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Sponsors:	Stanley E. Michels, Helen M. Marshall, Guillermo Linares, Bill Perkins, Margarita Lopez, John D. Sabini, Una Clarke, Lucy Cruz, June M. Eisland, Kathryn E. Freed, Julia Harrison, Lloyd Henry, Howard L. Lasher, Martin Malave-Dilan, Walter L. McCaffrey, Annette M. Robinson, Victor L. Robles, Alphonse Stabile, Lawrence A. Warden, Juanita E. Watkins, Thomas White, Priscilla A. Wooten				
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3/28/2001	*	City Council	Filed by Council	Pass

Int. No. 880

By Council Members Michels, Marshall, Linares, Perkins, Lopez, Sabini, Clarke, Cruz, Eisland, Freed, Harrison, Henry, Lasher, Malave-Dilan, McCaffrey, Robinson, Robles, Stabile, Warden, Watkins, White and Wooten

A Local Law to amend the charter of the city of New York, in relation to repealing term limits for council members.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The City Council has reviewed and considered the Charter provision imposing artificial term limits on councilmembers and hereby finds that serious unintended consequences would result from its implementation. Specifically, under the current Charter, voters in up to 35 council districts would be denied the right to vote for their incumbent councilmembers, while voters in 16 council districts would be able to vote for incumbent members. As a result of this scheme, a significant number of senior members including the Speaker and all committee chairs would be arbitrarily removed from office at the same time. The impact of this forced exodus falls heavily on “minority” voters and the “minority” communities of the City, whose representatives have gained seniority and committee chairs and other leadership positions in recent years as a result of changes made in compliance with the Voting Rights Act and similar legislation.

The Council further finds that artificial term limits for legislators would serve no useful purpose since elections themselves provide the voters with a full opportunity to reject or retain incumbent officeholders. Term limits would deprive the electorate of the right to democratically elect local representatives of its own choosing.

The Council further finds that the Charter’s artificial term limits provisions would cause the wholesale dumping of the “institutional memory” and long-term perspective of the City Council. Specifically, the Council, like other legislative bodies, is a deliberative body in which issues are debated and legislative proposals are acted upon. Term limits would mindlessly expel senior members who can offer insights based upon past deliberations and determinations of the Council. Term limits also would result in a shift of significant responsibility from elected councilmembers to career staff members who are not directly accountable to the voters of New York City, therefore increasing the potential for an unresponsive city government, despite the stated intent of the Charter provision.

The Council acknowledges that term limits were adopted pursuant to a public referendum and that such

enactments should not be lightly overturned or modified; however, the Council is equally mindful that it has a duty under the United States Constitution, the New York State Constitution and the City Charter to consider the fundamental interests of all the people and to ensure that the right of each individual voter to cast a ballot for a candidate of his or her choice is preserved. That fundamental right of the individual voter cannot and should not be limited by the will of the majority, except in circumstances where there is a clear public policy rationale and need to limit the powers of the holder of an office with extraordinary power such as an executive branch member. The Council therefore finds that the term limits provision adopted by public referendum constitute an inappropriate imposition by the majority of voters on the individual liberties and voting rights of all voters and that this undue power of the majority is contrary to well-established standards of democracy.

The Council points out that the referendum imposing term limits deprived voters of the means to distinguish between the Council and the elected offices in the executive branch since all offices were grouped together and only one vote could be cast. The Council finds that term limits for executive branch elected offices are less offensive to fundamental democratic standards since they serve a historically recognized purpose in the United States of curbing executive powers. An executive branch elected official has the unilateral authority to expend City funds and to exercise police and emergency powers. The Council by its legislative nature has no such unilateral authority and thus there is no compelling public policy rationale for limiting the terms of individual councilmembers and denying voters their right to re-elect or reject them.

The Council further finds that the term limits provisions of the Charter are likely to produce irrational and inappropriate results. For example, the term limits imposed on the Council differ from the executive term limits by allowing for some councilmembers, depending on their year of election, to serve either two or three terms, lasting from six to eight years. These anomalies materially disenfranchise some voters and result in unequal electoral opportunities among voters. To the extent these anomalous consequences disadvantage “minority” voters, they are especially troublesome.

The Council further finds that repeal of the artificial term limits in this election year will afford the electorate and each individual voter with the fullest and fairest opportunity to cast his or her ballot for or against limiting the term of incumbent councilmembers who seek re-election.

The Council further finds that the concerns expressed by some proponents of term limits that incumbent officeholders enjoy an inappropriate advantage in the election process due to the so-called “power of incumbency” are ill founded. New York City’s highly regarded campaign finance laws, which provide significant public funds for candidates, level the playing field with respect to the cost of running for office. These laws eliminate usual advantages of incumbency; indeed, they limit spending by incumbents who participate in public financing and they subsidize participating candidates, even providing extra funding when non-participating opponents exceed allowable spending limits.

The Council hereby declares that public elections with public financing provide the best system of allowing the electorate to impose appropriate term limits on individual incumbent officeholders and that the artificial term limits adopted by public referendum constitute an arbitrary and irrational limitation on the fundamental rights of individual voters.

Section 2. Section 1137 of the New York City charter, as added by vote of the electors on November 2, 1993, is amended to read as follows:

§ 1137. **Public policy.** It is hereby declared to be the public policy of the city of New York to limit to not more than eight consecutive years the time elected officials can serve as mayor, public advocate, comptroller[, and borough president [and council member] so that these elected representatives are “citizen representatives” who are responsive to the needs of the people and are not career politicians.

Section 3. Section 1138 of the New York City charter, as added by vote of the electors on November 2, 1993, is amended to read as follows:

§ 1138. **Term limits.** Notwithstanding any provision to the contrary contained in this charter, no person shall be eligible to be elected to or serve in the office of mayor, public advocate, comptroller[,] or borough president [or council member] if that person had previously held such office for two or more full consecutive terms [(including in the case of council member at least one four-year term)], unless one full term or more has elapsed since that person last held such office; provided, however, that in calculating the number of consecutive terms a person has served, only terms commencing on or after January 1, 1994 shall be counted.

Section 4. This local law shall take effect immediately.