

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

HORACE SHEFFIELD III and RODRICK
HARBIN,

Plaintiffs/Appellee,

v.

JANICE WINFREY, in her official capacity
as Clerk for the City of Detroit, and CITY OF
DETROIT ELECTION COMMISSION,

Defendants,

and

DETROIT CHARTER REVISION COMMISSION,

Intervenor-Defendant/Appellant

Supreme Court Case No. 163084
Court of Appeals Case No. 357298
Wayne CC: 21-006043-AW

Supreme Court Case No. 163085
Court of Appeals Case No. 357299
Wayne CC: 21-006040-AW
(Consolidated)

MOTION FOR IMMEDIATE CONSIDERATION OF
DETROIT COMMUNITY ORGANIZATIONS'
MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF

NOW COME, Detroit Community Organizations, Detroit Democracy Action Working Network, We the People of Detroit, Equitable Detroit Coalition, Detroit People's Platform, Detroit Transit Justice Team, Brightmoor Connection, Detroit Action, a Project of Tides Advocacy, Economic Justice Alliance of Michigan, North End Woodward Community Coalition (NEWCC), and LGBT Detroit and LGBT Mobilization, by and through counsel, SCHULZ LAW PLC, and move this court for immediate consideration of their motion for leave to file as *amici curiae* in support of Intervenor-Defendant/Appellant. The present motion is brought pursuant to MCR 7.311(E). In support of this motion, proposed *amici curiae* state as follows:

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1. Detroit Democracy Action Working Network is a Detroit based collaborative working to promote voter education and civic engagement.
2. We the People of Detroit is a Detroit based organization focused on research, advocacy and organizing to secure a water affordability policy for Detroiters and provides water to families experiencing water shutoffs.
3. Equitable Detroit Coalition is a Detroit citywide coalition organized to promote equitable development policies for publicly subsidized large-scale private development projects.
4. Detroit People's Platform is a Detroit citywide organizing and advocacy organization focused on improving quality of life for Detroiters.
5. Detroit Transit Justice Team is a Detroit organizing group led by essential bus riders who advocate for quality and affordable public transit with Detroit public transit department.
6. Brightmoor Connection is a volunteer led service organization serving Detroiters in the 48223 community providing emergency food, water, and service referrals to 1700 low income households.
7. Detroit Action, a Project of Tides Advocacy, is a member led organizing and advocacy group focused on improving quality of life for low income Detroiters.
8. Economic Justice Alliance of Michigan is an alliance of organizations focused on developing effective leadership of low to moderate income residents in Detroit and statewide to promote improved economic outcomes.
9. North End Woodward Community Coalition (NEWCC) is a Detroit based organization providing community broad band access to low income households in selected neighborhoods in Detroit.

10. LGBT Detroit and LGBT Mobilization is a community organization that advances the concerns of LGBT in the city and across the region in the fight for human dignity.
11. On June 3, 2021, the Court of Appeals expedited consideration of the issues in this case and issued an opinion upholding the decision of the Wayne County Circuit Court, from which the Intervenor-Defendant/Appellants has sought leave to appeal from this Honorable Court.
12. On June 3, 2021, the Intervenor-Defendant/Appellants filed an application for leave to appeal and related motions to expedite consideration by this Honorable Court.
13. With this motion, the moving parties have filed their motion for leave to file an *amici curiae* brief in support of the Intervenor-Defendant/Appellant.
14. The present motion is brought pursuant to MCR 7.311(E) and the inherent powers of this Honorable Court.
15. The moving parties jointly request immediate consideration of their motion for leave to file an *amici curiae* brief.
16. Immediate consideration is necessary to due to the exigencies of the voting rights at issue in the present case and the request for expedited consideration by this Honorable Court.
17. The pending matter is of grave public importance and has generated wide public interest and implicates citizens' right to vote on the governing documents of the city in which they live.
18. As more fully stated in their motion for leave to file, the proposed *amici curiae* (attached as **Exhibit A**) are organizations involved with and advocating for Detroit residents across the city and were active in the public charter revision process. They bring a powerful perspective on the issues presented, will not duplicate the briefing of the parties, and will

provide important insight to the Court as it weighs issues that have the possibility to fundamentally alter *amici*'s democratic rights.

