

Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. **R 24 - 0024**
JAN 22 2024

REPORT RE:

**CHARTER SECTIONS TO CONSIDER FOR REFORM, MODERNIZATION, AND
CLARIFICATION IN SUPPORT OF THE CITY'S ORGANIZATIONAL
INFRASTRUCTURE AND STRATEGIC POLICIES**

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 December 12, 2023, the City Council requested that City departments and offices, including the City Attorney, provide reports on recommendations for identifying and prioritizing sections in the Charter that would benefit from reform to modernize the City's organizational infrastructure and/or support more strategic citywide policies. Pursuant to your request, this Office has prepared and now transmits for your consideration the following recommendations, listed in numerical order. As the City's legal advisor, we reviewed the entire Charter, not just sections related to this Office, and have focused our recommendations primarily on technical and/or clarifying changes in order to promote certainty, professionalism, and consistency in City practices without addressing larger policy considerations.

Section 204 – Terms of Office

This is the first of several Charter sections that are outmoded and can be partially or entirely deleted because they relate to the City's transition from odd-year to even-year election cycles. In this instance, the first sentence of Charter Section 204(g) should be deleted.

Section 205 – Terms of Office

Subsections (b) and (c) of Section 205 should be amended to delete references to elections prior to the year 2020.

Section 206 – Term Limits

Conforming amendments would need to be made to Section 206 if the changes recommended for Section 205, above, are accepted. Specifically, Section 206 should be amended to specify that the 2015-2020 term of office for members of Council and the 2017-2022 term of office for Mayor, City Attorney, Controller, and members of Council count as one term for purposes of term limits.

Section 211 – Filling Vacancies as a Result of Suspension

Charter Section 211 could benefit from clarification relating to the options for filling a temporary vacancy in an elected office arising as a result of a suspension.

Section 212 – Councilmembers Serving in Other Capacity

A change to Charter Section 212 may be beneficial to allow members of the Council to serve on joint powers authorities when the Council is the appointing or confirming authority.

Section 217 – Subpoena Power

Charter Section 217 grants specified powers to an extensive list of City officials but omits the City Attorney from that grant of authority. Charter Section 217 should be amended to add the City Attorney to the list of City officials who may issue subpoenas and administer oaths in connection with investigations, particularly since the City Attorney already has subpoena powers under state law. The power to issue subpoenas will provide the City Attorney with the same civil investigative powers for violations of municipal law as the Office has when investigating violations of state law and will facilitate the Office's enforcement of, among other things, affordable housing covenants, workers' rights, tenants' rights, and other City ordinances. Charter Section 217(b) should be further amended to state that no officer or board granted subpoena power by Charter or ordinance, other than the Ethics Commission, may issue a subpoena to any City elected officer or their office.

Section 231 – Local Emergencies

Charter Section 231(i) provides the Mayor with the power and duty to declare a local emergency in accordance with procedures established by ordinance. To clarify confusion resulting from the declaration of local emergency during the pandemic, this

section should be amended to explicitly state that proprietary departments, like other departments, shall be subject to direction of the Mayor whenever a local emergency, as defined by ordinance, has been declared.

Section 244 – Disapproval of Motions/Appointments

Charter Section 244 requires a majority vote (8 votes) of the Council to take most actions. Some provisions of City law require the Council to affirmatively approve or disapprove of a certain proposal, appointment, or recommendation. Section 244 could be amended to make clear that when 8 or more members of the Council vote against such a proposal, appointment, or recommendation requiring approval or disapproval, that vote shall constitute disapproval of the proposed action without further action being required.

Section 261 – Professional Standards and Audits

Charter Section 261(e) should be amended to explicitly confirm and codify the outcome of past litigation holding that the Controller has the authority to conduct a financial audit of a City contractor and any other entity that receives or manages City funds. The section should also be clarified to confirm that all work of the City's Controller is to be conducted in accordance with generally accepted government auditing standards.

Section 320 - Budget Authorization

Charter Section 320 should be amended to more clearly state that existing policy mandates that the budget only appropriates funding for otherwise authorized expenditures and that the budget, in and of itself, does not permit expenditures that otherwise require Council action or approval (i.e. Council-approved settlement agreements, contracts in excess of three years, etc).

Section 401 – Election Dates

Subsection (a) of Charter Section 401 should be deleted in its entirety (in that it governs elections that occurred prior to the year 2020).

Section 409 –Council Vacancies

Charter Section 409 provides a process for filling vacancies in the City's elected offices but does not contain explicit guidance when the vacancy being filled is temporary. This section could benefit from an amendment to provide a process for filling temporary vacancies, including how to address an appointee's eligibility relating to term limits. The section also could benefit from clarity on the options for filling a permanent vacancy in an elected office (e.g. the maximum length of an appointment).

Section 451 – Initiatives

Charter Section 451 should be amended to provide clear and definite signature gathering timeframes and deadlines and to conform to state law regarding the date for determining the signature requirement (i.e., utilize the date of filing of the notice of circulation rather than the date of filing of the final petition).

Section 452 – Initiatives

Charter Section 452 should be amended to provide additional time for City offices and affected departments to prepare analyses before Council's deadline to act on the initiative.

Section 462 – Referendums

Charter Section 462 should be amended to provide additional time for City offices and affected departments to prepare analyses before Council's deadline to act on the referendum. This section should also be amended to expressly allow a proponent to withdraw a referendary petition.

Section 502 – Removal of Commissioners

Charter Section 502(d) provides that when specified City commissioners are appointed by the Mayor they may be removed by the Mayor without Council confirmation. Yet, the Charter contains no language that provides express removal authority when those same commissioners are appointed by the Council President under Charter Section 502(b) or by the City Council under Charter Section 502(c). This section should be amended to provide clear removal authority in such circumstances.

Section 683 – Department of Water and Power Ratepayer Advocate

Charter Section 683 is silent as to what to do when there is a vacancy in the Office of Public Accountability. This section should be amended to provide authority to select a temporary ratepayer advocate similar to how Charter Section 508 allows for the appointment of a temporary chief administrative officer of a department.

Section 1108 – Pension System Temporary General Manager

Similar to the recommendation for Charter Section 683 above, Charter Section 1108 is silent as to the process for the appointment of a temporary general manager officer for the City's pension systems. The section should be amended to provide authority to select a temporary general manager for each of the pension systems similar to how Charter Section 508 allows for the appointment of a temporary chief administrative officer of a department.

Section 1164 – Retiree Re-employment

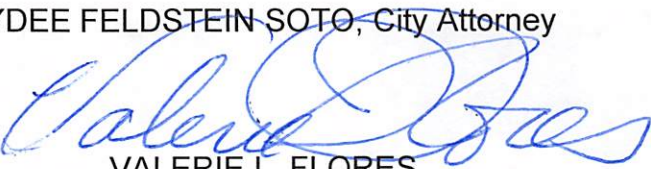
Charter Section 1164 should be amended to confirm and clarify that retiree re-employment must comply with the provisions of the Internal Revenue Code.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Michael Dundas at (213) 978-8130. 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



VALERIE L. FLORES
Chief Assistant City Attorney

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Transmittal