

NEW ORLEANS CHARTER AMENDMENT, NOVEMBER 8, 2022

IN BRIEF

New Orleans voters will decide November 8 whether to amend the City's charter to require City Council confirmation of the mayor's appointments of all department heads and allow the council to confirm certain other administrators. Currently, the charter authorizes the mayor to make these appointments without the council's approval or input. If approved, the amendment would take effect January 1, 2023. It would apply only to appointments made on or after that date. Because the amendment would not apply to current administrators, the primary impact would be on future mayoral administrations.

Proponents say the charter change is necessary to provide an additional layer of scrutiny to help ensure top administrators are well qualified and ready for the job. Opponents say the change would usurp a key mayoral power and could lead to gridlock and political dealmaking between the mayor and council.

The mayor vetoed an ordinance to place the charter amendment on the ballot, but the council voted 5-2 to override the veto, giving voters the final say.

The proposed charter amendment would:

- Require City Council confirmation of the mayor's appointments of all 11 department heads established in the charter, including the police and fire superintendents.
- Permit the council to adopt an ordinance requiring its confirmation of mayoral appointments to head any other department, office or unit to which executive powers have been assigned.
- Allow the mayor to temporarily bypass council confirmation by making an interim appointment for up to 120 days.

REPORT HIGHLIGHTS

- A BGR analysis found that city council confirmation of department heads is a widely used practice among 25 peer cities. In 20 of the cities, or 80%, the council confirms some or all department heads. The councils in the other five cities (20%) do not confirm department heads, as is the current situation in New Orleans.
- The current appointment process in New Orleans gives the mayor full discretion to make appointments with no external checks to help ensure the appointees are well qualified. Mayors typically interview candidates in private and make appointments without input from the council or public. The lack of a public vetting process can limit citizens' confidence that top administrators are capable and free from conflicts of interest.

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About BGR's *On the Ballot* Series

This report is part of BGR's *On the Ballot* series, which provides voters with objective, nonpartisan analysis of significant ballot propositions in the New Orleans metropolitan area. In producing these reports, BGR recommends positions consistent with its mission of promoting informed public policy making and the effective use of public resources to improve local government. *On the Ballot* reports highlight the strengths and weaknesses of ballot propositions and assess the potential for government expenditures or actions to efficiently achieve beneficial outcomes for citizens.

INBRIEF

- Council confirmation would add another layer of transparency and accountability for mayoral appointments. Council members said they plan to hold public hearings to vet appointees and learn how they would lead their departments, if confirmed. Such a public review could also make it more likely that candidates with potential conflicts of interest or poor performance in previous positions would be identified prior to appointment and removed from consideration. Moreover, a public vetting process would provide the mayor with an incentive to thoroughly scrutinize candidates and not put forward any who are unqualified.
- While some have expressed concern about the amendment diminishing the mayor's executive powers, the mayor would still oversee all departments and could remove unclassified administrative appointees at any time. Also, the council would be limited to approving or rejecting the mayor's appointees and could not install its own picks.
- The council could adopt an ordinance to extend its confirmation powers to certain administrative positions, including the heads of 13 special mayoral offices. Citing a proliferation of these offices – mayors have added nine since 2010 – BGR has recommended that the City review the offices for duplication of executive functions and other inefficiencies. Public hearings on the appointees to head some of these offices could help both the council and the public assess the scope and necessity of the offices.
- Opponents of the charter amendment have raised concerns about the potential for gridlock through repeated rejections of mayoral appointees. To address this, the council added the provision authorizing the mayor to make interim appointments for up to 120 days without council confirmation. However, the interim appointment process includes some ambiguities that could result in litigation.
- There is a risk that the confirmation process could be undermined by political dealmaking between the mayor and council in which the appointee's merits are not the sole consideration. The council could reduce this risk by establishing a clear process and criteria for evaluating appointees, but it has yet to do so.
- While the council already has sufficient investigative and disciplinary authority to remove unqualified or unethical administrators, this is a reactive approach. Additional scrutiny through the confirmation process could help identify poor administrative candidates prior to their appointments.

BGR POSITION

FOR. The charter amendment would provide significant transparency benefits to help make all mayoral administrations more open and responsive to the public. Requiring the City Council's confirmation of mayoral appointments of department heads would set a clear expectation for public accountability before administrators take office. The confirmation process also would give appointees an opportunity to explain to the council and citizens how they would apply their experience and expertise to improve the department and address any problems it faces. Such a process would provide an additional check to help ensure the City's top administrators are well qualified and capable. These benefits have made council confirmation of department heads a widespread practice among large cities with mayor-council forms of government, like New Orleans. Extending the option of council confirmation to other top administrative positions would provide another check on the broad mayoral authority to create special offices and bestow executive powers on them. However, the council should use its confirmation authority judiciously to avoid overburdening the executive branch.

BGR's support of the charter amendment is not a criticism of the current administration, which would face a more limited impact from council confirmation than subsequent administrations. Rather, BGR finds that the charter amendment would improve the selection process by increasing transparency and accountability for all administrations. Fully realizing these benefits will hinge on how the council addresses gaps and ambiguities in the proposal. The lack of details on the confirmation process increases the potential for political dealmaking. This could undermine the integrity of the vetting process by shifting the focus away from appointees' qualifications. To reduce this risk, the City Council should establish a clear process and criteria for evaluating prospective appointees. In addition, the council should clarify the provision allowing the mayor to make interim appointments to avoid potential litigation and gridlock. In establishing the confirmation process, the council should engage with the mayor. Such collaboration would help ensure that the charter amendment serves as a check and balance, rather than a political tool.