

City of Battle Creek Blue Ribbon Advisory Committee

Organizational Meeting
February 7, 2018

Parameters and Limitations per January 2, 2018 Resolution 58

- ▶ A) The current form of City government, City Manager/City Commission, is to be retained;
- ▶ B) Any recommendations must be consistent with applicable law including the Michigan Home Rule City Act and Michigan election laws;
- ▶ C) The Committee shall be subject to the Open Meetings Act;
- ▶ D) The Committee shall hold its organizational meeting no later than February 16, 2018 and shall meet as needed and shall be permitted, if it deems it expedient to do so, to meet as subcommittees;
- ▶ E) The Committee shall provide the Commission periodic updates on its work and progress, with the first one due no later than May 31, 2018 and with a Final Report to the Commission no later than December 31, 2018; and
- ▶ F) If the Committee recommends a charter amendment, then it shall also specify the manner in which it recommends the amendment to be made.

Proposed Amendments Must Comply with Law

- ▶ **Michigan Home Rule City Act.** The City of Battle Creek was formed as a Home Rule City (HRC). The HRC Act was enacted by the state legislature as Public Act 279 of 1909. This legislation provides the framework by which a new city may become incorporated and provide for its own government by adopting a City charter.
 - ▶ The HRC Act contains provisions that must be addressed within a City Charter. It also contains permissive items and prohibited items.
 - ▶ The HRC Act sets out the manner in which a charter may be amended and the process.
- ▶ **Michigan Election Law.** Act 116 of 1954. (It has been amended numerous times since its adoption.) MCL 168.1 through 168.992.
 - ▶ Chapter XV City Offices, MCL 168.321-168.328.
 - ▶ Chapter XXVIII Holding of Elections, MCL 168.641-168.799a.
- ▶ **Michigan Open Meetings Act.** Act 267 of 1976. MCL 15.261-15.275.
 - ▶ Must have proper notice of meetings.
 - ▶ Minutes must be kept.
 - ▶ Public comment must take place.
 - ▶ May only deliberate and vote at the open meeting.

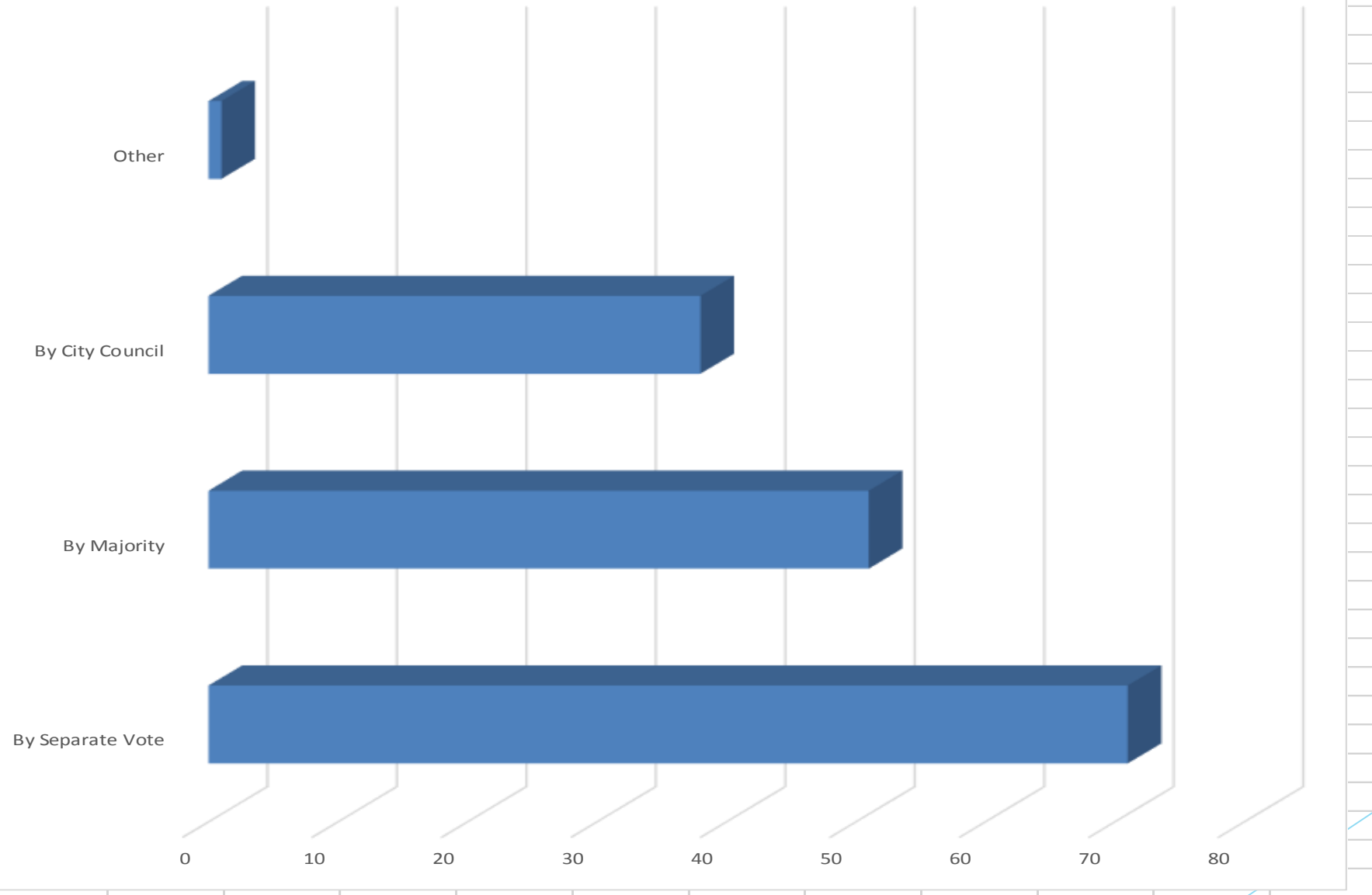
Scope of Inquiry per Resolution 58

- ▶ Selection of Mayor and Vice Mayor;
- ▶ Changing the size of the Commission;
- ▶ Staggering Terms;
- ▶ Length of Terms;
- ▶ Gendered charter language; and
- ▶ Such other issues that the Committee deems appropriate and relevant to the issues assigned by the City Commission.

