



Legislation Details (With Text)

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Res. No. 496

Resolution urging the State Legislature and the Governor to amend the Municipal Home Rule Law to ensure that multiple validly created charter revision commissions may submit ballot questions to be proposed during the same election.

By Council Members Avella, Dickens, Palma, Sanders Jr. and Seabrook

Whereas, Charter revision commissions in New York City created pursuant to Municipal Home Rule Law §36 have at times dramatically altered and bettered governmental operation; and

Whereas, It was the clear intention of the state legislature that charter revision commissions, both those created by local legislative bodies under Municipal Home Rule Law §36(2), those created by qualified electors under Municipal Home Rule Law §36(3), and those created by a mayor pursuant to Municipal Home Rule Law §36(4), be given ample time to thoroughly review the city's charter in its entirety before releasing its proposals to the general public; and

Whereas, The State Legislature further intended such charter revision commissions to be utilized rarely,

and then only for large overhauls of the system of government, such as the 1989 New York City charter revision commission mandated by a decision of the United States Supreme Court; and

Whereas, Unfortunately, however, the statutory provisions of the Municipal Home Rule Law have been construed by recent New York City mayoralities to permit the creation of numerous charter revision commissions in the past ten years, each lasting an average of less than ten weeks, in order to pervert the political process envisioned by the drafters of Municipal Home Rule Law §36; and

Whereas, The four previous commissions created before the most recent set of commissions each required an average of approximately eighteen months in order to sufficiently complete its work and were created over a period of nearly twenty years; and

Whereas, The last several commissions, all created by the Mayor, have shared in common with the Mayor's office significant resources, including the entire staffs of each commission; and

Whereas, The relatively short durations of the recent commissions, created in close succession and each reviewing only a small portion of the charter, evince a common and deep bias toward the partisan political concerns of the Mayor creating the commissions, often exploiting the charter revision process as a tool to shift the legislative function of the city's government to the Mayor, the executive, who is by law empowered only to implement and not create legislation; and

Whereas, This exploitation of the charter revision process was evident in 1998, when Mayor Giuliani created a charter revision commission with the sole purpose of blocking a Council ballot proposal regarding Yankee Stadium; and

Whereas, More recently, a ballot proposal regarding mandatory class size, signed by the required number of qualified electors pursuant to Municipal Home Rule Law §36(3), was bumped from the November 2003 ballot by the Mayor's charter revision commission; and

Whereas, Municipal Home Rule Law §36, and several cases interpreting its language, allow mayorally created charter revision commissions to bump any ballot initiatives proposed by legislation adopted by the

Council or by voter initiative; and

Whereas, It is also not clear whether the ballot proposals of a Council created Charter Revision Commission would be preempted by the mayor's commission; and

Whereas, This imbalance in favor of the Mayor must be addressed so that the will of the people is not thwarted by the power of the executive; now, therefore, be it

Resolved, That the Council of the City of New York urges the State Legislature and the Governor to amend the Municipal Home Rule Law to ensure that multiple validly created charter revision commissions may submit ballot questions to be proposed during the same election.

DJ
LS# 13
5/23/2006