



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. **R 24 - 0310**

JUN 10 2024

REPORT RE:

**DRAFT CHARTER AMENDMENT EXPANDING THE ETHICS COMMISSION'S
AUTHORITY AND OPERATIONAL INDEPENDENCE; AND DRAFT BALLOT
RESOLUTIONS AND ELECTION ORDINANCE PLACING THE CHARTER
AMENDMENT ON THE NOVEMBER 5, 2024 BALLOT**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

On May 14, 2024, the City Council requested this Office to prepare the documents necessary for a Charter amendment expanding the Ethics Commission's authority and operational independence. This Office hereby transmits the draft Charter amendment and the ballot resolutions and election ordinance necessary to place the Charter amendment on the ballot at the City's General Municipal Election to be held on November 5, 2024. We have approved the Charter amendment, draft ordinance and resolutions as to form and legality.

Background

The Ad Hoc Committee on City Governance Reform considered Charter reform proposals submitted by the City Ethics Commission. Thereafter, on May 14, 2024, the City Council approved proposals to expand the Commission's authority and operational independence and make other changes to the Ethics Commission's processes. The City Council requested our Office to draft a Charter amendment and prepare the



election ordinance and resolutions necessary to submit the Charter amendment proposals to the voters on the November 5, 2024, ballot.

Summary of the Proposed Charter Amendment

The Charter amendment would change several sections to the City Charter involving the City Ethics Commission (“Commission”). The language of the draft Charter amendment is based on the directions adopted by the Council. We have modified some of the language from those directions to provide additional clarity.

Below is a summary of the primary provisions of the Charter amendment provisions:

1. *Commissioner Appointments, Qualification, Removal and Vacancies (Charter Section 700)*

Charter Section 700(d) includes specific qualifications and restrictions for Ethics Commissioners. The proposed Charter amendment would add qualifications for appointees and restrictions on Ethics Commissioners while serving on the Commission. An appointing authority would be barred from appointing their relatives to the Commission, including their spouse, child, sibling or in-law, and from appointing a campaign consultant or major donor. A “major donor” is currently defined in state regulations of the Fair Political Practices Commission, 2 Cal. Code Regs. 18227(a)(1), as a person making \$10,000 in contributions in a calendar year to committees in California. The amendment also would restrict Ethics Commissioners from having a business or personal involvement in a City contract or proposed contract, or other matters requiring City discretionary approvals with limited exceptions related to a primary residence or to stock ownership in a publicly traded company.

Section Charter 700(e) would be amended so that the appointing authority, rather than the Mayor, would have the authority to remove their appointed Commissioner consistent with the current other provisions of the Charter. Also, Charter Section 700(f) would be amended to increase to 90 days the time frame to fill a vacancy on the Commission.

2. *Executive Director Salary Setting Process (Sections 701 and 1001)*

Under proposed revised Charter Section 701(a), the salary setting process for the Commission’s Executive Director would be transferred from the City Council to the Ethics Commission. The Ethics Commission would be required to establish a salary range consistent with the salary range of other City General Managers with similar responsibilities and set a specific salary from within that range on an annual basis.

The proposal also would also provide that all employment positions of the Ethics Commission be exempt from civil service.

3. *Commissioner Proposals (Section 703)*

Under the proposed amendments, the City Council would be required to hold a public hearing on a Commission proposal, other than on rules and regulations, within 180 days. If the City Council did not hold a public hearing on a Commission ordinance or Charter proposal, the City Clerk would be required to place consideration of the Ethics Commission's proposal on the next regular Council agenda.

4. *Investigations, Enforcement and Special and Legal Counsel (Charter Section 706, 708 and 710)*

The proposed Charter amendment would make several changes relating to the Ethics Commission's investigative and enforcement processes. The maximum administrative penalty for each violation would be increased from \$5,000 to \$15,000, adjusted annually based on the consumer price index. The existing alternative penalty formulation (based on three times the amount unreported or unlawfully contributed, expended, given or received) would remain unchanged. The Executive Director also would be able to also designate an alternate probable cause officer.

The Special Prosecutor provisions also would also be updated to increase the amount appropriated to \$500,000 when the City Attorney determines that the office has a possible conflict and should not investigate or prosecute alleged violations of the Charter or ordinances within the Ethics Commission's jurisdiction. Additionally, the process for selecting a special prosecutor would be revised so that the Commission would select a special prosecutor from a Commission approved list of special prosecutors rather than a panel of retired judges.

Further, the Commission would have limited authority to retain outside counsel. The limited authority for outside counsel would include matters involving the City Attorney, the City Attorney's Office, or the City Attorney's campaign, and also to provide legal services to Commission staff on a specific investigative and enforcement matter prior to a Commission adjudicatory decision involving another elected official.

5. *Budget, Expenditures, and Hiring (Charter Section 711)*

The proposed Charter Amendment would provide a minimum operating budget of \$6.5 million, adjusted annually based on the changes to City revenues, except when the Council finds exigent circumstances. Also, the Commission would not be subject to hiring freezes and, if within the budget, the Commission's expenditures would not be subject to the prior approval of City offices or personnel, unless the City Council finds exigent circumstances. However, the Commission still would be required to comply with

applicable rules, procedures, and laws related to expenditures. The prior provisions requiring appropriation one year in advance is proposed to be removed as unnecessary given the guaranteed budget.

Voter Approval and Election Requirements

The Charter amendment requires approval by a majority of the voters of the City of Los Angeles to be adopted.

City Election Code Section 601 requires that a final resolution to place a measure on the ballot must be adopted no less than 110 days before the election. For the November 5, 2024 election, in light of the City Council's recess schedule, the deadline for the City Council to adopt the resolutions containing the final language of the Charter amendment is July 3, 2024.

Council Rule 38 Referral

A copy of the draft Charter amendment was sent, pursuant to Council Rule 38, to the Ethics Commission and the Commission's comments have been incorporated or will be presented to the City Council when it considers this matter.

If you have any questions regarding this matter, please contact Assistant City Attorney Renee Stadel at (213) 978-7100. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By



MICHAEL J. DUNDAS
Senior Assistant City Attorney

MJD:RS:cl
Transmittal