

To: Los Angeles City Council Ad Hoc Governance Reform Committee

From: California Clean Money Campaign, California Common Cause  
League of Women Voters of Greater Los Angeles,  
Ground Game LA, & Unrig LA

Date: 3-20-23  
Submitted in Ad Hoc <sup>CGR</sup> Committee

Date: March 20th, 2023

Council File No: 22-0560

Re: Municipal Lobbying Ordinance Updates - Council

Item No. 2  
File 22-0560  
Deputy: mm

**We strongly oppose the draft amended municipal lobbying ordinance and cannot support this item moving forward unless amended**

## BACKGROUND

At the March 6th committee meeting a set of proposed amendments<sup>1</sup> were announced just minutes before public comment began. These amendments would create new exemptions applicable to *all* 501(c)(3) and 501(c)(5) organizations, who would no longer be required to register as lobbyists. They would instead be eligible to register with the Ethics Commission as “nonprofit filers,” and offer limited disclosure. Furthermore, they would no longer be subject to the same restrictions on gift giving, making contributions, or fundraising that lobbyists face and would be allowed to serve on any commission or board in the City of LA regardless of how much lobbying activity they are engaged in.

A key finding underlying our municipal lobbying ordinance is the principle that all who are engaging in compensated lobbying at city hall should be “subject to the same regulations, restrictions and requirements, regardless of their background.”<sup>2</sup> There has been no discussion of eliminating this finding, yet a last minute revised draft ordinance submitted by the Council President on March 17th eliminates it.<sup>3</sup> The proposed amendments would create a two tiered system where a select class would gain an enhanced ability to not only lobby city officials, but to *simultaneously* serve as city officials. These proposed recommendations cannot be allowed to move forward.

## 501(c)(5) UNION EXEMPTION

While there has been a robust push for exempting 501(c)(3)s, it is hard to overlook the fact there hasn’t been a single public comment or statement from a union or union member

<sup>1</sup> Summary of Proposed Amendments dated 3-6-23:

[https://clkrep.lacity.org/online/docs/2022/22-0560\\_misc\\_cgr\\_3-6-23.pdf](https://clkrep.lacity.org/online/docs/2022/22-0560_misc_cgr_3-6-23.pdf)

<sup>2</sup> LAMC SEC. 48.01. (B)3: All persons engaged in compensated lobbying activities aimed at influencing decisions by the city must, when so engaged, be subject to the same regulations, restrictions and requirements, regardless of their background, training or other professional qualifications or license.

[https://codelibrary.amlegal.com/codes/los\\_angeles/latest/lamc/0-0-0-133259](https://codelibrary.amlegal.com/codes/los_angeles/latest/lamc/0-0-0-133259)

<sup>3</sup> Communication from the Council President - Draft Amended MLO Language dated 3-17-23:

[https://clkrep.lacity.org/online/docs/2022/22-0560\\_misc\\_Proposed%20Amendments.pdf](https://clkrep.lacity.org/online/docs/2022/22-0560_misc_Proposed%20Amendments.pdf)



advocating for a 501(c)(5) exemption.<sup>4</sup> The only public comment in support of this exemption came after its introduction, and through a staffer speaking on behalf of Council District Seven. There appears to be no precedent for this type of exemption in any major city's municipal lobbying ordinance.<sup>5</sup> "Shadow lobbying" is being utilized to codify "shadow lobbying" into the law.

501(c)(5)s are arguably *the* most powerful interests in LA politics. Any debate about that was put to rest by the audio recordings leaked last year. 501(c)(5)s are not comparable to charitable 501(c)(3) nonprofits. While there appears to be no precedent for a 501(c)(5) exemption there are at least jurisdictions who provide that type of accommodation to 501(c)(3)s, although some of them have begun revisiting whether that was wise.<sup>6,7</sup> 501(c)(3)s, unlike 501(c)(5)s, face inherent limits on how much lobbying they may engage in and are unable to endorse political candidates, donate to their campaigns, or make independent expenditures on their behalf. It's hard to overstate the scale of 501(c)(5) influence in Los Angeles. For example the LA Police Protective League alone spent \$5.46 million on independent expenditures in the City of LA's 2022 cycle.

Exempting 501(c)(5)s from the lobbying ordinance isn't simply bad policy, but by picking and choosing which voices to elevate at City Hall it leaves the related contribution ban vulnerable to legal challenge. Any limits on someone's ability to donate to candidates based upon the identity of the speaker will be subject to strict scrutiny. The city will be hard pressed to argue our law is narrowly tailored to serve a compelling governmental interest in restricting the contributions of some lobbyists, while permitting the lobbyists working for some of the most powerful interests in city hall to contribute freely.