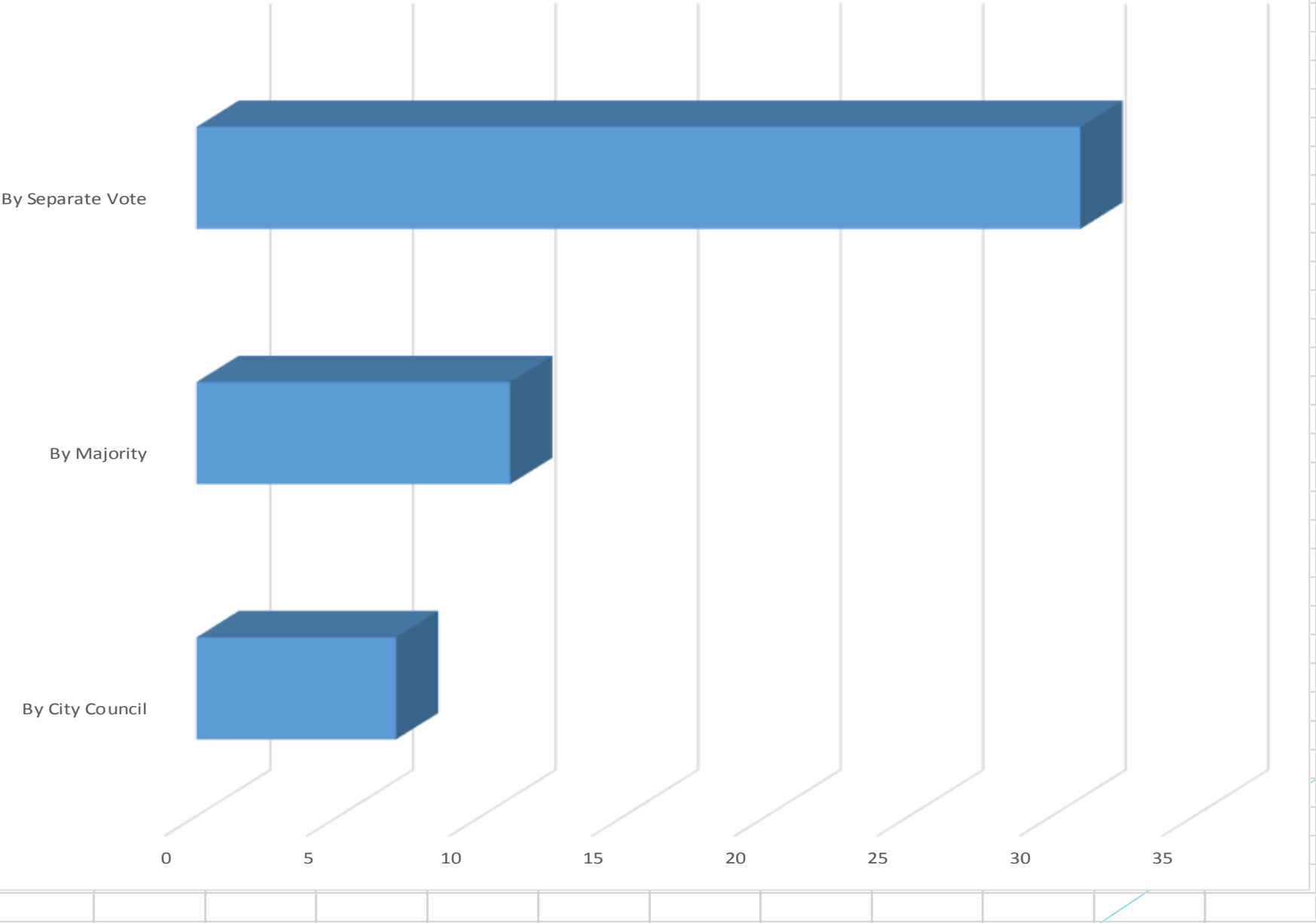
Selection of Mayor and Vice Mayor

- ▶ **City of Battle Creek Charter**, Section 2.9, provides as follows:
 - ▶ “The City Commission shall select from its members a Mayor and a Vice-Mayor, who shall act in the Mayor's absence or disability, and whose terms shall expire at the next annual organization meeting of the Commission.”
- ▶ **City of Battle Creek Ordinance**, 212.04(d) provides that the organizational meeting of the Commission shall take place annually. Thus, this sets the terms of the Mayor and the Vice Mayor at one year.
- ▶ **Michigan Home Rule City** Act provides, at MCL 117.3(a) provides as follows, in pertinent part:
 - ▶ “Each city charter shall provide for all of the following: (a) The election of a mayor, who shall be the chief executive officer of the city ... The city charter may provide for the selection of the mayor by the legislative body.”

