

CITY OF DETROIT CHARTER REVISION COMMISSION

CORPORATION COUNSEL

Proposed Revisions for Consideration with Report on Corporation Counsel As Amended from March 22, 2011 Commission Meeting Without Commentary

Sec. 6-401. Law Department.

The Law Department is headed by the Corporation Counsel who is the authorized legal representative for the City of Detroit and its constituent branches and units of government. The Mayor shall appoint or reappoint the Corporation Counsel subject to approval of the City Council. However, if the City Council does not disapprove the appointment or reappointment within thirty (30) days, the appointment it is deemed confirmed. Upon election, but not re-election to office, the Mayor may reappoint the existing Corporation Counsel, if any, or make a new appointment. Both reappointment and new appointments shall be made in the manner prescribed in this section for selection of Corporation Counsel.

The Mayor may remove the Corporation Counsel without cause, with a two-thirds (2/3) majority vote of the membership of City Council. City Council may remove the Corporation Counsel, without cause, by a two-thirds vote of its membership and concurrence of the Mayor.

1. *Client and Representation*

The client of the Corporation Counsel is the City of Detroit as a body corporate. The agents and representatives of the City of Detroit, for purposes of receiving and directing legal services in a manner consistent with Corporation Counsel's professional obligations to the City of Detroit, as herein provided in this charter or allowed by law, shall be the Mayor, City Council and City Clerk.

Corporation Counsel represents the City of Detroit as a body corporate and may represent its branches of government, departments, agencies, elected officials and employees as required or allowed by law, charter, ordinance, city policy or contract. No branch or unit of government, department, agency, elected official or employee required or allowed to receive legal services by law, charter, ordinance, city policy or contract, may solicit or obtain legal advice, services or representation from an outside law firm without requesting and receiving the approval of Corporation Counsel, unless expressly allowed by charter.

Sec. 6-408. ~~Special Counsel.~~ Intra-Government Branch Dispute Resolution.

~~Upon request of an agency or officer, the corporation counsel may retain an outside attorney as special counsel for any particular matter or proceeding.~~

In all disputes between branches or units of city government, before any branch or unit can institute legal proceedings, they shall have first requested and obtained from Corporation Counsel a legal opinion which details which party has the legally correct position. Corporation Counsel shall then instruct the branch or unit found not to have the legally correct position to obtain legal assistance and representation from an outside law firm if they plan on instituting legal proceedings.

In cases of disputes between the branches of government, prior to filing a lawsuit or taking other legal action, the highest public officials from the disputing branches of government shall first meet to resolve the matter. In the case of the Executive branch the highest public official shall be the Mayor or designee; in the case of the Legislative branch it shall be the Council President or designee; and in case of the Office of the City Clerk shall be the City Clerk or designee. The parties shall engage in facilitation of the matter over a period of fourteen (14) calendar days, or more as agreed to by the parties, before taking legal action. The facilitation shall be conducted by a facilitator, mutually agreed to by the parties. Nothing in this section shall preclude a branch or unit of government from seeking a temporary restraining order or other emergency legal action necessary to prevent irreparable harm, but this section shall be complied with upon a court ruling that no such irreparable harm exists, in which case the facilitation period shall be twenty-eight (28) calendar days.

Sec. 6-405. Advice and Opinion.

Each branch and unit of government shall receive the legal advice and opinion of Corporation Counsel on matters pertaining to the execution of their functions and duties as governmental bodies and officials. Upon request, the Corporation Counsel shall give such legal advice or opinions to the Mayor, City Council, ~~a~~ members of the City Council, City Clerk or the head of any agency.

Sec. 4-121. Special Counsel.

~~The City Council may obtain the opinion or advice of an outside attorney in any matter pending before it~~ Where there exists a conflict of interest between the City Council and another branch of government, the City Council has the authority to retain an outside law firm who shall represent the City Council in legal proceedings, in accordance with §6-408 (Intra-Government Branch Dispute Resolution). The attorney must be licensed to practice law in Michigan ~~Such attorney~~ and shall not represent the city as a municipal corporation in any legal proceeding.