WHEREFORE, proposed *amici curiae* respectfully pray that the Court give immediate consideration to their motion for leave to file an *amici curiae* brief and grant leave for their appearance and the filing of an *amici curiae* brief in this case.

Respectfully submitted,

By: /s/ Jack W. Schulz
Jack W. Schulz (P78078)
SCHULZ LAW PLC
PO Box 44855
Detroit, MI 48244
(313) 246-3590
jackwschulz@gmail.com

DATE: July 1, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2021, I electronically filed the foregoing paper with the Clerk of the Court using the Courts electronic filing system which will send notification of such filing to all counsel.

Respectfully submitted,

By: /s/ Jack W. Schulz
Jack W. Schulz (P78078)
SCHULZ LAW PLC
PO Box 44855
Detroit, MI 48244
(313) 246-3590
jackwschulz@gmail.com

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Exhibit A

(Proposed Amici Curaie Brief)

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**AMICI CURAIE BRIEF OF THE DETROIT COMMUNITY ORGANIZATIONS IN
SUPPORT OF INTERVENOR DETROIT CHARTER REVISION COMMISSION'S
EMERGENCY APPLICATION FOR LEAVE TO APPEAL**

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INTEREST OF *AMICI CURIAE*

Amici curiae are Detroit residents and nonprofit organizations who participated in the Detroit Charter Revision Commission citizen participation process and whose right to vote on their community's charter would be diminished if the lower court's ruling is upheld.

INTRODUCTION: MICHIGAN HAS ALWAYS PROVIDED HOME RULE AS A MEANS FOR COMMUNITIES TO ADAPT TO SOCIAL CHALLENGES

On the surface, Appellees request that this honorable Court enforce a "cut off time" for political actors (i.e., The Governor and the Detroit Charter Revision Commission) to be aligned in view concerning the Charter. This argument is based solely upon the unsupported assertion that the voters will not "understand" what they are voting on. The charter proposal is the culmination of two years of public process, which included twice-monthly Committee of the Whole meetings that were attended by hundreds of Detroiters and local organizations.¹

In actuality, beneath the pious language of the appellee's argument is the real impact of this controversy, the dilemma on whether to affirm or deny the status of Michigan as a strong "Home Rule" state. Michigan citizens' adoption of strong home rule provisions in the state constitution arose amidst a large wave of poor and rural immigrants coming to Michigan in search of a more secure economic future for themselves provided by the great boom in factory jobs at end of the 19th and beginning of the 20th century.

The modern concept of "home rule" can be traced to the 19th century and the great waves of people that migrated from rural areas to cities looking for jobs during the industrial revolution. This migration brought with it explosive growth and the need for many new services. As communities struggled for the best mechanisms by which to provide services in an efficient and effective manner, they found a model in the corporate world and its structure for success.

¹ Full agendas and meeting minutes for both committee of the whole meetings and subcommittee meetings can be found on the Detroit Charter Revision Commission website. 2018 Detroit Charter Revision Commission, available at <<https://sites.google.com/view/detroitcharter2018/home?authuser=0>> (accessed June 28, 2021).