161 Michigan Cities How Mayor is Selected



49 Michigan Cities 15k-100k
How Mayor is Selected



Changing the Size of the Commission

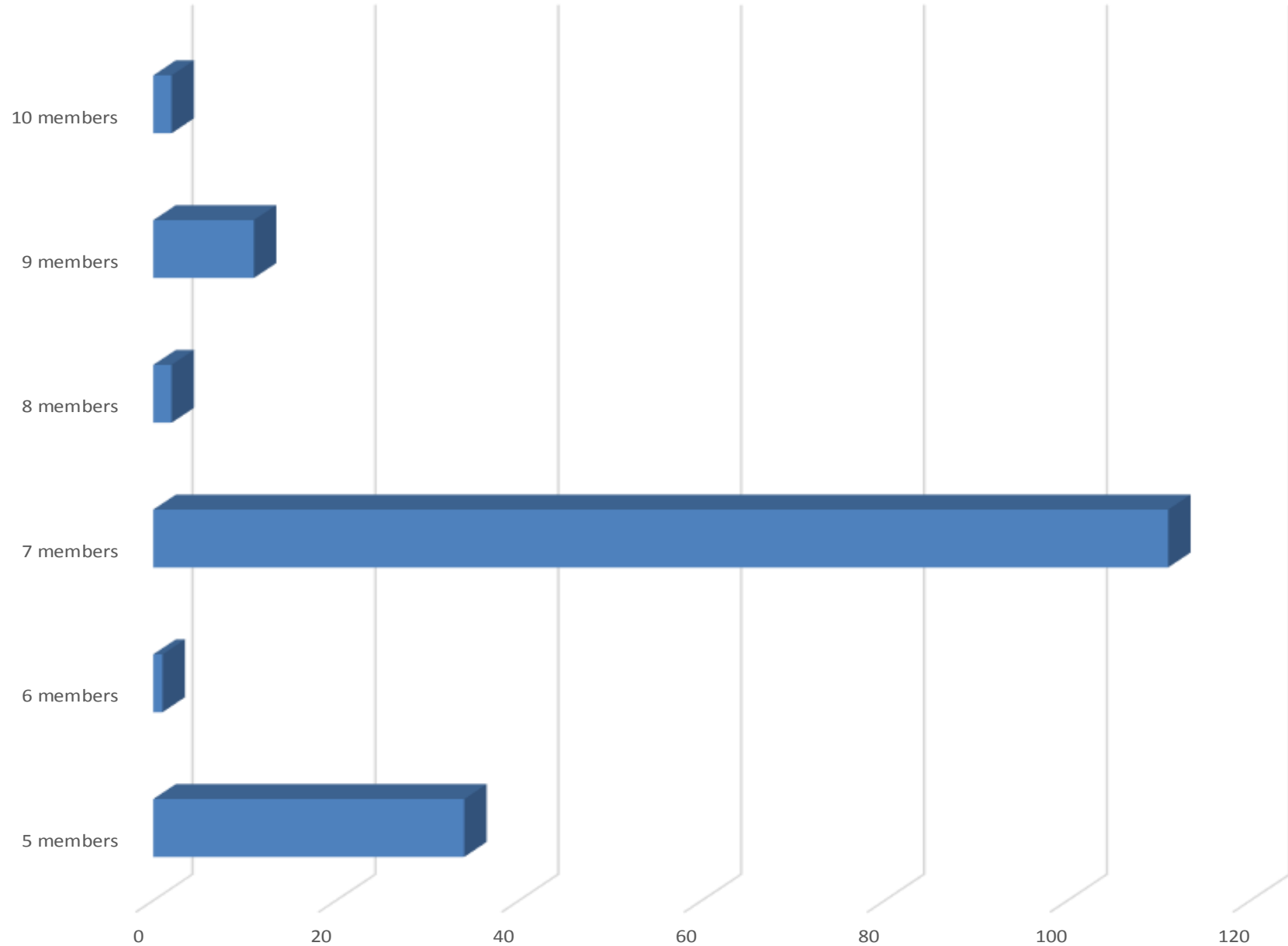
▶ City of Battle Creek Charter:

- ▶ BC Charter, Section 2.2, sets the size of the commission at 9.
- ▶ BC Charter, Section 2.4, provides that there will be 5 ward commissioners and 4 at-large commissioners.

▶ Michigan Home Rule City Act:

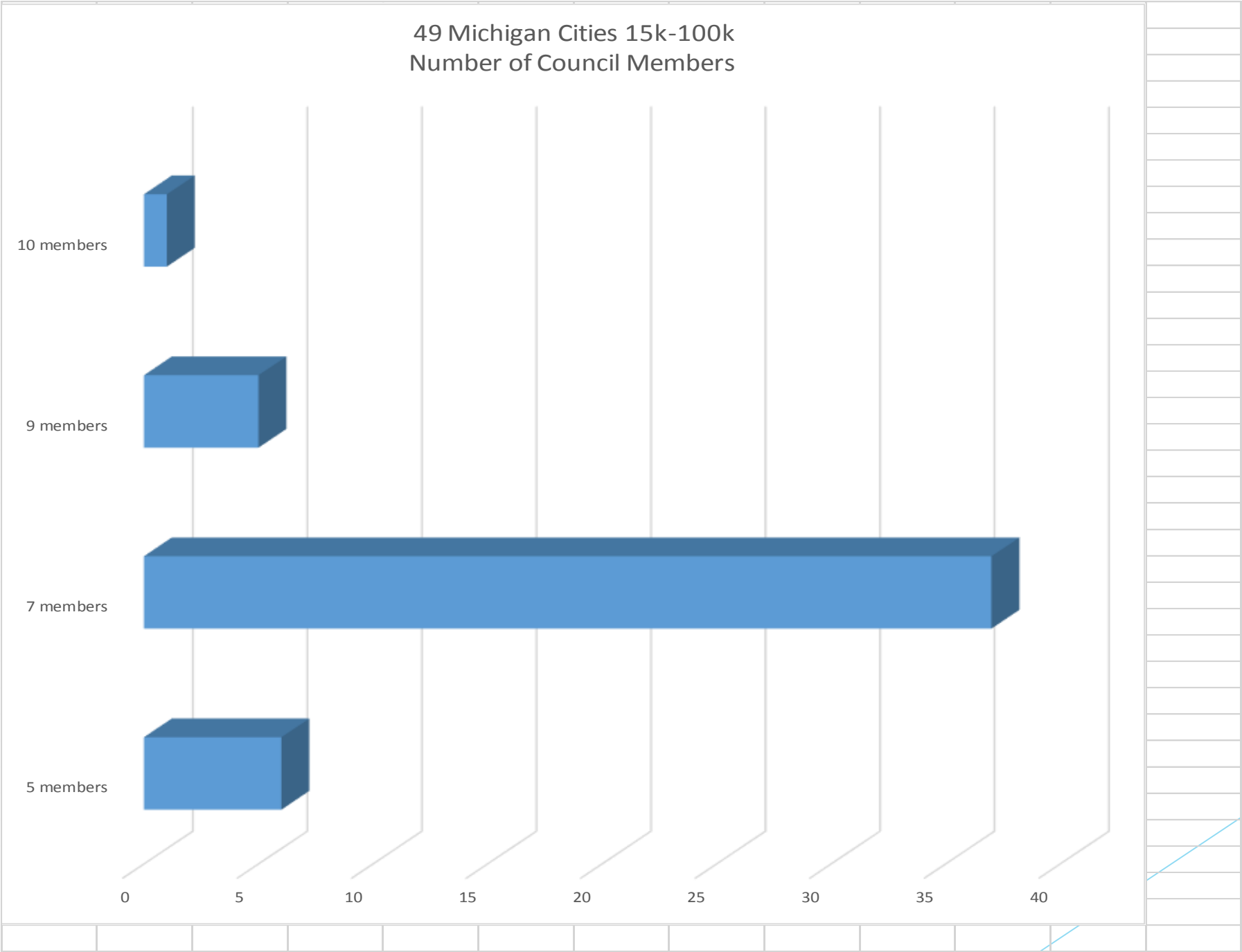
- ▶ HRC Act, at MCL 117.3(a) requires that each city charter provide for the election of a body vested with legislative power. Elections may be by a partisan or nonpartisan ballot.
- ▶ HRC Act, at MCL 117.3(b) requires that each city charter shall provide for the nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.
- ▶ HRC Act, at MCL 117.3(e) requires that each city charter provide for “[t]he establishment of 1 or more wards, and if the members of the city’s legislative body are chosen by wards, for equal representation for each ward in the legislative body.”

