citizens Union has a long-standing position in favor of giving women control over their own bodies in making reproductive decisions. Citizens Union believes that New York should join those other states that have installed constitutional protections for reproductive rights, and urges voters to approve adding the proposed additional protections for potentially vulnerable classes of New Yorkers.

**Proposal Number 2, a Question: Cleaning Public Property**

*This proposal would amend the City Charter to expand and clarify the Department of Sanitation’s power to clean streets and other City property and require disposal of waste in containers. Voting “Yes” will expand and clarify the Department of Sanitation’s power to clean streets and other City property and require disposal of waste in containers. Voting “No” leaves laws unchanged.*

**Proposal Number 3, a Question: Additional Estimates of the Cost of Proposed Laws and Updates to Budget Deadlines**

*This proposal would amend the City Charter to require fiscal analysis from the Council before hearings and votes on laws, authorize fiscal analysis from the Mayor, and update budget deadlines. Voting “Yes” would amend the City Charter to require additional fiscal analysis prior to hearings and votes on local laws, and update budget deadlines. Voting “No” leaves laws unchanged.*

**Proposal Number 4, a Question: More Notice and Time Before Votes on Public Safety Legislation**

*This proposal would require additional public notice and time before the City Council votes on laws respecting the public safety operations of the Police, Correction, or Fire Departments. Voting “Yes” will require additional notice and time before the Council votes on laws respecting public safety operations of the Police, Correction, or Fire Departments. Voting “No” leaves laws unchanged.*

**Proposal Number 5, a Question: Capital Planning**

*This proposal would amend the City Charter to require more detail in the annual assessment of City facilities, mandate that facility needs inform capital planning, and update capital planning deadlines. Voting “Yes” would require more detail when assessing maintenance needs of City facilities, mandate that facility needs inform capital planning, and update capital planning deadlines. Voting “No” leaves laws unchanged.*

**Proposal Number 6, a Question: Minority and Women-Owned Business Enterprises (MWBEs), Film Permits, and Archive Review Boards**

*This proposal would amend the City Charter to establish the Chief Business Diversity Officer (CBDO), authorize the Mayor to designate the office that issues film permits, and combine archive boards. Voting “Yes” would establish the CBDO to support MWBEs, authorize the Mayor to designate the office that issues film permits, and combine two boards. Voting “No” leaves laws unchanged.*

CITIZENS UNION **OPPOSES** PROPOSALS 2, 3, 4, 5, AND 6

Citizens Union recommends a NO vote on all five questions proposed by the 2024 Charter Revision Commission.

The procedure taken to arrive at these proposals was rushed and did not provide adequate time to properly deliberate or solicit feedback, resulting in relatively little public input. Many civic groups, including Citizens Union, protested the Commission's condensed timeline—only two months during the summer and a primary election season— and urged the Commission not to place any proposal before the voters this year. In fact, all Charter Revision Commissions in the past 20 years have worked under longer timeframes.

The result of Charter Revision Commission’s hasty process is a set of proposed revisions that could have been accomplished through the legislative process or simpler executive means. We do not believe any of the proposals presented to voters this year required a referendum. In fact, a number of the proposals

add more complications to the Charter, which as the City's constitution, should be a more streamlined document.

Throughout its long history, Citizens Union has supported periodic comprehensive reviews of the New York City Charter to ensure that city government is operating effectively, efficiently, and in the public's best interest. Many of our recommendations have been adopted into the City Charter. But we have also repeatedly objected to rushed charter revisions such as this one.

Our position has remained consistent: Revising the city's constitution should be conducted deliberately and judiciously by engaging a broad spectrum of experts and ordinary New Yorkers. Charter commission process should be deliberate, and not subject to the political jousting between a particular mayor or city council. Commissions should focus on changes that cannot be done legislatively, although not exclusively so, since there can also be meritorious proposals that have stalled in the legislative process.

