



MEMORANDUM OF SUPPORT
S590 (Krueger)/A3665 (Simone)
February 3, 2025

TITLE OF BILL

An act to amend the municipal home rule law, in relation to the city charter referendum process; and to repeal paragraphs (e), (f) and (g) of subdivision 5 of section 36 of the municipal home rule law, relating to limitations on the submitting of a question to the qualified electors of a city when there is a question submitted by a charter commission.

SUMMARY OF PROVISIONS

Section 1 of this bill would repeal three paragraphs of the Municipal Home Rule Law that give charter revision commissions established by mayors the exclusive “right of way” to the ballot and bar all other local referenda from the ballot. The three paragraphs that would be eliminated currently state that,

- §36(5)(e): If a charter commission created by a mayor places a question on the ballot, no other local question can appear on the ballot in the same election. That includes questions submitted by other charter commissions, the local legislature, or petition initiatives.
- §36(5)(f): If a charter commission is in existence, the local legislature cannot submit questions to the ballot except at a general election.
- §36(5)(g): If a charter commission places a question on the ballot, questions submitted to the ballot by a petition initiative will be pushed to the next general election.

Section 2 of the bill would amend §36(5)(b) to establish minimum timeframes for charter revision commissions. It would require at least 180 days between a charter revision commission’s first meeting and the filing of ballot proposals with the City Clerk, and at least 30 days between a charter revision commission’s final report and the date of filing ballot proposals with the City Clerk.

Section 2 of the bill would also clarify that if there is a conflict between ballot proposals approved by voters, the proposal receiving the most votes shall prevail. Existing law already applies this rule for conflicting ballot questions proposed by charter commissions, and the bill would expand that rule to conflicting questions from all sources.

STATEMENT OF SUPPORT

Citizens Union strongly supports this bill because it would ensure the city charter revision process serves the public’s interests, not political maneuvering, and restore trust in city charters as a true reflection of New Yorkers’ needs and aspirations.

Periodic reviews of city charters via the appointment of an independent, open, and deliberative charter revision commission are necessary to ensure city governments operate effectively, efficiently, and in the public's best interest. However, loopholes in state law leave the charter revision process vulnerable to political jousting and gamesmanship.

Recent experiences with charter revision commissions in New York City have highlighted two key weaknesses:

- (1) The ability of mayors to establish charter commissions primarily to prevent certain ballot questions from reaching voters.
- (2) The lack of deadlines for forming charter commissions, allowing them to be created at the last minute, resulting in rushed and inadequate processes.

These weaknesses have been used by mayors in New York City to remove other proposals from the ballot. The executive branch now has the ability to determine the referenda that are on the ballot in a given year by creating a charter revision commission, denying the City Council or voters equal input in city charter matters.

Citizens Union has long supported legislation aimed at reforming some of the troubling aspects of the city charter reform process. Previous iterations of this bill have passed the Assembly several times.

A3665 (Simone)/S590 (Krueger) addresses these two issues in a practical and balanced manner. It represents a long-overdue update to Section 36 of the Municipal Home Rule Law, which governs charter revision commissions and has remained largely unchanged for decades.

THE POLITICAL MISUSE OF MAYORAL CHARTER COMMISSIONS' EXCLUSIVE RIGHT OF WAY

Municipal Home Rule Law §36 provides that whenever a mayoral-appointed charter commission places a question on the ballot, all other charter proposals are denied a place on the ballot. This exclusive right of way was used in 2024 by New York City Mayor Eric Adams to block a ballot question approved by the New York City Council, which proposed reducing the Mayor's power over certain appointments¹. Adams called for a rushed commission immediately after the media first reported on the City Council's plan to pass a local law that would be sent to voters in the November 2024 election.² Mayor Adams repeated the same tactic later that year, establishing a second charter commission a month after the City Council approved legislation to establish its own charter revision commission³. This means that only Mayor Adams' Charter Revision Commission proposals will be allowed on the November 2025 ballot. The Council-created Charter Commission may submit ballot questions to the November 2026 ballot, but a mayor could derail that Commission again simply by establishing a new Charter Commission. **This could continue for years.**

¹ Intro 908-A-2024, A Local Law to amend the New York city charter, in relation to requiring council advice and consent for certain commissioners

² Dana Rubinstein, The New York Times. May 21, 2024. *Adams vs. Adams: A Power Struggle in New York City Turns Ugly* <https://www.nytimes.com/2024/05/21/nyregion/city-council-eric-adams.html>

³ Chris Sommerfeldt, New York Daily News. December 12, 2024. *Adams unveils new NYC Charter revision panel with housing focus that can block Council effort.* <https://www.nydailynews.com/2024/12/12/adams-unveils-new-nyc-charter-revision-panel-with-housing-focus-that-can-block-council-effort/>