161 Michigan Cities Number of Council Members

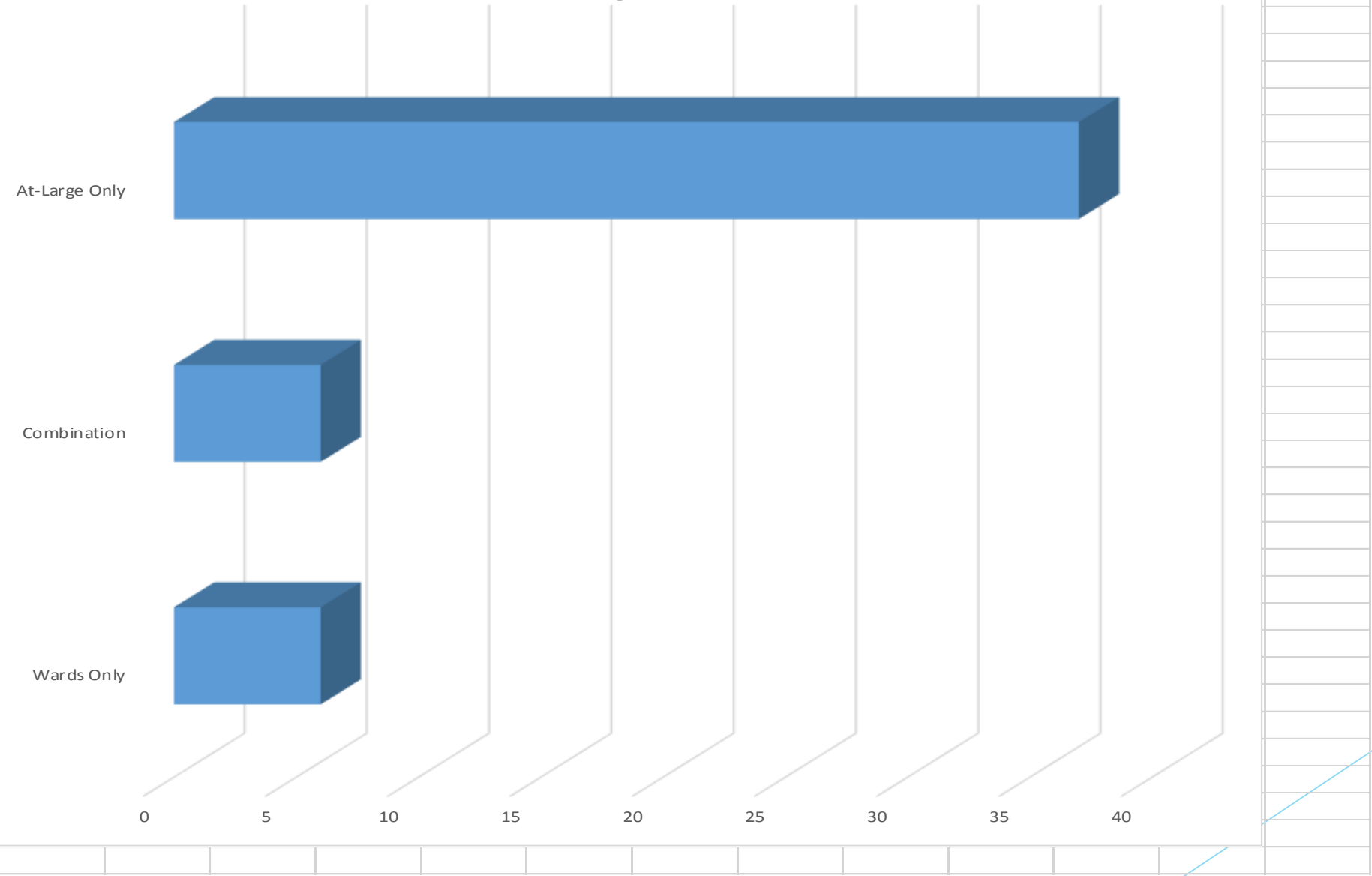


49 Michigan Cities 15k-100k
Number of Council Members

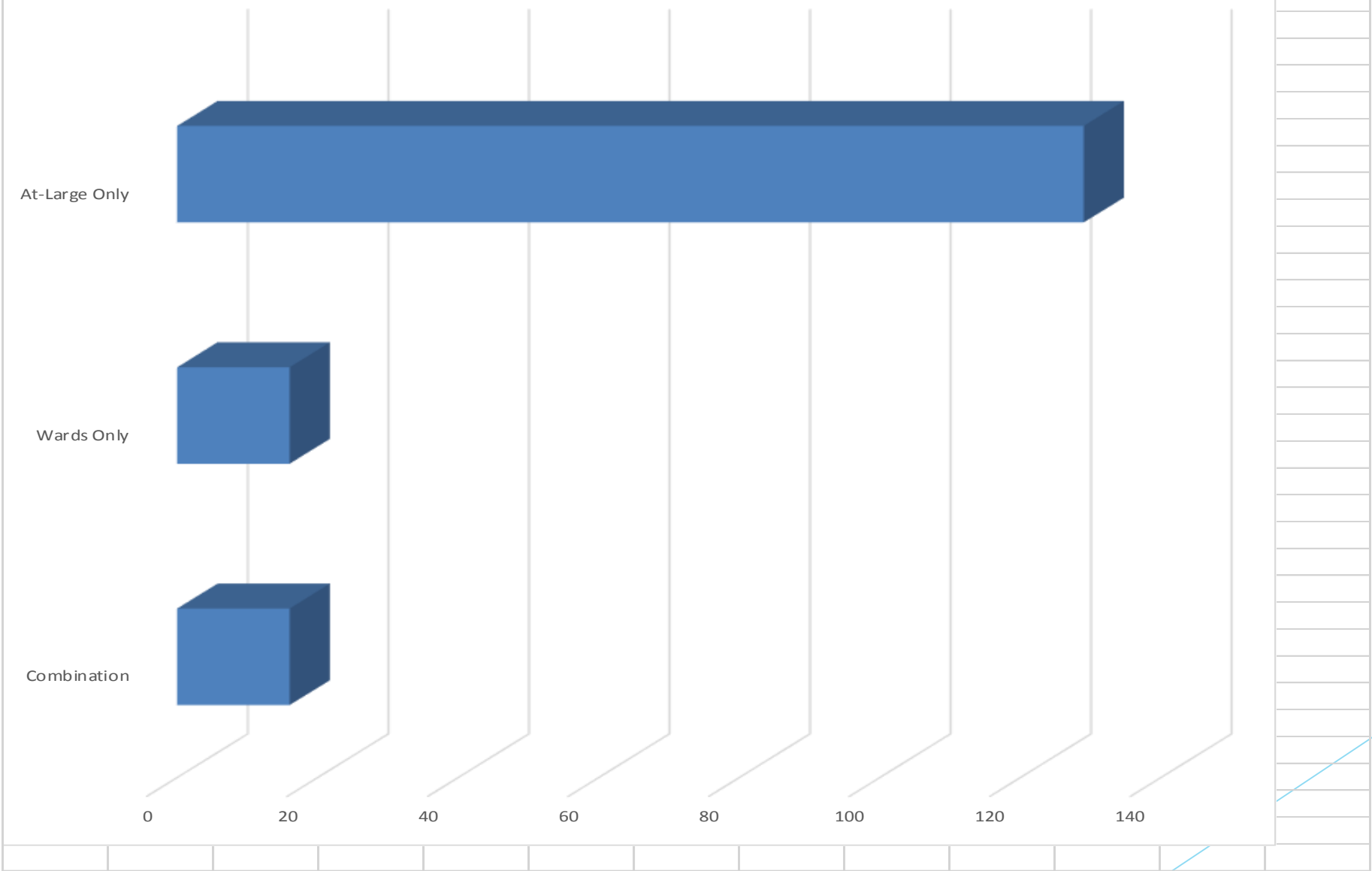
Number of Council Members	Number of Cities
10 members	2
9 members	6
7 members	38
5 members	7