### 501(c)(3) NONPROFIT EXEMPTION

On February 6th this committee approved an exemption for smaller nonprofits who might face administrative burdens with compliance.<sup>9</sup> The new proposal to exempt all 501(c)(3)s regardless

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<sup>4</sup> Indeed, at no time in this multi-year debate, which saw extensive public outreach and discussion before the Ethics Commission, has there ever been consideration of exempting 501(c)(5)s in the MLO.

<sup>5</sup> Both the existing and proposed municipal lobbying ordinances exempt matters relating to collective bargaining with city officials, including the CAO, with the exception of the mayor, council members, or their respective staff. Some jurisdictions also exempt these types of collective bargaining matters w/ elected officials and their staff.

<sup>6</sup> See San Francisco, "Ethics Commission Blames City Department Heads for Derailing Anti-Corruption Ballot Measure"

<https://sfstandard.com/politics/city-hall/ethics-commission-blames-union-for-derailing-anti-corruption-ballot-measure/> ("The measure sought to expand the definition of what would constitute a bribe, mandate disclosure of any relationships with city contractors, and add more comprehensive ethics training for city employees. And its repeated deferment underscores how efforts to draw a bright line between gifts and bribes collides with symbiotic relationships between city departments and nonprofits.")

<sup>7</sup> See Chicago, "City Council passes ethics reforms today"

<https://www.chicago.gov/city/en/depts/ethics/provdrs/lobby/news/2019/july/ethReform.html>

<sup>8</sup> See Long Beach, "Nonprofits, neighborhood groups push back against rule that would regulate them as lobbyists"

<https://lbpost.com/news/nonprofits-neighborhood-groups-push-back-against-rule-that-would-regulate-them-as-lobbyists>

<sup>9</sup> February 6th, 2023 Report from the Ad Hoc Governance Reform Committee:



of their size, spending, or ability to handle compliance is untenable. While other recommendations by the Council President would bring many 501(c)(3)s under compliance for the first time, those already filing as lobbyists at this time will be providing less transparency than they currently are, and will be liberated to engage in many activities they cannot at this time.

Large 501(c)(3)s are capable of handling the added administrative burdens that come with registering as a lobbyist. We ask the committee to set an upper limit on who may register as a nonprofit filer by excluding 501(c)(3)s with total expenses in excess of \$1,000,000 in the previous year from eligibility, and requiring them to instead be subject to registration as a lobbyist.

## NONPROFIT FILERS

We have many influential small to large sized nonprofits that are active at LA City Hall. The proposed nonprofit filer classification presents a number of conflict of interest issues, threatens the integrity of important commissions, and undermines a fair playing field for those seeking city money, contracts, and permits from the city. We ask the committee to make the following amendments for nonprofit filers.

### 1. Boards and Commissions

The proposed recommendations would allow individuals actively lobbying the City of LA to also serve on any commission or board. Lobbyists have been ineligible to serve on the Ethics Commission for over three decades. It strains credulity to assert someone who is regularly subject to reporting their activity to the Ethics Commission should be able to serve on the Ethics Commission.

Just as there is a need to protect the integrity of our Ethics Commission, we must do the same with our future redistricting commissions. The redistricting motion under consideration at this moment speaks to expanding the list of lobbyists excluded from service on a commission. It makes little sense to bar county, state, and federal lobbyists while allowing a local 501(c)(3) lobbyist to serve on a redistricting commission, especially if their organization is actively seeking funding, a contract, or a permit from the city.

We also believe it would be appropriate to exclude 501(c)(3) filers from service on the LADWP commission. This commission oversees the largest municipal utility in the country. Unlike other commissions, it has a greatly enhanced role in the collective bargaining process. LADWP has already been mired in repeated scandals. The city has an obligation to look out for the interests of ratepayers and preserve the integrity of this commission.



Allowing nonprofit filers to serve on any commission presents a minefield of potential conflict of interest concerns to navigate. This is already difficult to do given the case specific situations in which interpretation of the law can turn, and the even broader provisions in Charter Section 222's appearance standard. Service on a commission is a privilege, not a right. It is important to note the restriction on commission services would only apply to an individual who was engaging in \$5k worth of compensated lobbying activity. Someone with a 501(c)(3) would face no limit on their ability to serve on a commission so long as they did not exceed that threshold.

We believe those nonprofit filers appointed to a commission should either face a cap in their lobbying activity during service, or they should have to provide additional information regarding the total amount received for their lobbying activity in each quarterly report.