Eric Adams is not the first mayor to make use of this authority. In fact, **all recent New York City mayors have taken advantage of the power to derail referenda they disapproved of.** Mayor Rudolph Giuliani appointed a short-lived charter commission in 1998 to prevent a local law on the future of Yankee Stadium, approved by the City Council, from appearing before voters⁴. Mayor Michael Bloomberg established a 2003 charter commission to block a petition initiative on whether class size should be limited, which gained enough signatures to get on the ballot that year.⁵ Mayor Bill de Blasio announced a charter commission in 2018 as the City Council was working on a bill to set up its own charter commission, delaying the Council's Commission's ballot proposals to 2019.⁶

With the proliferation of charter revision commissions over the past decades, New Yorkers could see many more examples unfolding in the coming years. **Until this legal loophole is closed, mayors will continue to misuse their power in the same way.**

This gamesmanship contributes to voter cynicism, adds confusion, and unnecessarily favors the executive over its co-equal branch of government. Instead of fostering collaboration between the different branches for the public interest, this authority incentivizes abuse of power to gain political wins. In the long run, it weakens city charters, which, as the City's basic governing document, should be amended through a deliberate process and not subject to the political wrangling between a particular mayor or city council.

Allowing multiple proposals on the ballot will contribute to public debate in the event of competing proposals, and will give the City Council, or other local legislative body, equal footing to submit charter revisions to voters. When issues of citywide importance that reach the ballot through a referendum submitted by the City Council, which represents voters across a city, or directly from voters through signatures as initiatives, are prevented from appearing on the ballot, the public is denied an important voice. Removing this provision will help to create greater public confidence in the process.

THE ACCIDENTAL ORIGINS OF MAYORS' ABILITY TO BUMP QUESTIONS OFF THE BALLOT

The precedence of mayoral charter commissions in state law did not arise from deliberate debates over which branch of government is best suited to revise municipal constitutions, but rather from specific political circumstances over six decades ago. It occurred by happenstance to resolve the rivalry between the Tammany Hall faction of the New York City Council and Mayor Robert F. Wagner Jr.

In 1958, Wagner proposed creating a charter revision commission to reform the 1938 City Charter, but the City Council—then the sole City body with the authority to establish such a commission—delayed its approval for nearly three years, fearing it would weaken the Tammany-controlled Board of Estimate.⁷ To break the impasse, in 1961, Wagner struck a deal with Governor Nelson Rockefeller to push a bill

⁴ 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>

⁵ 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>

⁶ William Neuman, The New York Times. March 18, 2018. *2 Charter Commissions? Mayor and Council Are Creating Separate Panels.* <https://www.nytimes.com/2018/03/18/nyregion/city-charter-new-york-council-mayor.html>

⁷ Flanagan, Richard M. (2015). *Robert Wagner and the Rise of New York City's Plebiscitary Mayorality: The Tamer of the Tammany Tiger.* New York: Palgrave Macmillan, 2015. Chapter 4, The Break: The Fight for Charter Reform and the 1961 Mayoral Election. *Memos from the Committee on Legislation*, 1961, Citizens Union of the City of New York records, 1892-2020, Box E-197-200, Rare Book & Manuscript Library, Columbia University Libraries.

through the state legislature, granting the Mayor the power to establish a charter commission. **Crucially, because of a last-minute attempt by the City Council to create a second charter commission that would compete with Wagner's, the law also barred other charter proposals from being placed on the ballot.**⁸ To avoid litigation, the legislature extended these provisions to all cities across the state, enacting a general law.

Nonetheless, the new law⁹ quickly faced legal challenges. A New York Supreme Court judge criticized the bumping provision for "ousting the local legislature and the People from participation of any kind" in charter revision, as it allowed mayors to repeatedly block other charter revision efforts "in their tracks" by appointing a new charter commission every January 1st.¹⁰

Although the courts ultimately upheld the law's constitutionality¹¹, the issue continued to serve as a point of contention for reformers. While they supported Mayor Wagner's push for a charter commission, **they viewed the bumping provision as a temporary measure specific to that case.** "This exclusive right was put into the law to help the New York City charter revision," noted a 1964 Citizens Union memorandum, "but it was thought that in other situations it might be inappropriate."¹²

Reformers continued to push for the elimination of the mayor's exclusive right of way, which they saw as "highly questionable in principle." **In 1963, they got the legislature to approve an overhaul of the charter revision process, including the removal of the mayoral bumping provision.** Despite being unanimously approved in both houses, Governor Rockefeller vetoed the bill, arguing it would interfere with the work of several ongoing charter commissions across the state.¹³

Following negotiations the next year, a new charter commission reform bill passed and was signed into law.¹⁴ While it did not eliminate the mayoral right of way as the previous bill had done, it introduced measures "to guard against the blocking of a charter revision movement year after year by the creation of successive charter commissions."¹⁵ Specifically, it allowed a petition initiative bumped off the ballot by a mayoral commission to be reinstated the following year. This provision remains part of state law today.

