

Background

The current recall structure outlined in the City Charter was written for an at-large Council system, in which each Council Member was elected by the entire voting population of the city. Thus, a 10% threshold translated to approximately 50,000 signatures as of the November 2012 election, in which Austin voters chose to adopt a single-member district system of representation, rejecting the at-large system. Each Council District now is made of approximately one-tenth the number of residents that at-large districts were.

Under the at-large system, each Austinite had multiple Council Members that they elected to represent them. If any one at-large Council Member failed to adequately represent a community in Austin, that community had multiple other representatives accountable to them from which they could seek relief. In the event of a recall, no community was left without representation on City Council.

A single-member district system offers more community-centered representation more directly responsive to each geographic area of the city. However, in the event of a recall in a single-member district system, one-tenth of the city is left without directly responsive representation, leaving that area with no voice on City Council for the possibly months-long period before a special election occurs, which could leave that community virtually powerless in extremely consequential policymaking and budget decisions that directly impact them.

The single-member district system of representation is fundamentally different from an at-large system, and offers more community-centered, more direct and responsive representation. However, the recall structure was not amended when Austin adopted a single-member district system, and is not appropriate for a new system of representation.

As such, the current recall system is not an institutional choice allowing for a last-resort tool to achieve fair, competent, and adequate representation, but rather an oversight that compromises our system of government by allowing anyone—including corporations, people who do not live in Austin, and people who do not live in and are not represented by Council Members they wish to recall—to abuse this system to overturn an election as a means of influencing policy, especially when combined with the absence of transparency and accountability that currently exists in the City Charter.

Recall is an important tool for holding elected representatives accountable, but because the consequences of a recall are so potentially severe, it is a tool that must be carefully structured and protected from abuse to ensure that the tool remains effective for its intended use by communities that have been failed by their own elected representative.

As confirmed in multiple interviews, it was an oversight that the at-large recall system was not amended at the time that a single-member district system was adopted. At least one prior Charter Review Commission adopted a recommendation to amend the recall structure to be more appropriate for a 10-1 single-member district Council system.

Questions of petition signature thresholds are not simply questions of mathematics and finding an appropriate percentage, because the collection of signatures has material impact and real costs for petitioners. Unreasonably and arbitrarily high signature thresholds make petitions an unusable tool for many. By contrast, unreasonably and arbitrarily low thresholds leave our system of representation vulnerable to abuse and, in the case of recall petitions, may leave communities without representation as a result.

This recommendation, if placed on the ballot and adopted by Austin voters, will mark a significant step in achieving the appropriate balance for a single-member district system.

Recommendation

Amended language for City Charter Article IV, Sec. 6:

The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk, ~~signed by~~ with valid signatures of qualified voters of the territory from which the council member is elected collected under a Notice of Intent filed with the city clerk in compliance with other, equal in number to at least ~~[40]~~ 15 percent of the qualified voters of the territory from which the council member is elected, or 10 percent of the qualified voters in the City of Austin in order to recall the mayor, demanding the removal of a council member. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

Additional:

The recall structure should be a focus of consideration by future Charter Review Commissions, and should be regularly evaluated. Upon any potential change in the future to Austin's system of representation for City Council, the recall structure should be reconsidered alongside those changes.

Policy Reasons for the Recommendation

First, this recommended amendment requires that signatures on recall petitions be collected under a filed Notice of Intent, and that the petitioners filing the Notice of Intent be residents of the district of the council member they wish to recall. This is addressed in another anticipated recommendation by the Commission; the language above is redlined to reflect this change, and the definition of a valid signature be inherent in the Charter language.

Second, the threshold for recall petition signatures was originally written with the intention of equating to tens of thousands of signatures, and was never intended as an appropriate tool of representation in a single-member district system. A small increase in this threshold keeps recall as an accessible tool and does not impose an undue barrier on community members when considering the small number of signatures that percentage increase represents. Rather, it updates the Charter to better reflect that we no longer have an at-large City Council system of representation.

The proposed threshold remains lower than the average for cities in Texas. Per a University of Houston Election Lab study,¹ most Texas cities have a recall petition signature threshold of around 30%, and these researchers recommend a threshold of 50%.

This recommendation does not include a change to the threshold for the recall of the mayor as this threshold remains appropriate for a representative elected citywide, but it does include clarifying language in the Charter on this subject.

Finally, this recommendation represents the changes that can be accomplished by this Commission with the time allowed and given the scope of the Commission's work. Future Commissions should be granted more time and more direct focus on this issue. Recall should become subject to regular review as the number of qualified voters in each district is dependent on the regular review of Council district boundaries, which produces a disparate impact on the accessibility and functioning of recall for the residents of each Council district. Upon any change to the Council system of representation, the recall structure must be updated to appropriately accommodate those possible changes. Additional changes that should be considered include a system for appointing an active representative on City Council for a district whose representative has been recalled until a special election to elect a new representative, and whether to hold recalls on the next concurrent municipal election to foster a more representative electorate voting on the recall of their elected representative.

Fiscal Impact

No fiscal impact is anticipated.

Impact of the Recommendation on Existing City Laws, Rules, Practices and Procedures
City Charter Article IV Sec. 6 will be amended.

Proposed Ballot Language

The proposed ballot language below is subject to review and edit by the City Attorney.

Shall the City Charter be amended to allow for the recall of a city council member with a petition containing valid signatures of at least 15% of qualified voters within the respective council district?

¹ Rottinghaus et al., 2023,
https://www.uh.edu/class/political-science/about/election-lab/_docs/uh-election-lab-recall-election.pdf