## 2. Nonprofit Filers Seeking Funding, Contracts, or Permits

The city's lobbying ordinance currently provides a limited exemption for 501(c)(3)s contracted with the government to provide free services to the indigent. However, it makes clear that those seeking funding, a contract, or a permit from the city must be subjected to greater regulation and must register as lobbyists. This latter provision was maintained in the May 2022 Ethics Commission recommendations, the Raman motion, the February committee recommendations, and the March Committee Recommendations. There has been no discussion of eliminating this provision, yet it was quietly eliminated in the March 17th ordinance submitted by the Council President.

Our city has increasingly grown to rely upon 501(c)(3)s assisting in the delivery of services. This applies to everything from local community outreach on behalf of departments, delivery of COVID response services, providing outreach to the unhoused, and unarmed response programs. Large 501(c)(3) universities, religious institutions, and hospitals can play a heavy hand in land use matters. Some 501(c)(3)s providing services for the unhoused have increasingly stepped into acquiring and retrofitting properties.<sup>10</sup> At the same time we've seen a number of scandals involving the acquisition and administration of government contracts by 501(c)(3)s.<sup>11</sup>

The committee must restore the language<sup>12</sup> ensuring that nonprofit filers seeking funding, a contract, or a permit are subject to *the same* requirements and limitations as any other lobbying entity. The law should apply equally to those seeking City approval of discretionary applications that are of monetary value to the applicant. This is a reasonable and fair check on potential undue influence or advantage gained through nonprofit filer status.

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<sup>10</sup> LA Times: Inside the financial ties between a controversial housing nonprofit and Kevin de León  
<https://www.latimes.com/homeless-housing/story/2023-03-10/kevin-de-leon-aids-healthcare-foundation-financial-ties>

<sup>11</sup> LA Times: "Ridley-Thomas corruption case built on emails: 'MRT is really trying to deliver here.'"  
<https://www.latimes.com/california/story/2023-03-18/covering-up-a-sexual-harassment-investigation-drove-push-for-landing-spot-at-usc-jury-hears>

<sup>12</sup> Drawn from 48.03 E: Non profit filer status shall not "apply to an attempt by the organization or its employees or board members to influence a City matter regarding funding, a contract, or a permit for the organization."





### 3. Gift & Fundraising Disclosure

The proposed recommendations not only allow nonprofit filers to donate to candidates, but free them from reporting information on fundraising, bundling, or gift giving activities. Requiring disclosure of these latter activities does not inherently burden the advocacy of nonprofit filers or their ability to give directly to a candidate. Recent scandals illustrate that we should in no way be limiting disclosure of fundraising or gift giving of those being paid to influence city hall.<sup>13</sup>

### CONCLUSION

We thank Councilmember Raman for pushing this item to be held in committee so that it could be properly reviewed. 122 Neighborhood Council members came together in a 3 day span to register their strong opposition to the proposed exemptions for 501(c)(3)s and 501(c)(5)s. This weekend the LA Times editorial board weighed in and came out against allowing 501(c)(5)s and large 501(c)(3)s to be treated differently than other lobbyists.<sup>14</sup>

The desire to provide flexibility for small 501(c)(3)s is understandable, however the current proposal will exempt well resourced 501(c)(3)s with annual expenses in the millions, and in some cases billions, of dollars. Some of the 501(c)(3)s at hand have budgets that rival the Los Angeles Police Department. Universities, hospitals, charities, and other 501(c)(3)s can often engage in a wide ranging array of policy matters extending from land use to taxes and officer discipline. Unions and large nonprofits must be placed on a level playing field with everyone else required to register as a lobbyist. We cannot afford to remove some of *the* most powerful voices at city hall from meaningful regulation and transparency.

This committee was created to respond to a scandal in which our elected officials were colluding with a 501(c)(5) to shape our district maps and the representation of CD 10 in a way that reinforced their power and disenfranchised their perceived enemies. *Further* reinforcing their power is not the answer, and will simply deepen mistrust in LA City Hall.

For these reasons, we oppose the Ad Hoc Government Committee's currently proposed amendments to the City's Municipal Lobbying Ordinance unless amended as outlined above.

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<sup>13</sup> LA Times: "Liquor box with \$100 bills: First trial in Huizar case opens"

<https://www.latimes.com/california/story/2022-06-15/the-first-trial-in-the-jose-huizar-corruption-case-has-begun>

<sup>14</sup> Editorial: "L.A.'s labor unions are major political influencers. Why shouldn't they be considered lobbyists?"

<https://www.latimes.com/opinion/story/2023-03-19/editorial-l-a-s-labor-unions-are-major-political-influencers-why-s-houldnt-they-be-considered-lobbyists>

