

MOTION

The Los Angeles Department of Water and Power's (DWP) governance structure must be reformed.

In its 1999 study of governance options, RAND Corporation called the utility's existing system "overly complex, cumbersome, and bureaucratic."

A decade later, PA Consulting found that DWP's governance framework "does not facilitate efficient decision-making and clouds accountability for key decisions."

The Los Angeles 2020 Commission recommended in 2014 that the City establish a full-time, paid independent rate commission of experts to "take the politics out of DWP."

Most recently, the 2015 Industrial, Economic and Administrative Survey noted that unless DWP becomes more transparent "it will be difficult for LADWP to earn back the public trust and carry out its agenda" and recommended that the City consider alternative governance structures for the utility.

It is time for the City of Los Angeles to address these concerns.

The City should develop and adopt Charter amendments to restructure DWP's governance system in order to increase oversight and transparency, reduce political interference from City Hall, and streamline departmental operations. Any Charter amendment would have to be approved by the voters of Los Angeles.

Currently, major sections of the City Charter and Administrative Code addressing DWP governance issues can be found in:

- City Charter § 245 (City Council Veto of Board Actions)
- City Charter § 271 (City Attorney Power and Duties)
- City Charter § 500 *et seq.* (General Provisions Related to Departments)
- City Charter § 600 *et seq.* (General Provisions for Proprietary Departments)
- City Charter § 670 *et seq.* (Department of Water and Power)
- City Charter § 1000 *et seq.* (Civil Service)
- Administrative Code § 23.122 *et seq.* (Department of Water and Power)

I THEREFORE MOVE that Council instruct the City Attorney, in consultation with the City Administrative Officer, to address the relevant Charter and Administrative Code provisions for the proposed amendments as outlined in the attached document, and prepare additional language for necessary amendments to the Charter and Administrative Code for inclusion in a 2016 ballot measure to be put before the voters of the City of Los Angeles.

PRESENTED BY: 
 FELIPE FUENTES
 Councilmember, Seventh District

SECONDED BY: 



JAN 22 2016

ORIGINAL

Proposed Charter Amendments for the Los Angeles Department of Water and Power

BOARD: The part-time, voluntary nature of the Board of Water and Power Commissioners (Board) limits oversight of utility operations.

Proposed amendments:

- Replace voluntary board with five to seven full-time, professional Board members.
 - Amend City Charter § 670 to change number of Board members.
 - Amend City Charter § 502 to exempt or remove rules governing appointment and removal of DWP Board; consolidate and add to City Charter § 670 *et seq.*
 - Amend City Charter § 501 to exempt DWP Board and add a new “attendance fees” provision to Section 670 *et seq.*
- Require Board members to have expertise in areas such as public utility management, environmental policy, consumer advocacy, or finance.
 - Amend City Charter § 501 to exempt DWP Board and add new qualifying provisions to Section 670 *et seq.*; replicate in Section 670 *et seq.* the provisions in Section 501(d) and (e) requiring Board member to be a registered voter of the City and not be a lobbyist.
- Require Board members to serve full five-year terms.
 - Amend City Charter § 501(c) to exempt DWP Board and add new term requirements to Section 670 *et seq.*
- Establish staggered terms.
 - Amend City Charter § 501(c) to exempt DWP Board and add new language to Section 670 *et seq.* requiring staggered terms.
- Establish term limits for Board members.
 - Amend Section 670 *et seq.* to add term limits provision.
- Determine process for appointing or electing Board member positions.
 - Amend Section 501 to exempt DWP Board and add new appointment or selection process to Section 670 *et seq.*

CITY HALL: DWP must report to multiple City entities, resulting in decentralized authority and inefficiency; Board actions – including ratemaking – would no longer require City Council approval unless the City Council asserts jurisdiction.

Proposed amendments:

- Remove requirements for City Council approval or oversight of certain Board actions.
 - Amend City Charter § 506 to exempt Board and General Manager (GM) from Mayor and Council approval of rules and regulations, decisions for acquisition of real property, and approval of contracts.
 - Amend City Charter § 604 to remove Mayor and Council confirmation of GM appointment and Mayor confirmation of GM removal.
 - Amend City Charter § 604 to exempt GM compensation (set by Board) from Council interference.
 - Amend City Charter § 605, 606, 607 to exempt Board from Council interference in granting franchises, concessions, permits, licenses, and leases.
 - Amend City Charter §§ 674, 675 to exempt Board from Council approval requirement for power contracts and actions regarding real estate.
 - Amend City Charter § 609 to remove Council and Mayor oversight of debt issuance.
 - Amend City Charter § 677 to exempt sale or exchange of surplus water from Council oversight.
 - Amend powers and duties contained in Administrative Code § 21.133 *et seq.* to remove Council interference.
 - Amend City Charter § 676 to add a ‘passage unless Council intervenes’ provision similar to City Charter § 245(a).

OVERSIGHT: Board has limited access to independent analysis of Department proposals.

Proposed amendments:

- Authorize Board to hire its own legal counsel.
 - Amend City Charter § 271 (provides that City Attorney shall be the legal advisor to all City board, departments, officers and entities) to allow Board to appoint its own legal advisor; add an authorization provision to City Charter § 670 *et seq.*, possibly City Charter § 675 (Power and Duties of the Board) allowing Board appointment/hire of its own legal advisor.
- Authorize Board to hire its own budget/policy advisors to serve a City Administrative Officer/Chief Legislative Analyst-like function.
 - Add an authorization provision to City Charter § 670 *et seq.*, possibly City Charter § 675 (Powers and Duties of the Board) allowing Board appointment/hire of its own legal budget/policy advisors.

PERSONNEL: The Department is unable to hire quickly and fill key positions with qualified personnel.

Proposed amendments:

- Authorize the Department to oversee its own hiring functions and remove the Department from its obligation to follow civil service rules.

- Add an authorization provision to City Charter § 670 *et seq.*, possibly City Charter § 675 (Powers and Duties of the Board) allowing Board discretion to hire and discharge personnel.
- Amend Charter provisions regarding exempt positions from City civil service requirements in City Charter § 1001, including City Charter § 1001(c) (Proprietary Department Positions).
- Exempt appointment of Secretary of the Board and Chief Accounting Employee from compliance with City ordinance and civil service (exempt from/amend City Charter § 504).

TRANSFER: The Department's annual transfer to the City General Fund continues to increase.

Proposed amendment:

- Cap City transfer at its pre-Prop 26 level.
 - Amend transfer provisions in City Charter § 340 *et seq.*