There, rules of operation were set forth in the corporation's bylaws (charter), a document that was approved by the stockholders (qualified voters) and which could be tailored to meet an individual community's needs. The key was to develop a form of government that could best provide those services. During the late 1800's Michigan made use of the "special act" system of writing city charters. This meant the Legislature had to adopt local or special acts for each community. This was cumbersome and inefficient to say the least. In 1907, more than 400 such acts were written! Finally through adoption of the 1908 constitution, Michigan became the eighth state to set forth the principles of home rule.²

Citizens' adoption of strong home rule provision in the 1908 constitution arose against a background of Michigan jurisprudence recognizing the Cooley doctrine as a direct limitation on Dillon's Rule in this state. Under the Cooley doctrine, Michigan's leading jurist found inherent limits

Detroit residents are now at a similar apex in history. Against the backdrop of poverty, joblessness, housing crisis, disparate mortality, and the devastation of the COVID-19 crisis, More than a third of Detroit's residents are living in poverty with a median income of \$29,481 in Detroit, compared with \$54,938 for the state³. In Detroit, only 17% of residents have a bachelor's degree or higher. 17% of Detroit's third graders are proficient in English language arts, compared to 43% across the region.⁴ Detroit's labor force participation is the lowest in the top 100 US cities by population.⁵ Only 5% of 59% Detroit's residents live in a middle-class neighborhood, compared to in the region⁶. Finally, and very disturbingly, the state of Michigan has the fourth highest

² Michigan Municipal League, *Home Rule In Michigan – Then and Now*, (July 2006), p 1, available at <<http://www.mml.org/advocacy/resources/pdf/homerule-paper.pdf>>.

³United States Census Bureau, *QuickFacts: Detroit city, Michigan*, <<https://www.census.gov/quickfacts/fact/table/detroitcitymichigan,MI/PST045219>>.

⁴ Detroit Future City's Center for Equity, Engagement, and Research, *The State of Economic Equity in Detroit* (May 2021), p 75 available at <<https://detroitfuturecity.com/wp-content/uploads/2021/05/The-State-of-Economic-Equity-in-Detroit.pdf>>.

⁵ *Id.* at 46.

⁶ *Id.* at 93.

COVID-19 mortality rate for Black Americans.⁷ Roughly 30 out of every 1,000 Black person living in Michigan can expect to die from COVID-19. Wayne County has been most impacted by the virus.⁸ In Detroit, Black people represent over 75 percent of known COVID-19 diagnoses by race and nearly 90 percent of deaths.⁹ These are not simply stunning statistics: these numbers and percentages describe reality for Detroiters. The proposed charter revisions provides a framework to address these significant challenges.

There is no legal dispute that Michigan's constitution grants local electors the right draft and vote on their city charter. Detroiters find themselves searching for ways to accommodate and search for modern, progressive means of providing services and meeting the needs of the citizenry. Like the pioneers of the 1908 Constitutional Convention, today's citizens want, need, and have a right to vote a charter tailored to meet the needs of modern governance challenges.

II. ARGUMENT

1. The History of Michigan's Constitutional Amendments Progressively Strengthen Home Rule Provisions

In 1868, Iowa Supreme Court Justice John F. Dillon narrowly interpreted a local government's authority as only being able to engage in an activity if the state government specifically sanctions it. This doctrine became known as "Dillon's Rule." According to Dillon, municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so may it destroy. If it may destroy, it may abridge and control. *City of Clinton v. Cedar Rapids & M.R.R. Co.*, 24 Iowa 455, 475 (1868).

⁷ Rashawn Ray, Jane Fran Morgan, Lydia Wileden, Samantha Elizondo, and Destiny Wiley-Yancy, *Examining and addressing COVID-19 racial disparities in Detroit*, (March 2, 2021), available at <<https://www.brookings.edu/research/examining-and-addressing-covid-19-racial-disparities-in-detroit/>>.

⁸ *Id.*

⁹ *Id.*

In a firm rejection of Dillon's Rule, renowned Michigan Supreme Court Justice Thomas Cooley set forth the rationale for what is known as the Cooley Doctrine. Justice Cooley reasoned that, without a municipality's ability to self-govern with certain guarantees of freedom, the municipality would simply exist as a department of the state and lack checks on power that the US founders had emphasized as the core of American democracy. He firmly asserted that *people* were best situated to be the authorities for local concerns. *People ex rel. Le Roy v. Hurlbut*, 24 Mich 44 (1871).

