

## DETROIT CHARTER REVISION COMMISSION

### PROPOSAL/ISSUE REVIEW SUMMARY

**ISSUE NUMBER:** GDS 74

**ISSUE CATEGORY:** Government Department & Services

**SOURCE:** Patty Fedewa, Bd. Member,  
Transportation Riders United, Letter,  
12/17/10

**RELATED CHARTER SECTIONS:** §7-1404([Transportation] Limitations)

**RELEVANT ORDINANCE SECTION:**

**RELEVANT LAW(S):** Home Rule City Act, MCL 117.4f(a); White v. City of Ann Arbor, 406 Mich 554, 564-570 (1979); Duggan v. Clare Co. Bd. Of Cmm'rs, 203 Mich App. 573 (1994)

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**ISSUE/PROPOSAL STATEMENT:** Allow the sale and transfer of transportation assets with City Council approval, removing the requirement for voter approval; remove language nullifying grant of public utility franchise for transportation services without City Council approval.

Sec. 7-1404. Limitations.

The following limitations shall apply relative to transportation:

1. The city may not sell or in any way transfer ~~dispose of~~ any property needed to continue the operation of any city-owned public utility furnishing transportation service, unless approved by a majority of ~~city voters voting on the question at a regular or special election~~ city council.
2. The city may not grant any public utility franchise for transportation services unless approved by a majority of city council. ~~All contracts, franchises, grants, leases or other forms of transfer in violation of this section shall be void and of no effect against the city.~~

**RATIONALE:** "Currently, paragraphs one and two parallel Article 7, Section 25 of the State Constitution that limits the sale of city-owned public utilities and the franchise of them. However, The Michigan Supreme Court and Court of Appeals have held that Article 7, Section 25 does not apply to any utility except those mentioned in the Section: light, heat or power. **White v. City of Ann Arbor**, 406 Mich 554, 564-570 (1979); **Duggan v. Clare Co. Bd. Of Cmm'rs**, 203 Mich App. 573 (1994). Section except the Home Rule Cities Act, Section 117.4f [sic]. TRU contends that any transfer of control that may be necessary as a result of participating in a regional authority, joint operating agreement, or other joint action, is an issue that the Mayor and City Council should determine. Any requirements that are described in Sections 117.4f and 117.4g of the Home [R]ule Cities Act are in effect regardless of whether they are in the Charter. Keeping the current language creates one more hurdle to improving our transit system.

Section three was eliminated, because it appears to be duplicative of Sections one and two." - *Transportation Riders United, Letter, dated December 17, 2010.*

**ANALYSIS:**

**DISPOSITION/COMMISSION ACTION:**

**NOTES:**