49 Michigan Cities 15k-100k
Wards vs At-Large



161 Michigan Cities
Wards vs At-Large



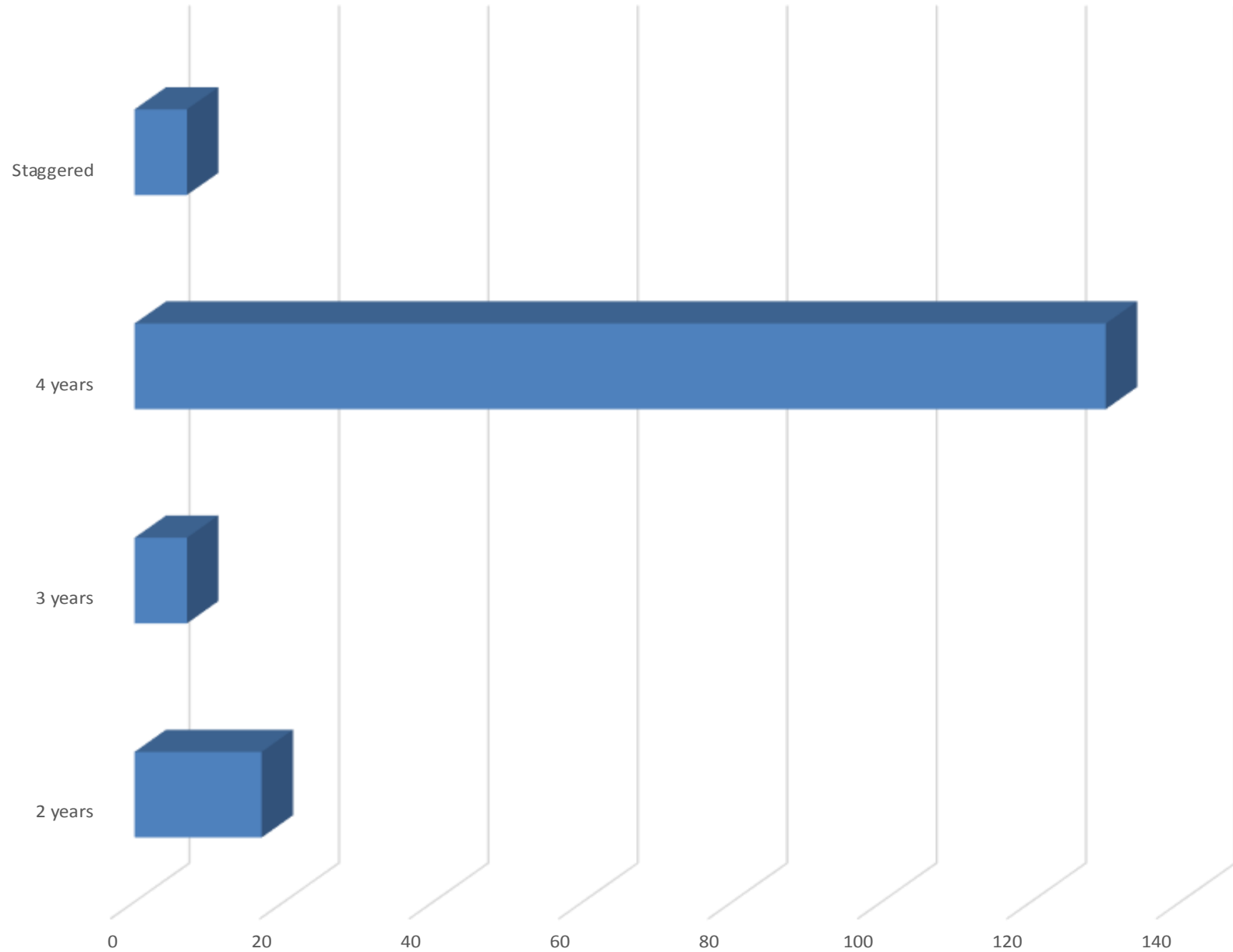
Staggering Terms

- ▶ **City of Battle Creek Charter**, Section 2.4, provides as follows, in pertinent part:
 - ▶ “Thereafter five (5) Ward Commissioners shall be elected for terms of two (2) years in the even numbered years and the four At-Large Commissioners shall be elected for terms of two (2) years in the odd-numbered years. For At-Large Commissioners there shall be one general At-Large ballot or list for At-Large candidates and each elector may vote for as many candidates as there are offices to be filled. For Ward Commissioners there shall be a Ward list and each elector may vote for one candidate from his ward.”
- ▶ **Michigan Home Rule City Act** provides, at MCL 117.3(b) provides as follows, in pertinent part:
 - ▶ “(3) Notwithstanding any charter provision, the city may provide by resolution for any election provision that is consistent with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.
- ▶ **Michigan Election Law** provides, at MCL 168.321(1), provides as follows:
 - ▶ “Except as provided in subsection (3) and sections 327, 641, 642, and 644g, the qualifications, nomination, election, appointment, term of office, and removal from office of a city officer shall be in accordance with the charter provisions governing the city.”