Our system was one of checks and balances; that each department of the government was a check upon the others, and each grade of government upon the rest; and they have never questioned or doubted that the corporators in each municipality were exercising their franchises under the protection of certain fundamental principles which no power in the state could override or disregard. The state may mould local institutions according to its views of policy or expediency; but local government is matter of absolute right; and the state cannot take it away. It would be the boldest mockery to speak of a city as possessing municipal liberty where the state not only shaped its government, but at discretion sent in its own agents to administer it; or to call that system one of constitutional freedom under which it should be equally admissible to allow the people full control in their local affairs, or no control at all.
[*Id.* at 108.]

Michigan citizens' adoption of strong home rule provision in the 1908 constitution arose against a background of Michigan jurisprudence recognizing the Cooley doctrine as a direct limitation on Dillon's Rule in this state. Over the following decades years, Michigan firmly cemented its status as a home rule state, preserving the constitutional values of local autonomy through case law and constitutional amendment.

While the constitution contains no express verbal restrictions upon the power of the legislature to authorize the Governor to make permanent appointments to purely local offices, **the principle of**

local self-government is so deeply imbedded in the ground-work of our system of government that no mere general grant of legislative power can be said to include the authority to take from the people the management of their local concerns, and all delegations of authority to the several departments of government must be deemed to have been made subject to this fundamental principle." [*Attorney Gen ex rel Lawrence v. Trombly*, 89 Mich 50, 56; 50 NW 744 (1891) (emphasis added).]

New language was added to the Michigan Constitution in 1908 and was subsequently affirmed and strengthened in each subsequent state constitution and by decades of legal precedent. The early courts took a firm stance against politically driven actions of the state actors to impede local cities from adopting, amending, or revising their charter.

Under such general laws, the electors of each city and village shall have power and authority to frame, adopt, and amend its charter, and, through its regularly constituted authority, to pass all laws and ordinances relating to its municipal concerns, subject to the general laws of this state. [Const 1908 art 8, §21]

Considering the history of legislation under the Constitution of 1850, it is apparent that there had grown up a pernicious practice on the part of the Legislature to pass local acts. . . This course led to many abuses (principally in amendments to city charters), some of which found their way into the courts, and were there redressed so far as the Constitution then in force would permit.

With these evils in mind, the Constitution of 1908 was formulated and adopted by the people. From a reading of the provisions above quoted and others of a similar character, it is, *we think, entirely clear that it was the settled purpose of the framers of the new instrument and of the people who adopted it to forever insure to the people the right to control their affairs purely local.* [*Attorney General v. Lacy*, 180 Mich 329, 337; 146 NW 871 (1914) (emphasis added).]

Changes in city charters and in the organization of their several departments were frequently made by the legislature, and public sentiment became antagonistic to such interference which, it was felt in many cases, was unwarranted, and this opposition to legislative interference with matters of purely local concern led to

the constitutional provisions. . . [Marxer v Saginaw, 270 Mich 256, 259; 258 NW 627 (1935) (emphasis added.)]

Section 20 of article 8 of the Constitution provides the legislature shall provide by a general law for the incorporation of cities; and section 21 of article 8, provides that under such general laws the electors of each city shall have power and authority to frame, adopt and amend its charter. In pursuance of this constitutional mandate, the legislature enacted Act No. 279, Pub. Acts 1909. . .

* * *

Every incorporated city must have a charter. Its charter is the definition of its rights and obligations as a municipal entity, so far as they are not otherwise legally granted or imposed. The very act of incorporation, therefore, necessarily includes the idea of a charter and the power to frame and adopt one. . .

There seems to be no question but that under the home rule act for cities a charter commission has full power and authority to frame a proposed charter for the city and provide for its submission to the electors for adoption or rejection. . .

