

## Communication from Public

**Name:**

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**Council File No:** 23-1027

**Comments for Public Posting:** Comments Attached

**May 10, 2024,**

Los Angeles City Council  
200 North Spring Street  
City Hall, Room 340  
Los Angeles, California 90012



**Re: Ethics Commission Charter Reform**

Honorable City Councilmembers:

California Common Cause is pleased to see Ethics Commission reforms before the City Council. LA City Hall has needed to strengthen its ethics, conflict of interest, and lobbying rules for several decades, and a stronger Ethics Commission is a step in that direction. While we are supportive in principle of much of what is before you, we have some significant concerns about certain elements of the current proposal that substantially hinder the independence of the L.A. City Ethics Commission (hereafter “Commission”). Given that the impetus for the reforms before you is to increase the independence of the Commission to better establish and enforce ethics laws that hold City officials accountable, we strongly believe these concerns should be remedied before this crucial package of reforms goes to the ballot in November. In particular, the reforms should:

1. Give the Commission complete independence to place reforms that fall within its jurisdiction of authority directly on the ballot,
2. Grant the Commission a guaranteed budget that accounts for inflationary sureties like COLA, salary increases, collective bargaining, and new Commission mandates, and
3. Expand the Commission to include non-political appointees who are vetted and seated by the Commission through a completely independent application process.

Below, we provide our rationale for these amendments and others, as proposed by the Ad Hoc Committee on City Governance Reform (AHCCGR) ([Council File 23-1027](#): Report from Ad Hoc Committee on City Governance Reform).

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**Commission Authority to Place Policies on the Ballot**

Commission authority to place reforms directly on the ballot is the best way to ensure Commission independence and fluid ethics laws that adapt to deficiencies. For this reason, California Common Cause is very supportive of Commission authority to place measures directly on the ballot. But the Commission must be granted meaningful, independent authority.

What is currently proposed only allows the Commission to place reforms directly on the ballot if the City Council ignores or outright disapproves of Commission policy proposals (without amending them) — and even then, the City Council retains veto power. If Council guts or

dramatically weakens Commission proposals, but does not ignore or disapprove them, the Commission can do nothing. This not only defeats the purpose of Commission ballot placement by severely limiting Commission independence, but it also undermines the spirit of good-faith Commission-Council engagement on policy proposals. Therefore, California Common Cause urges multiple amendments to Sections 1(b) and (c) of AHCCGR's proposal to update Charter Section 703.

**Commission and Council Dual Consent and Council Inaction:** We request that Section 1(b) of AHCCGR's proposal to update Charter Section 703 be amended to require dual consent from the Council *and* the Commission for amendments made to proposed Commission policies, instead of the current proposal to grant the Council unimpeded authority to amend Commission policy proposals.

**Parameters for Commission Ballot Placement:** We request that Section 1(c) of AHCCGR's proposal to update Charter Section 703 be amended in three ways. 1) To clarify that "policy" includes proposed ordinances, 2) to clarify that "disapproved" policies, for the purpose of the Commission placing policies/ordinances on the ballot, include policy clauses that were removed or significantly altered from Commission proposals without Commission consent, and 3) remove the option for the City Council to veto the Commission's authority-power to place measures under its jurisdiction directly on the ballot.

These amendments ensure that this important reform functions as intended by establishing Commission independence and greater City Council accountability. If these amendments are not included, then the door is open for bad-faith engagement and politically strategic Council amendments that would prevent the Commission from placing ordinances directly before voters.

For example, as worded now, Section 1(b-c) of the proposal creates the possibility that a gutting of the Commission's proposed policies/ordinance, via Council amendments, prevents the Commission from placing the removed or disagreeably amended policies directly before the voters — because the Council did not technically "disapprove" the Commission's package of reforms, but instead *amended* them, possibly to irrelevance. Such a loophole defeats the purpose of this crucial check on the electeds who are policed by the Commission, as does granting the City Council veto power to overrule Ethics Commission placement of reforms directly on the ballot.

### **Secured Ethics Commission Budget**

**Guaranteed Budget that Adjusts Appropriately:** We request Section 1(a)(i) of AHCCGR's proposal to update Charter sections 702(k) and 711 be amended to ensure that the L.A. City Ethics Commission's minimum secured budget increases with new Commission mandates or duties, COLA, salary increases, and changes to collective bargaining agreements. A baseline minimum is positive, but one that does not adjust to inflationary sureties will inevitably underfund future Commissions. We also request that the Council increase the proposed minimum annual budget from \$6.5 million to \$7.5 million to better reflect the current needs of the Commission.

## **Commission Functionality**

**Non-political Appointees:** We request multiple amendments to Section 1(o) of AHCCGR's proposal to update Charter Section 700(a) and (b).

First, to ensure Commission independence during the proposed application-based commission-driven appointment process, we recommend an ex parte communications ban on communications between sitting commissioners and elected City officials during the Commission's application vetting and appointment process. Elected officials, like members of the public, would still be free to voice their opinions publicly.

Second, *all* commissioners on an expanded Commission, including Commission-appointed commissioners, should be able to vet applications and vote on vacancies for Commission-appointed seats, as opposed to the current proposal that only allows politically appointed Commissioners to seat those commissioners. This is a matter of basic fairness, avoids power imbalances between commissioners, and increases Commission independence.

**Commission Vacancies:** We request that Charter section 700(f) be amended to stipulate that if a commission vacancy remains unfilled for 120 days, the Commission shall fill it in the same manner that an expanded Commission would appoint non-political appointees. This will ensure that vacancies are filled in a timely manner and that the Commission can consistently function with a quorum.

Ultimately, these amendments will help ensure Commission independence in what is meant to be a non-political appointment process.

## **Commission Due Process and Adjudication**

**Independent Outside Counsel:** In Section 1(f) of AHCCGR's proposal to update Charter section 708, we recommend broadly defining the "limited circumstances" in which the Commission may hire outside counsel. For example, when a conflict of interest — real or perceived — arises.

This is particularly relevant when the City Attorney's office is advising both the Commission and government officials under investigation by the Commission. We recommend granting the Commission significant discretion on when outside counsel is employed. We believe such an amendment will increase fairness and independence of the Commission's quasi-judicial authority.

## **Commissioner Criteria**

**Commissioner Removal:** We urge that Section 1(k) of AHCCGR's proposal to update Charter section 700(e) require *just cause* for commissioner removal by Council, as well as a confirming

*super*-majority vote of the Council. This will help ensure that commissioners are not removed for political reasons.

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In closing, we hope the City Council will work to place meaningful Ethics Commission charter reforms on this year's ballot, which will go a long way in addressing trust and accountability at City Hall. These reforms, if amended as we recommend, can increase the independence of the Ethics Commission, secure adequate funding for the Commission's mission of ensuring integrity in city government, guarantee that Commission recommendations receive timely consideration, and give the Ethics Commission the authority to take much-needed future reforms directly to the voters. Ultimately, these reforms build the infrastructure needed to have a fully functioning watchdog for LA city politics, a critical need.

We look forward to engaging with the City Council on this matter to ensure that meaningful Ethics Commission reforms are on the November 2024 ballot.

Sincerely,  
Sean McMorris  
Transparency, Ethics & Accountability Program Manager  
California Common Cause  
[smcmorris@commoncause.org](mailto:smcmorris@commoncause.org)