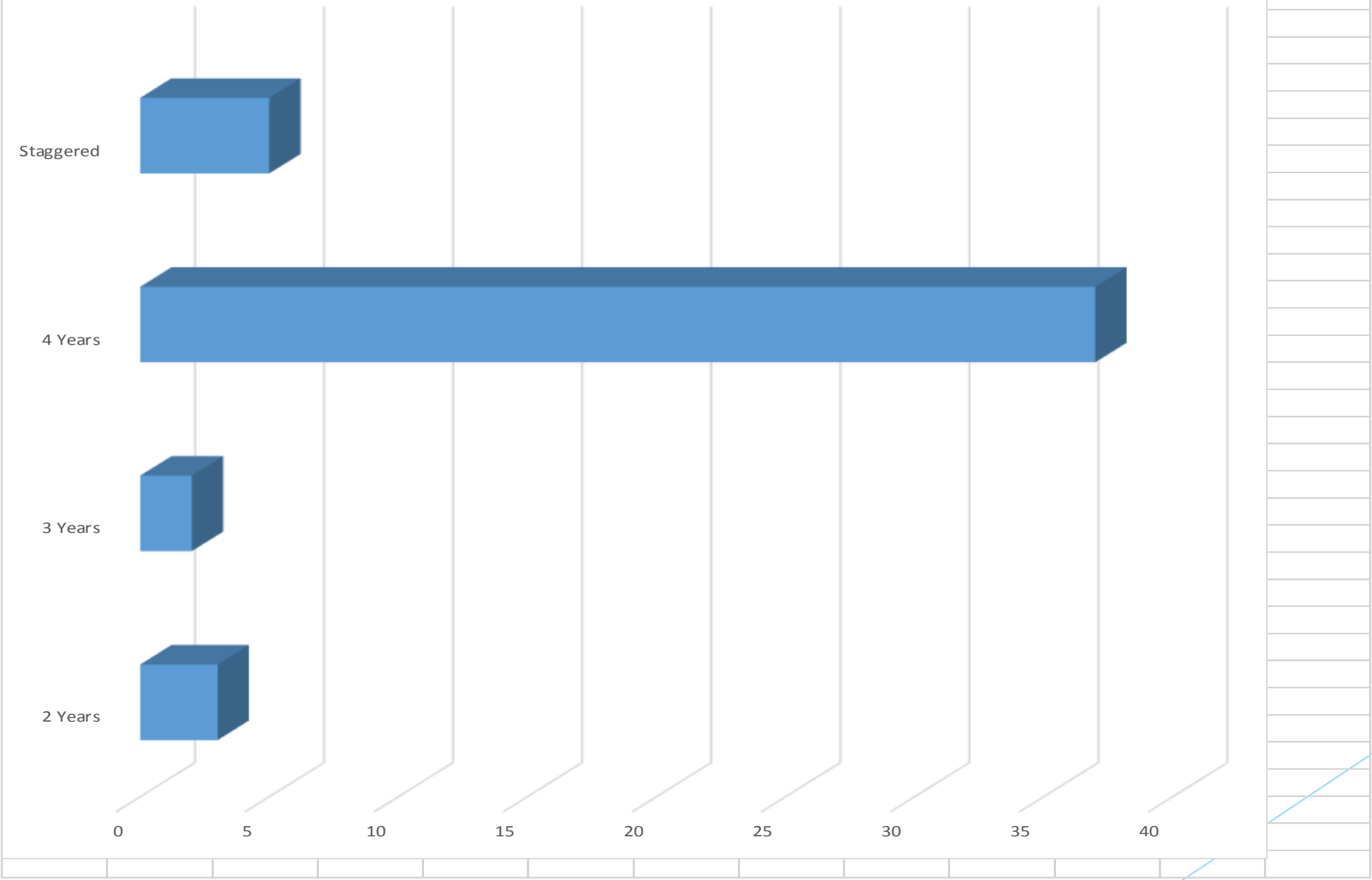
Length of Terms

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- ▶ **Michigan Election Law**
 - ▶ MCL 168.321(1): “Except as provided in subsection (3) and sections 327, 641, 642, and 644g, the qualifications, nomination, election, appointment, term of office, and removal from office of a city officer shall be in accordance with the charter provisions governing the city.”
 - ▶ MCL 168.644g(3): “In home rule cities ... [a] term shall not be for more than 4 years.