* * *

The right to frame and adopt a charter for the city is conferred by the Constitution. The power to adopt, amend and repeal the existing charter is granted by the home rule act for cities. To effect the constitutionally designated purposes, the legislature provided for the creation of a charter commission which has the power to frame a proposed charter and to fix the time when the proposed charter will be submitted to the electors of the city for adoption or rejection. . . [W]ithin the range of the Constitution and the general home rule act for cities, the electors thereof may make, alter, amend, revise or repeal the charter of the city, which is the organic law of the city, and to be considered as other organic acts are considered. [Streat v Vermilya, 268 Mich 1, 4-7; 255 NW 604 (1934) (emphasis added).]

Under the constitutional provision, by the home-rule act, it was sought fundamentally to place in the hands of the electors of the cities chartered thereunder increased power of local governmental control. [Hazel Park v Muni Fin Com, 317 Mich 582, 590; 27 NW2d 106 (1947) (emphasis added).]

As Michigan enshrined the doctrine of Home Rule into law, it opted to preserve and protect local autonomy against overreach, often politically driven, of the state actors.

2. **The Lower Courts Misconstrued General Laws Governing the Revision of a Local Charter**

The Home Rule Cities Act addresses provisions for amending a charter and revising a charter. A charter revision can make broad governance changes without adherence to the current charter. On the other hand, a charter amendment is much narrower and is confined to a single topic. “A proposed charter amendment shall be confined to 1 subject. If the subject of a charter amendment includes more than 1 related proposition, each proposition shall be separately stated to afford an opportunity for an elector to vote for or against each proposition” MCL 117.21(3).

The Home Rule Cities Act since 1909 has separated revisions from amendments and directs that revisions proceed directly to the electorate for a vote. “**Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter.** When its legislative body shall **by a two-thirds vote of the members-elect declare** for a **general revision of** the charter, when an initiatory petition shall be presented therefor as provided..” MCL 117.18 (1909) (emphasis added). The 1909 the Home Rule Cities Act was heavily prescriptive on providing guidance for the incorporation of new cities and spent a great deal of detail outline how a municipalities first charter should be incorporated. It established three routes to **revise** a charter: by two thirds vote of the legislative body, by petition initiative, or any other means provided for in the charter. In other words, the manner of revision and the ultimate disposition of the revision process lay with cities. The 1909 statute, as in subsequent amendments, distinguished charter revisions from charter amendments. It addressed the process of charter amendment, or amendment of a singular issue, in MCL 117.22:

Amendment of Charter

Every amendment to a charter before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the Governor of the State. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city with his objections thereto, which shall be spread at large on the journal of the body receiving them, and it shall reconsider it.

Passage over veto

On such reconsideration if two-thirds of the members-elect agree to pass it, it shall be submitted to the electors.
[MCL 117.22 (1909) (emphasis added).]

The statute provides that, even in the process of an amendment, to override the governor's veto the amendment may be passed to the voters or a 2/3rd vote of the body proposing the amendment.

In 1913 the Home Rule Cities Act was amended and MCL 117.18 required a 3/5 vote rather than a 2/3 vote of the legislative body to revise a charter. Other sections describe the process for electing the charter commissioners and then provides instruction for action if a proposed charter is rejected by voters. MCL 117.17, 117.18, and 117.23. Similarly to the 1909 Act, there is no mandatory inclusion of the Governor for a revision process. Instead, the 1913 Act prescribes a method, without a statute of limitations, whereby voters could place a charter back on the ballot with changes for a subsequent vote.

If upon the rejection by the electors of a proposed charter, whether submitted heretofore or hereafter, or prepared or submitted under, and pursuant to this act, or to any of the provisions of the law of which this act is amendatory or supplemental, a petition shall be filed with the legislative body, signed by a number of electors equal to ten per cent of the number voting for executive officer at the last preceding election, the legislative body shall thereupon submit such charter at the next general or municipal election with only such changes therein as shall be necessitated therein by postponement in taking effect. The foregoing provisions shall not be limited, restricted or subject to any provision limiting the time when the question of adopting a revised charter may be submitted to the electors.
[MCL 117.18 (1909).]