⁸ Laymond Robinson, *The New York Times*. March 5, 1961. *Rockefeller Asks Power for Mayor to Shape Charter* <https://nyti.ms/3B7h5Uo>. Leo Egan, *The New York Times*. March 7, 1961. *Bill On Charter Cleared to Pass in Albany Today* <https://nyti.ms/4f4ifO9>.

⁹ Chapter 87 of the Laws of 1961, amending Section 20 of the City Home Rule Law.

¹⁰ *Di Prima v. Wagner*, 27 Misc. 2d 380, 215 N.Y.S.2d 687 (N.Y. Sup. Ct. 1961) <https://casetext.com/case/di-prima-v-wagner-2>

¹¹ *Di Prima v. Wagner*, 14 A.D.2d 36, 215 N.Y.S.2d 705 (N.Y. App. Div. 1961)

¹² Citizens Union, *Memorandum of Support, Senate Intro. 1979, Print 4164, Mitchell, Assembly Intro. 4504, Print 5786, Savarese*. April 1, 1964. Found in New York State bill jackets - L-1964-CH-0592, Albany, N.Y.: New York State Library. <https://nysl.ptfs.com/aw-server/rest/product/purl/NYSL/f/e8072222-83c7-454f-a690-f24de1dcae93>

¹³ Governor Nelson A. Rockefeller. Veto Memorandum No. 196, for Senate Bill Introductory Number 3102, Print Number 4504, entitled: "An act to amend the city home rule law, in relation commissions". April 30, 1963. Found in New York State bill jackets - L-1964-CH-0592, Albany, N.Y.: New York State Library. <https://nysl.ptfs.com/aw-server/rest/product/purl/NYSL/f/e8072222-83c7-454f-a690-f24de1dcae93>

¹⁴ Chapter 592 of 1964

Bill jacket Ch 592 <https://nysl.ptfs.com/aw-server/rest/product/purl/NYSL/i/e8072222-83c7-454f-a690-f24de1dcae93> Chapter law (page 231 of pdf, page 1623 of book) <https://nysl.ptfs.com/aw-server/rest/product/purl/NYSL/i/06438333-88ad-4da6-8f87-cb797e4404e3>

¹⁵ Citizens Union 1964 *Memorandum of Support*, see footnote 12

This historical background highlights two key lessons for the bill currently in question. First, **the mayoral ability to block other referenda was intended as a temporary solution to a specific political conflict, not a grant of unlimited power to control ballot proposals.** Second, while lawmakers and reformers recognized the risks of this ability, their efforts focused on safeguarding citizen-led ballot initiatives, which were more relevant in that era but are largely absent from modern-day city politics. **Today's New York City government differs greatly from that of the 1960s, relying more heavily on the City Council, which has evolved into a more representative and influential elected body.**

ESTABLISHING MINIMUM TIMEFRAMES FOR CHARTER REVISION COMMISSIONS

The 2024 Charter Commission operated under an extremely condensed and rushed timeline. Announced just two months before the deadline to file proposals with the City Clerk, it conducted its work during the summer and a primary election season, making it the shortest charter commission since 2002. For comparison, the most recent charter commission, established by Mayor de Blasio in 2021, worked for more than a year. The City Council's 2019 Commission worked for nine months.¹⁶

The hasty process resulted in poor attendance at public hearings and insufficient time to deliberate on proposals properly. A key advantage of a blue-ribbon charter revision commission is its capacity to conduct a comprehensive review of the City Charter through a thorough, open, iterative, and extensive process that engages the public meaningfully. **Compressing this complex work into a short timeframe undermines the thoughtful results expected of such commissions.**

While the Municipal Home Rule Law defines the deadline for commissions to file ballot questions with the City Clerk, it does not specify when a Commission must be established. As a result, a charter commission can theoretically exist for just a few days, as long as it fulfills other legal requirements, such as holding public hearings. The 2022 Charter Revision Commission, established by Mayor Bloomberg, worked for a total of 38 days.¹⁷

A3665 (Simone)/S590 (Krueger) addresses this issue by requiring a charter revision commission to hold its first meeting at least six months before filing its ballot proposals with the City Clerk. The bill also mandates a minimum of one month between the release of the commission's final report and the filing deadline with the City Clerk.

These changes would inject the necessary time to conduct a serious and robust charter revision process, including ample time for the public, media, and various stakeholders to participate in the process. It would allow charter commissions to engage a broad spectrum of experts and ordinary New Yorkers and gather diverse input.

Adopting such timeframes would strengthen the City Charter, reduce the ability for gamesmanship, and strengthen the public trust in City Government.

For further questions, please contact Ben Weinberg, Director of Public Policy, bweinberg@citizensunion.org.

¹⁶ Citizens Union Testimony before the 2024 City Charter Revision Commission, June 17, 2024 Government and Election Reform Forum & Hearing <https://citizensunion.org/portfolio-item/testimony-before-the-2024-charter-revision-commission-government-and-election-reform-hearing/>

¹⁷ Ibid.