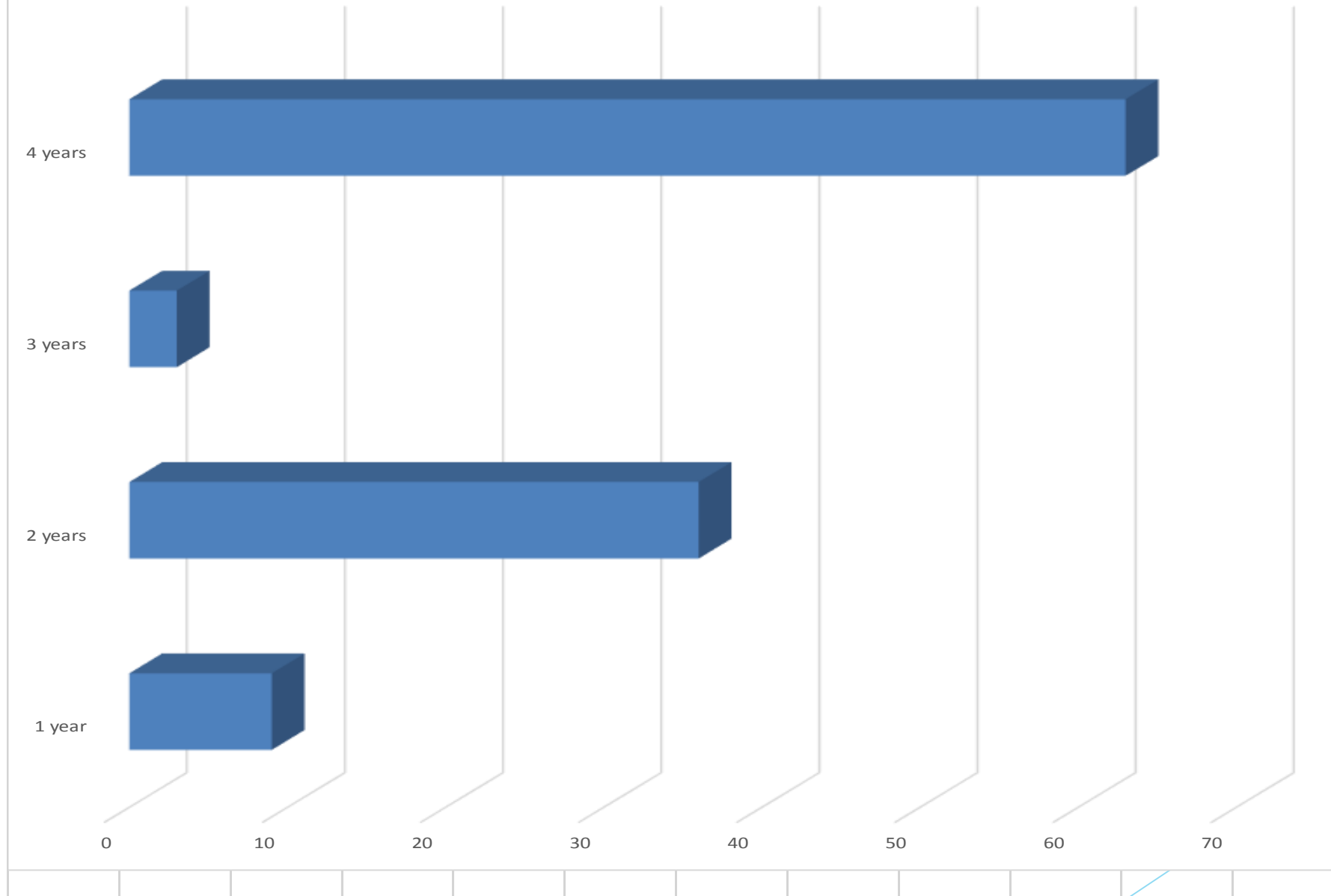
161 Michigan Cities Council Terms



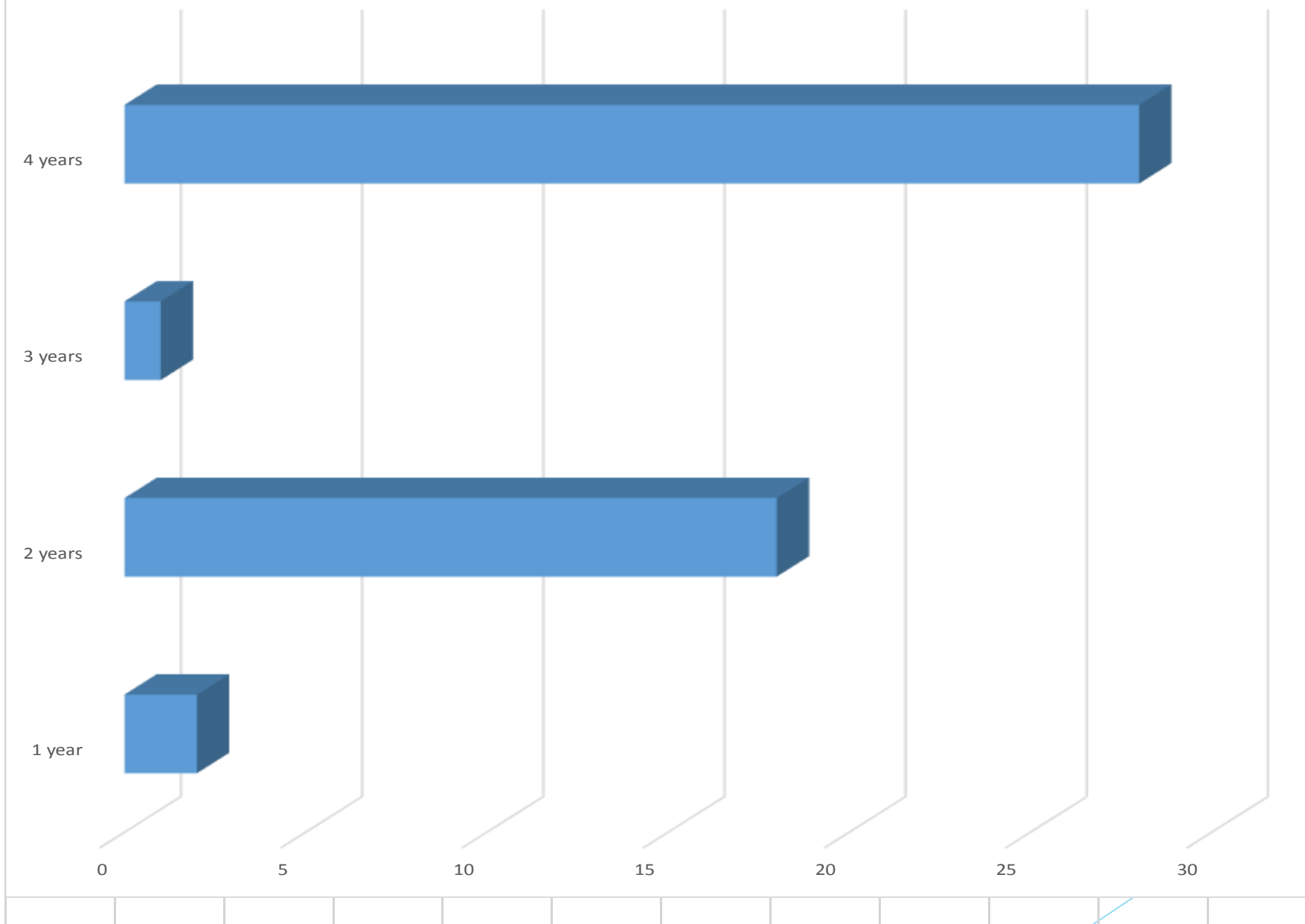
49 Michigan Cities 15k-100k
Council Terms



161 Michigan Cities Mayor Term



49 Michigan Cities 15k-100k Mayor Term



Gendered Charter Language

- ▶ In some areas of the charter the term “he” is used presuming the official is a man.
 - ▶ §2.8: “Neither the City Commission nor any of its members shall dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with him in his control ...”
 - ▶ §5.1: “A City Manager shall be appointed by a majority of the membership of the City Commission ... He shall be the chief administrative officer of the City government. The Commission may designate a qualified person to perform the duties of Manager during his absence ...”
 - ▶ §5.9: “A City Attorney shall be appointed by the City Commission ... He shall give written opinions to any official or department when requested in writing to do ... His duties shall include, but not be limited to, the following:
 - ▶ (A) He shall conduct all cases in court whenever the City is a party thereto, or interested therein, except as special counsel may be engaged by the City Commission.
 - ▶ (B) He shall prepare or pass upon all contracts, bonds, ordinances and other instruments of a legal nature in which the City is concerned.
 - ▶ (C) He shall perform such other duties as may be prescribed by this Charter or by the City Commission.
 - ▶ He may delegate his duties and powers to one or more deputies if they have been provided for, but he shall remain responsible for their acts.
- ▶ Ordinance §202.03 “Definitions and Interpretations” subsection (7) provides as follows: “(7) Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.”

Two Different Methods by which to Amend Home Rule City Charter:

- ▶ **Amendment vs Revision.** In order to change the form of government (such as changing from a City Manager run City to an elected Mayor who runs the city), a Charter Revision is required, which is a much lengthier, expensive and time consuming process. Changing details in a charter only requires an amendment.
- ▶ **Citizen Led:**
 - ▶ **HRC Initiatory Petition.** MCL 117.21, 117.25. Initiatory petitions are filed with the city clerk. The petition must state what body, organization or person is interested in and responsible for the circulation of the petitions and the securing of the amendment and must contain the signatures of at least 5% of the qualified registered electors of the city. (MCL 117.25)
 - ▶ Currently 35,744 qualified registered electors in the City of BC. An initiatory petition would require at least 1,788 signatures from qualified registered electors of the city in order to move forward with amendments by this method, which is ultimately submitted to voters.
- ▶ **City Commission Led:**
 - ▶ **HRC City Commission Resolution.** MCL 117.21, 117.25. Requires 3/5 vote by Commission and is ultimately submitted to voters.

Process to Amend Charter by Legislative Body Resolution

- ▶ **HRC City Commission Resolution.** MCL 117.21, 117.25.
 - ▶ Commission passes Resolution with at least 6 votes for proposed charter amendment.
 - ▶ Proposed charter amendment must be published in full with existing language which would be altered or abrogated by the amendment.
 - ▶ All proposed charter amendments must be submitted to the Governor for approval. It is approved by the Governor if it is found to be legally unobjectionable.
 - ▶ Impartial statement of purpose of the proposed charter amendment must be prepared in not more than 100 words for printing on the ballot. This text must be submitted to the attorney general for approval as being in compliance with the act. The statement of purpose is frequently framed as a question.
 - ▶ Proposed charter amendment submitted at either a special or regular city election.