The 1913 revised provision retains the distinction between revision and amendment in Section 22 with one important addition. It explicitly states that an amendment proposed by initiative petition was to be presented to voters despite not receiving approval of the Governor:

Sec. 22. Every amendment to a charter before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the Governor of the State. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city with his objections thereto, which shall be spread at large on the journal of the body receiving them, and it shall reconsider it. On such reconsideration if two-thirds of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections.

The 1913 version of the statute progresses further in its intent that the final disposition on whether to revise a charter lies with the people.

The current law as adopted in 1963 affirms decades of progression towards the right of voters to amend their Charter without political obstruction.

Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter; when its legislative body shall by a 3/5 vote of the members elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor as provided in section 25, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election. In case the electors shall, by a majority vote, declare in favor of such revision, a charter commission shall be elected within 60 days consisting of 9 electors of such city having a residence of at least 3 years in the municipality, or the legislative body by a 3/5 vote of the members elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted. No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission.

In the cities where provision is made by the city charter for the nonpartisan elections of city officers, the method prescribed for such elections shall apply in the election of charter commissioners. Where no such provision is made by the charter of such city, candidates shall be nominated by petition without reference to or designation of party affiliation, signed by a number of qualified electors of such city equal to not less than 2% and not more than 4% of the total vote cast for the chief executive office, or the highest vote cast for any commissioner in cities having the commission form of government, of such city at the last preceding election, asking that the name of the candidate designated be placed upon the ballot. The names of all candidates so nominated shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated; the 9 candidates having the greatest number of votes shall be declared elected; the election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the election of city officers in the respective cities of this state unless special methods shall be otherwise provided in the charter of such city.

If the proposed revised charter is rejected by the electors of the city, the charter revision commission shall immediately reconvene and determine whether to take no further action, in which case it shall terminate and cease to exist, or whether to provide a revision of, or amendments to, the revised charter previously prepared by the commission. The proposed revised charter with amendments shall be resubmitted to the qualified electors of the city in the same manner and with like notice and proceedings as required in the first instance. A proposed revised charter, as originally submitted or resubmitted with amendments, shall be submitted not to exceed 3 times to the qualified electors of the city. If the charter is rejected 3 times, or if no revised charter is adopted during 3 years following the adoption of the proposition to revise, then the charter revision commission shall terminate and cease to exist. A new proposal to revise may be adopted at any time after termination of a charter revision commission.

[MCL 117.18 (emphasis added).]

The current law dictates that a question of revision proceeds to the voters. In fact, the current law eliminated the petition requirement to put a rejected charter back on the ballot. It

allows a Charter Commission to resubmit the proposed charter, *without or without any changes*, to voters up to three times.

The provision of MCL 117.22 made no changes in 1963 and affirms the 1913 amendment's determination that the final decision of whether a charter amendment proceeds to the ballot lies with the legislative body if the amendment arose from the legislative body. Or, in the case of a petition initiative, the final disposition lies with the people.

117.22 Charter amendment; submission to governor, approval; re-consideration.

Every amendment to a city charter whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of such city, before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city, with his objections thereto, which shall be spread at large on the journal of the body receiving them, and if it be an amendment proposed by the legislative body, such body shall re-consider it, and if 2/3 of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections. [MCL 117.22.]

In fact, the Michigan Attorney General confirmed this interpretation in its review of the proposed Charter to Detroit's electorate.

Section 22 goes on to provide that the Governor reviews the charter and either approves the Charter and notifies the Charter commission by signing it or, as is customary in my experience, by notifying the charter commission by letter that the Governor approves the charter for submission to the city's voters for their approval. However, if the Governor does not approve the charter, the Governor notifies the charter commission of the Governor's objections. At that point, a charter commission considers the Governor's objections and has at least two options. One option (which is the customary practice in my experience) is that the charter commission makes changes in the proposed charter to address the Governor's objections and then resubmits

a modified proposed charter for the Governor's approval. Another option would be for the charter commission to submit the proposed charter to the voters for approval notwithstanding the Governor's objections.

