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Letter from Frank Mauro to Members of the Commission

Frank Mauro
New York City Charter Revision Commission

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August 24, 1988

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To: MEMBERS OF THE COMMISSION

From: Frank Mauro
Director of Research

Subject: SEPARATION OF PROPOSED REVISIONS IF QUESTION
1 IS APPROVED BUT QUESTION 2 ISN'T, AND VICE
VERSA

The Campaign Finance and Voter Assistance proposal is covered primarily, but not completely, by Chapter 46 of the Charter. The exception is that the responsibility of city agencies (i.e., for cooperating in voter assistance activities and preparing annual voter assistance plans) is included in the proposed Chapter 16 of the Charter as subdivision (d) of section 386. This subdivision would read as follows:

d. Heads of mayoral agencies shall cooperate with the board of elections and the coordinator of voter assistance to encourage voter registration and voting by all residents of the city of New York eligible to vote, and shall prepare annually, in accordance with rules and guidelines of the coordinator of voter assistance, plans specifying the resources, opportunities, and locations the agency can provide for voter assistance activities.

This form and placement is fine if both Questions 1 and 2 are approved, but it doesn't work if Question 1 is approved and Question 2 isn't or if Question 2 is approved and Question 1 isn't. In the first situation, the new 386(d) would include references to an official (the coordinator of voter assistance) and rules and guidelines established by that official, but because of the disapproval of Question 2 the provisions requiring that such an official be appointed and that the official promulgate the referenced rules and guidelines would not exist. This could be remedied by having a 386(d) per Question 1 - which did not include the references to the coordinator of voter assistance (see language of

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"Possible Section 386(d) per Question 1" below) and having that Section 386(d) amended if Question 2 is approved (See language of "Possible Amendment of Section 386(d) per Question 2" below).

Possible Section 386(d) per Question 1

d. Heads of mayoral agencies shall cooperate with the board of elections to encourage voter registration and voting by all residents of the city of New York eligible to vote, and shall prepare annually plans specifying the resources, opportunities, and locations the agency can provide for voter assistance activities.

Possible Amendment of Section 386(d) per Question 2

d. Heads of mayoral agencies shall cooperate with the board of elections and the coordinator of voter assistance to encourage voter registration and voting by all residents of the city of New York eligible to vote, and shall prepare annually, in accordance with rules and guidelines of the coordinator of voter assistance, plans specifying the resources, opportunities, and locations the agency can provide for voter assistance activities.

If this approach was utilized and both Questions 1 and 2 were approved, Section 386(d) would conform with our proposal. This approach, however, would have two drawbacks.

1. It would include some reference to voter assistance activities in Question 1.
2. It would not accommodate the situation that would exist if Question 2 is approved and Question 1 isn't, since Section 386 would not exist and therefore could not be amended.

The second of these drawbacks would also exist if, pursuant to Question 1, Section 386 did not include any subdivision (d) with a subdivision (d) being added only if Question 2 is approved.

Three approaches (and perhaps others) would address these concerns:

1. Question 2 could provide for the addition of subdivision (d) to Section 386 if Question 1 is approved and for the addition of identical language to an appropriate existing chapter or section if Question 1 is not

approved. For example, in the latter situation, this language could be added to the current Chapter 49 ("Officers and Employees") as a new Section 1106.

2. Question 2 could add language identical to the language of the proposed 386(d) to a chapter or section which will be exactly the same whether or not Question 1 is approved, rather than providing for alternative placements depending on whether or not Question 1 is approved.

3. Language identical to the language of the proposed 386(d) could simply be included in Chapter 46 itself.

The third of these approaches is the simplest and requires the least complicated instructions to the City Clerk and the least complicated explanation to other interested parties. This approach would be effectuated by taking the language of Section 386(d) and including it in Chapter 46 as a new Section 1056. The instructions to the City Clerk would then be as follows:

If Questions 1 and 2 are both approved, the Charter would be revised as indicated in the attached proposal.

If Question 1 is approved and Question 2 is not, the Charter would be revised as indicated in the attached proposal except that the changes in Chapter 46 would not be made.

If Question 2 is approved and Question 1 is not, Chapter 46 of the Charter would be revised as indicated in the attached proposals but the other chapters of the Charter would not be revised in accordance with the attached proposal; and Chapter 52 would be revised as indicated in the alternative Chapter 52* included in the attached proposal.

* The alternative Chapter 52 would include a much shorter effective date provision since it would not require the exceptions relevant to tax appeals, adjudication, and conflicts of interest.