We have also long held state law governing charter commissions should be reformed to address some of the troubling aspects of the city charter revision process that surfaced this year and in past administrations.

We acknowledge that a goal here was to block the City Council's proposed expansion of its "advise and consent" authority through its own referendum proposal, in a rushed legislative process we also criticized as inadequate. It would be in the city's best interest if both branches of City Government avoid using the City's constitution for political gamesmanship.

Though we find that the inadequacy of this entire process merits a no vote on all five questions, we also believe that questions three, four, and five should be voted down on the merits as well, because they are unnecessary to enshrine in our City's Charter, are being implemented already, or would create more confusion. We believe, however, that, on the merits, the proposals included in questions two and six have positive aspects that should be considered by a Charter Commission and/or the City Council through a more deliberative future process.

**Question 3**, would, among things, require that fiscal impact statements of bills include estimates from the Mayor's Office of Management and Budget.

Citizens Union believes this proposal disrupts the delicate separation of powers in the Charter, which is at the root of the legislative process. The City Council is tasked with lawmaking and developing the research that informs this task, including assessing the costs of bills. The Mayor already has a role in the legislative process through the power of veto. In addition, nothing prevents mayors from conducting analyses of bills whenever they choose, and using the many public and internal avenues available to them to convey their concerns about the costs of proposed legislation. Although we acknowledge that there are problems with the way Fiscal Impact Statements are currently produced, including how close they are published to a vote, we believe improvements to the process should be made through the Rules of the Council, which govern the inner workings of the Council, rather than the City's constitution.

**Question 4** would require the Council to give notice to the public, the Mayor, and commissioners at least 30 days in advance of votes on laws respecting the public safety operations of the Police, Correction, or

Fire Departments. It would also amend the Charter to say that the Mayor or affected commissioners “may” hold public hearings to solicit additional public comment on the bill.

Citizens Union believes this is an unnecessary intrusion of the executive branch into the legislative branch that would add more complications to the lawmaking process and confuse the public.

An analysis of over 1,700 local laws passed in the last decade, conducted by Citizens Union and presented to the Charter Commission, revealed that public safety legislation receives similar public input opportunities as other laws on other issues, and that on average, it takes over nine months for such bills to be voted on by the Council. There is therefore no reason to single out public safety issues from other citywide policy matters, such as education, transportation, or the environment, by assigning to them greater public notice, potentially creating a two-tier system in legislation.

Nor is this proposal needed to provide the mayor and agency heads with the power to call for public hearings; nothing stops them from calling for such hearings now. It is important to note, however, that the executive branch has no formal role in developing legislation. Asking the public to testify before executive offices instead of the elected body that drafts bills would add unnecessary confusion.

Furthermore, the proposal seems crafted to apply to only three city agencies because, as the Charter Revision Commission has noted, they were at the heart of two contested bills last year (the How Many Stops Act and the ban on solitary confinement). We do not believe the Charter-mandated legislative process should be redesigned to respond to specific political disputes. Moreover, there was ample notice time before the vote on those bills and intense public debate over months.

Finally, there are issues involving the drafting of the proposed Charter amendments. It is not clear precisely what type of legislation would trigger the 30-days’ notice requirement, as it applies only to bills relating to the “public safety operations” of the police, fire, and correction departments. That term does not appear anywhere else in the Charter and has not been defined. Furthermore, while the City Council is required to give notice to the “public” before passing a public safety bill, there is no definition of what constitutes such notice. Both issues may spur confusion and litigation.

**Question 5** would add a number of requirements to the already complicated planning procedure. A Mayor may institute a number of these changes without legislation, and dates may be moved through legislation. The additional requirements could trigger even more litigation in the land use process, and the city government already has difficulty moving projects through to completion. Furthermore, Citizens Union is concerned that while most of the capital planning requirements focus on large capital projects, one provision can be interpreted to require an assessment of “each city facility,” without defining what those facilities are.