Finally, the text of Section 22 does not include a requirement for the Governor's approval of a proposed charter as a prerequisite for a charter commission to submit it for approval by the city's voters. And I have not found such a requirement elsewhere in the HRCA or in any other statute or case thus far in my research. [4/30/2021 Governor Review with Attorney General Analysis, Intervenor Detroit Charter Revision Commission's Emergency Application for Leave To Appeal And To Bypass The Court Of Appeals, Vol 3 App p. 375.]

3. The Legislature Can Pass General Laws Regarding The Incorporation Of Cities, Elections, And Amending Charters, But It Cannot Enact A General Law That Substantively Abrogates That Right.

This is further supported by Michigan Const 1963, art 7, § 34, which states:

Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

The Michigan Constitution grants the state legislature the right to pass "*general laws for the incorporation of cities and villages*" Const art 7, § 21. However, the same article at the very next provision vests in the people the "*power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village.*" *Id.* at § 22. The Court of Appeals and the trial court lost sight of the more significant issue when they relied (almost entirely) on the prefatory language of Sec. 22. When reading this section, the axiom "Under the general laws...",

should be understood to be under the general laws for incorporating a city or possibly under the general laws for setting elections. It cannot be read as granting the state legislature the power to adopt general laws that would nullify the electors' vested constitutional right to adopt, amend, and revise their city's constitution. If the state could pass such a general law that provides the governor with absolute discretion to prevent elector's ability to exercise their right to adopt, amend, and revise a charter, it would render the electors' right meaningless. In effect, such an interpretation says that the people who adopted the Constitution of 1963 intended to adopt a meaningless provision. The state has no authority at all to adopt a general law **regarding the subject of adopting charters directly restricting the right of voters to draft and adopt their city charter or conditioning that right upon the approval of state officials**. It can pass general laws regarding the incorporation of cities, elections, and other matters. However, it cannot directly address how a charter can be amended or revised by local electors, and it certainly cannot enact a general law that substantively abrogates that right.

4. Appellees Argument Is a Pretext for Political Maneuver

The lower courts' ruling is so broad that it allows the Governor, one political actor, to deny over 700,000 Detroiters the inalienable right to vote on whether to adopt revisions to their Charter. Never at any other time in Michigan history has a local charter commission been denied the right to put forth a proposal for governance to its electors. Appellees disingenuously claim that they do not have enough time to understand which version of the Charter is on the ballot. To that end, *Amici Curiae*, like thousands of registered voters in Detroit, will receive a mailing that details how to view the full text of the Charter and proposed revisions on the City's website, or how to obtain a hard copy; many Detroiters will receive a personal paper-copy simply by requesting one from the Charter Commission or the City Clerk. Thousands of Detroiters have already begun and will

continue to information by participating in civic forums. There are multiple channels available to the electorate to receive information, as has been the case with every other charter revision ballot proposal in the past.

III. CONCLUSION

On August 7, 2018, Detroit residents *voted to revise their Charter*. Like thousands of Detroit residents, *Amici Curiae* have participated in a democrat process for over two years to set forth a proposal for a modern, decentralized, transparent, service-centered government that meets the citizenry's needs. *Amici Curiae* strongly urge the Court to reject Appellees' attempt to alter Michigan's long-standing status as a Home Rule state. There is no basis in the Michigan Constitution, nor any other provision in law, that denies Detroit residents the right to vote on their charter revisions on August 3, 2021.

Respectfully submitted,

By: /s/ Jack W. Schulz
Jack W. Schulz (P78078)
SCHULZ LAW PLC
PO Box 44855
Detroit, MI 48244
(313) 246-3590
jackwschulz@gmail.com