

## **Summary of Austin Independent Ethics Commission Charter Amendment**

**Date: 2/5/2018**

The Campaign Finance Committee recommends an Austin Charter Amendment that establishes an Independent Ethics Commission to replace the current administration and enforcement process. Our proposed initial draft, attached, has five basic sections: 1) Commission jurisdiction and membership; 2) Commission powers and duties; 3) Executive Director qualifications and duties; 4) investigations and enforcement proceedings; and 5) Commissioner selection process. Sections 1 through 4 are adapted from the well-respected Ethics Commission laws of Seattle, San Francisco and Los Angeles. Section 5's Ethics Commissioner selection process is adapted from current Austin's Charter provisions for selection of Commissioners for the Independent Citizen Redistricting Commission, Article 2, Sec. 3 (I), (J). Below, we provide a brief summary of the 5 sections.

**Section 1: Commission Jurisdiction and Membership.** The Campaign Finance Committee Draft Charter Amendment provides the Commission has broad jurisdiction over all city laws relating to ethics, campaign finance, campaign disclosure, conflicts of interest, financial statement disclosure, lobbyist regulations, revolving door, and disqualification of board members. Section 1.01. All Commissioners must be registered voters and Austin residents for 5 years. No Commissioner shall have been for three years before an elected official, political consultant, officer or employee in a political party, City of Austin employee or contractor, or candidate for state or local government. Section 1.02. All Commissioners shall have demonstrated impartiality and have expertise in a relevant area, such as ethics, enforcement, or campaign finance. Section 1.03. Commissioners' terms are 5 years, staggered, and they may not be reappointed unless they received a shortened, staggered term of 3 years or less. Section 1.04. Commissioners can be removed for cause only. Section 1.05. During and for 2 years after their service, Commissioners cannot run for office, make contributions in city elections, be a political consultant, serve as a lobbyist, etc. Section 1.07.

**Section 2: Commission Powers and Duties.** The Commission is given broad powers to administer and enforce all laws under its jurisdiction. Section 2.01 (A). In the subsequent subsections, the Commission is given specific power to receive and maintain all required documents, prescribe all forms, provide training and assistance, make recommendations for reform, adjust any expenditure limits or participating candidate thresholds, promulgate rules and regulations, investigate and enforce its laws, have full authority over its employees and operations, and comply with Open Meetings, Open Records, and state conflict of interest laws. Section 2.01. It shall recommend a detailed budget to fulfill all its duties, which is reviewed and approved by the City Auditor. The Council must fund this budget. Section 2.01 (K). The Commission shall determine in its discretion whether to use the City Auditor or other city staff when appropriate, but it shall hire and control its own lawyers. Section 2.01 (L). The City Auditor shall audit the entity every 3 years or as needed. Section 2.01(N). Three Commissioners constitute a quorum, except for removal of the Executive Director. Section 2.03.

**Section 3: Executive Director Duties and Qualifications.** The draft amendment provides that the Executive Director shall be a licensed attorney for 5 years and have expertise in ethics, campaign finance, conflicts of interest, and/or enforcement. Section 3.01 (A). The Executive Director shall not have served for three years before as an elected official, political consultant, officer or employee in a political party, lobbyist, or candidate for state or local government. Their term is 5 years. Section 3.01 (B). Section 3.02 specifies the Executive Director's duties, which include broadly administering the Commission, hiring and supervising all staff and consultants, drafting rules and advisory opinion for the Board's approval, overseeing and conducting investigations for civil and criminal matters, and developing and recommending a budget for the Commission's Board. To ensure impartiality, during and for two years after their service, the Executive Director and staff shall not hold office, be an officer of any political party, contribute to city elections, be a political consultant, or lobby the City. Section 3.03.

**Section 4: Investigations and Enforcement.** The Commission is given broad enforcement and investigatory powers. Section 4.01. The Commission may investigate a complaint or initiate one on its own, and it may compel witnesses and documents before and during hearings. The investigation stage is confidential. Section 4.02. If the Executive Director determines there is a reasonable basis to believe there has been a violation, he shall schedule a preliminary hearing before the Commissioners. Section 4.03. The Commission sets its hearing procedures. If probable cause is found, criminal violations shall be heard in municipal court and other matters will be heard before the Commission or appropriate court. Section 4.04. Penalties, sanctions, injunctive relief, and late fines are set out in detail in Section 4.05.

**Section 5: Commissioner Selection Process.** This follows the basic approach of the Independent Citizens Redistricting Commission but is shortened. The City Auditor publicizes widely the application process. Section 5.01. The City Auditor selects three of her auditors without specified conflicts of interest, and this Applicant Review Board reviews and selects a pool of applicants who have relevant specific experience and skills and lack specified conflicts of interest. Section 5.02. The pool shall have 12 applicants. The City Auditor then will draw at random 3 names from the applicant pool, who will be the three initial Commissioners. These Commissioners then select the other 2 Commissioners from the pool to ensure diversity of background and skills. Section 5.03. There is a process for subsequent selection of Commissioners from applicant pools as terms end and vacancies arise. Section 5.04.