

Duties and Powers of the Ethics Commission

Los Angeles City Charter §§ 700 *et seq.*

Effective April 4, 2007

Los Angeles City
ETHICS COMMISSION

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Los Angeles City Charter
Article VII
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Los Angeles City Charter

Article VII – City Ethics Commission; Special Prosecutor

Amended by Proposition H, effective 7/6/90.

Amended by Charter Measure 1, effective 7/1/00.

SEC. 700. CITY ETHICS COMMISSION.

(a) **Establishment.** There shall be a City Ethics Commission that shall have the powers, duties and responsibilities set forth in this Article and elsewhere in the Charter. The commission shall have five members, each of whom shall be a part-time commissioner.

(b) **Appointment.** The Mayor, the City Attorney, the Controller, the President of the Council and the President Pro Tem of the Council shall each appoint one member to the commission. All appointments shall be subject to confirmation by a majority vote of the Council. A President and Vice President of the commission shall be selected by the commission and shall serve in those capacities as set forth in Section 503.

(c) **Terms of Office.** The members of the commission, including the president, shall serve staggered five-year terms beginning on July 1 and ending on June 30. No member who has served a complete five-year term shall be eligible for reappointment.

(d) **Qualifications.** Each member of the commission shall be a registered voter of the City. Neither a member of the Commission nor its Executive Director shall seek election to any City office or Los Angeles Unified School District Board of Education office concerning which the commission has made a decision during the term of the commissioner or Executive

Director unless the election for that office is to be held at least two years following the expiration of the term of office of the commissioner or Executive Director. During his or her tenure, neither a member of the commission nor its Executive Director shall:

- (1) hold any other public office;
- (2) participate in or contribute to a City election campaign;
- (3) participate in or contribute to an election campaign for a member of the Los Angeles Unified School District Board of Education;
- (4) participate in or contribute to a City official or member of the Los Angeles Unified School District Board of Education running for any elective office; or
- (5) employ or be employed as a person required to register as a lobbyist with the City of Los Angeles.

(e) **Removal.** Members of the commission may be removed by the Mayor, with the concurrence of the Council by majority vote, or by a two-thirds vote of the Council for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this Article, after written notice of the grounds on which removal is sought and an opportunity for a reply.

(f) **Vacancies.** Appointments to fill vacancies on the commission shall be made within

30 days by the same appointing authority who appointed the prior holder of the position. Appointments to fill vacancies shall be for the unexpired term of the member whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise the powers of the Commission.

- (g) **Quorum.** Three members shall constitute a quorum, and the concurring vote of at least three members shall be required to take any action.
- (h) **Compensation; Expenses.** Members of the commission shall be compensated in the same manner and at the same rate as provided by Section 501. The members of the commission shall be reimbursed for expenses incurred in the performance of their official duties.

*History:
Amended by Charter Amendment L, approved 3/6/07, effective 4/4/07.*

SEC. 701. EXECUTIVE DIRECTOR, COMMISSION STAFF AND DELEGATION OF AUTHORITY.

- (a) The Commission shall appoint and has the authority to discharge an Executive Director, who shall act in accordance with commission policies and regulations and with applicable law. The Executive Director shall serve at the will of the commission, shall not be subject to civil service provisions, and shall have no property interest in his or her employment. The salary of the Executive Director shall be set by the Council, subject to approval of the Mayor and shall be based on a recommendation submitted by the Director of the Office of Administrative and Research Services after a review and analysis of the responsibilities and authority vested in the position. The

Executive Director shall not serve in that capacity for more than ten years.

- (b) The Executive Director shall appoint and has the authority to discharge commission staff members and prescribe their duties. Non-clerical personnel of the commission shall serve at the will of the Executive Director, shall not be subject to civil service provisions, and shall have no property interest in their employment.
- (c) The commission may delegate authority to the Executive Director to act on behalf of the commission between meetings of the commission, except that rules, regulations and adjudicatory decisions can only be acted upon by the commission.

SEC. 702. DUTIES AND RESPONSIBILITIES OF THE ETHICS COMMISSION.

The commission shall have responsibility for the impartial and effective administration and implementation of the provisions of the Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest and governmental ethics.

The City Ethics Commission shall have the following duties and responsibilities:

- (a) to receive documents required to be filed pursuant to, and to otherwise administer, the provisions of Section 470 and to conduct audits as otherwise set forth in that Section;
- (b) to receive documents required to be filed pursuant to, and to otherwise administer, the provisions of the City's municipal lobbying ordinance;
- (c) to act as the filing officer and to otherwise receive documents in any

instance where the City Clerk would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the California Political Reform Act of 1974 (Government Code Section 81000, et seq.), as amended;

- (d) to audit disclosure statements and other relevant documents and investigate alleged violations of state law, the Charter and City ordinances relating to limitations on campaign contributions and expenditures, lobbying, governmental ethics and conflicts of interest and to report the findings to the City Attorney and other appropriate enforcement authorities. Audits shall be conducted of every candidate receiving public matching funds and may be conducted of other candidates and committees involved in City elections;
- (e) to provide assistance to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, conflicts of interest and governmental ethics;
- (f) to make recommendations to the Mayor and the Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the Council every three years concerning the effectiveness of these laws;
- (g) to maintain a whistle-blower hot line;
- (h) to annually adjust the limitation and disclosure thresholds required by City law to reflect any increases or decreases in the Consumer Price Index. Adjustments shall be rounded off to the nearest hundred dollars for

the limitations on contributions and the nearest thousand dollars for the limitations on expenditures and the matching funds provisions of relevant ordinances;

- (i) to assist departments in developing their conflict of interest codes as required by state law;
- (j) to advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process;
- (k) to have full charge and control of its office, to be responsible for its proper administration, to submit annually a proposed budget and to expend the funds of the office, all as otherwise prescribed by law; and
- (l) to receive grants, gifts and appropriations, subject to the approval of the Council.

SEC. 703. RULES AND REGULATIONS.

- (a) The commission may adopt, amend and rescind rules and regulations, subject to Council approval without modification, to carry out the purposes and provisions of the Charter and ordinances of the City relating to campaign finance, conflicts of interest, lobbying, and governmental ethics and to govern procedures of the commission.
- (b) Within 60 days after a rule or regulation is adopted by the commission, the Council shall hold a public hearing concerning the matter and act to approve or disapprove the rule or regulation in the form approved by the commission by ordinance. If the Council fails to disapprove within the 60

day period, the rule or regulation shall be presented to the Mayor for approval or veto, and to the Council for override of the Mayor's veto. If approved by the Mayor, or the Mayor fails to act, or approved by the Council on override of the Mayor's veto, the rule or regulation shall have the force of law. Violation of the rule or regulation shall be subject to those penalties and remedies as may be provided.

SEC. 704. ADDITIONAL DUTIES.

The commission shall have the following additional duties, which may be exercised by motion or order:

- (a) Prescribe forms for reports, statements, notices and other documents required by the Charter, ordinances or other laws relating to campaign financing, conflicts of interest, lobbying or governmental ethics.
- (b) Prepare and publish manuals and instructions setting forth methods of bookkeeping, preservation of records to facilitate compliance with and enforcement of the above laws, and explaining applicable duties of persons and committees.
- (c) Develop an educational program consisting of the following components:
 - (1) seminars, when deemed appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the

public's confidence in municipal government.

- (2) annual seminars for top-level officials, including elected officers and commissioners, to reinforce the importance of compliance with and to inform them of any changes in the law relating to conflicts of interest and governmental ethics.
- (3) a manual that summarizes, in simple, non-technical language, ethics laws and reporting requirements applicable to City officers and employees, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable City, state and federal laws governing the ethical conduct of City employees.

SEC. 705. REQUESTS FOR AND ISSUANCES OF OPINIONS; ADVICE.

- (a) Any person may request the commission to issue a written opinion with respect to his or her duties under provisions of the Charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. The commission shall, within 14 days, either issue a written opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on a written opinion issued to him or her by the commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall

be public records and may from time to time be published.

- (b) Any person may request the commission to provide written advice with respect to the person's duties under provisions of the Charter or any ordinance relating to campaign finance, conflicts of interest, lobbying, or governmental ethics. Advice shall be provided within 21 working days of the commission's actual receipt of the request, except that the time may be extended by the commission for good cause. Reliance on the advice, or the failure of the Commission to provide the advice within 21 working days of its receipt of the request, or within the extended time for response, shall be a complete defense in any enforcement proceeding initiated by the commission, and evidence of good faith conduct in any other civil or criminal proceeding if the requester, at least 21 working days prior to the alleged violation, requested written advice from the commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the commission to provide advice within 21 days of the request or such later extended time.

SEC. 706. INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS.

The commission shall conduct investigations of alleged violations of state law, the Charter and City ordinances relating to campaign financing, lobbying and conflicts of interest and governmental ethics.

Any person who violates any provision of the Charter or of a City ordinance relating to campaign financing, lobbying, conflicts of interest or governmental ethics, or who causes any other person to violate any

provision, or who aids and abets any other person in a violation, shall be liable under the provisions of this Article.

(a) Investigations.

- (1) If the commission, upon the sworn complaint of any person or on its own initiative, first determines that there is sufficient cause to conduct an investigation, it shall investigate alleged violations of state law, the Charter or City ordinances relating to campaign financing, lobbying, conflicts of interest and governmental ethics. The commission shall not be required to investigate a complaint filed with it unless the complaint identifies the specific alleged violation which forms the basis for the complaint and contains sufficient facts to warrant an investigation.
- (2) The investigation shall be conducted in a confidential manner. Records of any investigation shall be considered confidential information pursuant to Section 18362 of Title 2 of the California Code of Regulations, as amended, or any successor provision. Any member or employee of the commission or other person who, prior to a determination by the Executive Director whether or not to proceed with an administrative or other enforcement action, discloses information about any preliminary investigation, except as necessary to conduct the investigation, shall be liable pursuant to this Article. The unauthorized release of confidential information shall be sufficient grounds for the termination of the employee or

removal of the commissioner responsible for the release. The termination of clerical employees only shall be subject to applicable civil service provisions.

- (3) The commission and any special prosecutor may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the commission's duties or exercise of its powers.
- (b) Findings of Probable Cause; Administrative Enforcement. If the Executive Director of the commission determines that there is probable cause to believe that a provision of the Charter or City ordinances relating to campaign financing, lobbying, conflicts of interest or governmental ethics has been violated, the Executive Director shall cause an administrative enforcement accusation to be issued and served. No finding of probable cause shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have committed the violation is notified of the alleged violation by service of process or registered mail with return receipt requested, is provided with a summary of the evidence, and is informed of his or her right to be present in person and represented by counsel at any proceeding held for the purpose of considering whether probable cause exists for believing the person committed the violation. Notice to the alleged violator shall be deemed made

on the date of service, the date the registered mail receipt is signed, or, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

- (c) Administrative Hearings, Orders and Penalties. After an accusation is issued and served, the commission shall cause a public evidentiary hearing to be held to determine if a violation has occurred. When the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, it shall issue an order which may require the violator to:
- (1) cease and desist the violation;
 - (2) file any reports, statements or other documents or information required by law; and/or
 - (3) pay a monetary penalty to the General Fund of the City of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. When the commission determines that no violation has occurred, it shall publish a declaration so stating.
- (d) Referrals Between Agencies. Regardless of whether the Executive Director makes a formal determination concerning probable cause, he or she

may refer the matter to another appropriate agency for purposes of enforcement.

SEC. 707. DIVESTITURE.

In the event a member of a City board or commission is disqualified during any 365 day period from acting on (1) three or more agenda matters by reason of the same investment in a business entity, the same interest in real property or the same source of income, or (2) 1% or more of the matters pending before the board or commission by reason of any investments in business entities, any interests in real property or any sources of income, the commission shall examine the nature and extent of the conflicts and shall determine whether the member has a significant and continuing conflict of interest. If the commission so determines, it shall order divestment of the conflicting investment, interest or source of income. The Council may, by ordinance, impose additional requirements to assure that continuing conflicts of interest by members of boards and commissions are adequately monitored and avoided.

SEC. 708. LEGAL SERVICES.

The City Attorney shall provide legal services to the commission. Notwithstanding Section 275, the commission may employ or contract for staff counsel to give advice to the commission and to take such action as the commission may direct on matters which directly involve the conduct of the City Attorney, his or her office, or his or her election campaign.

SEC. 709. JUDICIAL REVIEW.

Any interested person may seek judicial review of any action of the commission.

SEC. 710. APPOINTMENT OF SPECIAL PROSECUTOR.

- (a) Notwithstanding Section 275, when the City Attorney determines that his or her office has a possible conflict of interest and that the office should not investigate or prosecute alleged violations of the Charter, City ordinances or regulations, or statutes relating to campaign financing, lobbying, conflicts of interest or governmental ethics, the City Attorney shall notify the City Ethics Commission, which by a four-fifths vote of all of its members may request the appointment of a special prosecutor to conduct the investigation. A special prosecutor shall not be appointed when it appears from a preliminary investigation that an alleged violation will warrant only an action for civil damages or administrative penalties.
- (b) The request for the appointment of a special prosecutor shall be made to a standing committee composed of three retired judges selected by the commission at the beginning of each odd-numbered year. The three judge panel shall name the special prosecutor, who upon appointment shall have the authority to file and prosecute criminal and civil actions in the name of the People.
- (c) Each fiscal year there shall be included in the budget of the City Ethics Commission the sum of two hundred fifty thousand dollars (\$250,000) for expenditure to support any special prosecutor appointed pursuant to this section. In the event that all these funds have been or are likely to be expended before the end of any fiscal year, the commission may ask the Council for an additional appropriation. Under no circumstance shall the amount appropriated or provided under contract for a special prosecutor exceed two

hundred fifty thousand dollars (\$250,000) in any fiscal year without Council approval. The Council shall have 30 days (excluding weekends and holidays) following its receipt to accept, reject, or modify a request for additional funds from the commission. The Mayor shall act on the Council's action within five days (excluding weekends and holidays). If the Mayor vetoes the Council's action, the Council shall have five days (excluding weekends and holidays) to override that veto by a two-thirds vote.

- (d) A special prosecutor appointed pursuant to this section may be removed from office only by the action of the commission, and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the special prosecutor's duties.

SEC. 711. APPROPRIATION.

The Council shall appropriate funds for the commission at least one year in advance of each subsequent fiscal year.

SEC. 712. AUTHORITY; CONFLICT WITH OTHER CHARTER PROVISIONS.

This Article is adopted pursuant to and under the authority of Article XI, Section 5 of the California Constitution, and California Government Code Section 81013. In the event any provision of this Article conflicts with other provisions of the Charter, this Article shall prevail.