

DETROIT CHARTER REVISION COMMISSION

PROPOSAL/ISSUE REVIEW SUMMARY

ISSUE NUMBER: BF 78

ISSUE CATEGORY: Budget & Finance

SOURCE: Mayor Bing Administration
Letter, Rec'd December 21, 2010

RELATED CHARTER SECTIONS: §6-307 (Privatization of City Services)

RELEVANT ORDINANCE SECTION:

RELEVANT LAW(S):

18-5-100 to 18-5-109

ISSUE/PROPOSAL STATEMENT: Streamline the Privatization process by clarifying limits and intent of the Privatization section and its application only to non-union employees; require only a comprehensive report on the need to outsource and documentation of bids solicited, written estimate of direct and indirect cost of the current cost efficient operation and Council approval after review of the comprehensive report and cost analysis.

Section 6-307. Privatization of City Services.

~~The City shall provide by ordinance for a~~ This section provides the exclusive process by which the City shall act prior to any determination or action to enter into any agreement, by which a non-governmental person or entity provides services to the City substantially similar in whole or in part, to services provided by a regular employee of ~~an~~ a department or agency of the City. ~~Such ordinance shall provide for the following:~~ This section does not:

1. Apply to City employees who are covered by a collective bargaining agreement, which address outsourcing;
2. Apply to City employees who are covered by a collective bargaining agreement, which is silent regarding outsourcing, where the City is precluded by law from outsourcing the service;
3. Abrogate or limit any legal right afforded to the employees under the collective bargaining process;
4. Supersede Section 6-517 of this Charter;
5. Prohibit the City from obtaining contractual services, which are an expansion or addition to services already provided by governmental employees, provided, that the contractual services are not a replacement for existing governmental positions;
6. Apply to services, which are grant funded for a period of eighteen (18) months or less; or
7. Apply to voluntary or donated services, which are not being compensated by City funds.

The City shall not privatize City services unless and until:

1. The ~~preparation of~~ department or agency that provides the service prepares a comprehensive report, which details the need for the privatization — and documents solicitation of bids from the affected employees and from outside vendors;

2. ~~The department or agency provides~~ comprehensive written estimates of the total current costs to ~~the City of the department or agency~~ providing the subject services in the most cost efficient manner, including all direct and indirect costs ~~— ; and~~
3. ~~A requirement for Approval of by the legislative body to solicit bids~~ City Council for the privatization, after its review of the comprehensive report and cost analysis.
4. ~~An opportunity for the affected employees to organize and prepare a bid to provide the subject services.~~
5. ~~A process whereby the agency prepares a comprehensive written analysis of all bids of public employees and non-governmental entities, which would include, but not be limited to the cost of the bid to provide the services, contract performance; and unemployment, pension or other accrued benefits resulting from loss of agency employees.~~
6. ~~Other factors to be included in the consideration, other than cost, which could affect the public interest including the effect of transfer of services from the public to the private sector on the access, delivery or quality of services to be provided; the reduction in the employment level of City residents; the differences in work rules and management practices of the workers in the private sector, including those related to legal and constitutional protections and any loss of accountability to City residents which would result from the services being provided by a non-governmental person or entity.~~
7. ~~The provision that any final recommendation for the privatization of services would require the two thirds (2/3) approval of the legislative body, which would be required to certify that it was its determination that the availability and quality of the subject services would be likely to equal or exceed the quality of services which could be provided by regular agency employees.~~
8. ~~Provisions which would require the annual evaluation of the privatized services and the providing of such evaluation to the city council.~~

~~No provision of this section should be construed to abrogate or limit any legal rights afforded to the employees under the collective bargaining process.~~

~~Nothing in this section shall supersede provisions of section 6-517 of this Charter.~~

~~In addition, nothing in the ordinance should be construed as prohibiting the city from obtaining contractual services which are an expansion or addition to services already provided by governmental employees, provided that the contractual services are not a replacement for existing governmental positions.~~

~~An ordinance implementing this section shall be adopted within one hundred and eighty (180) days of the effective date of this Charter.~~

RATIONALE: *“The changes that are recommended in this section will clarify the confusion that has arisen regarding the limits and standards that are intended by this section. Because collective bargaining agreements supercede both charter provisions and ordinances, the changes in this section recognize that, in fact, this section controls privatization concerning non-union employees.*

“Importantly, the rights of City employees will be protected by deleting language, which requires that the section be implemented through an ordinance. This change will de-politicize the process and ensure that the will of the People of the City of Detroit is carried out without being modified through an ordinance.

“It is understood that privatization of services is no panacea and in most cases City employees can perform services more cost effectively and efficiently than outside contractors. This Charter Provision mandates a thoughtful and thorough

review of potential cost saving, service improvement recommendations, or both.”-Bing Administration, Letter, December 21, 2010.

ANALYSIS:

DISPOSITION/COMMISSION ACTION:

NOTES: