

City of Los Angeles

TO: CITY COUNCIL **DATE:** JULY 17, 2000

FROM: CITY CLERK

SUBJECT: QUALIFICATION OF PROPOSED CHARTER AMENDMENT
PROHIBITING LOCAL PUBLIC OFFICIALS FROM RECEIVING A
PUBLIC OR CAMPAIGN ADVANTAGE FROM RECIPIENTS OF
CERTAIN PUBLIC BENEFITS

RECOMMENDATION:

It is recommended that the City Council:

- (1) Receive and accept the City Clerk's certification that based upon the examination and verification of signatures by the Los Angeles County Registrar-Recorder's Office, the petition submitted for a proposed Charter Amendment entitled "Charter Amendment Prohibiting Local Public Officials from Receiving a Public or Campaign Advantage from Recipients of Certain Public Benefits", contains a sufficient number of valid signatures to place the proposed Charter amendment on an election ballot.
- (2) Determine if the proposed Charter amendment shall be placed on the November 7, 2000 ballot, or at the next regular municipal election to be held on March 6, 2001. If Council decides to place the measure on the November 7, 2000 ballot, direct staff to prepare formal resolutions calling a special election, requesting consolidation and County services, and setting forth priorities for filing written arguments and directing the City Attorney to prepare an impartial analysis. The formal resolutions would return to Council for adoption at a subsequent Council meeting.
- (3) In accordance with Election Code Section 9212, refer the proposed charter amendment to the City Attorney for a report on the fiscal impact and the legal implications of various provisions of the proposed Charter amendment, and set a deadline within 30 days (no later than August 16th) for the report to return to Council.
- (4) Approve a journal voucher authorizing the Director of Finance to appropriate \$10,000 from the Unappropriated General Fund fund balance to Election Account No. 8114-101-263000.

BACKGROUND:

On May 31, 2000, Mr. Paul Monsour, proponent of the proposed Charter amendment, timely filed with the City Clerk's Office the above-referenced petition. A copy of the proposed Charter Amendment text and the City Attorney's ballot title and summary is attached for reference. On June 1, 2000, the petition was delivered to the County of Los Angeles Registrar-Recorder's Office for signature verification as provided for in Sections 9266, 9114 and 9115 of the California Elections Code. Pursuant to California Elections Code Section 9114, the City Clerk is required to certify the results of the signature verification to the City Council.

Verification Results

The results of the signature verification are set forth in the attached certification by the City Clerk. Based on these results, the City Clerk is certifying that the petition meets the 15% valid signature requirement of registered voters to place the measure on the ballot.

Election Timing

California Elections Code Section 9255 provides that an amendment of a city charter proposed by a petition signed by 15 percent of the registered voters of the city shall be submitted to the voters at either a special election called for that purpose, at any established municipal election date, or at any established date pursuant to Section 1000 of said Code, provided that there are at least 88 days before the election.

The Charter amendment petition which was circulated did not request on the petition itself that a special election be called to place this measure on the November 7, 2000 ballot. However, when the petition was filed with the City Clerk on May 31, 2000, the proponent requested in his cover letter that the proposed Charter amendment be placed on the November 7, 2000 ballot. The City Council has the discretion to place this proposed Charter amendment on either the November 7, 2000 ballot (this would be a special consolidated election) or at our next regular municipal election scheduled for March 6, 2001.

Report of Effect of Proposed Charter Amendment

If the City Council wishes to direct the City Attorney to report on the effect of the proposed Charter amendment to the legislative body before calling the election, the timing for placing this measure on the November 7th ballot may be tight.

Section 9212 of the Election Code provides that during circulation of the petition, or before taking action to place the measure on the ballot, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following: fiscal impact; effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, or the limitations on city actions under Section 65008 of the Government Code; or any other matters the Council requests to be in the report.

If such a report is ordered, it shall be presented to the legislative body within the time set by the Council, but no later than 30 days after the election official certifies to the Council the sufficiency of the petition. Thirty days from this July 17th Council meeting is August 16th, which would be too late to place the measure on the November 7, 2000 ballot if Council so desired. The Council could shorten the deadline to report back to a time period less than 30 days in order to take action to place the measure on the ballot by August 7th (last regular Council meeting before the August 11th deadline to call the election for November 7th), but in doing so consideration should be given to the extent of the information and analysis which would be requested of the City Attorney.

FISCAL IMPACT:

The cost of the Registrar-Recorder's signature verifications is estimated to be approximately \$10,000. The Registrar-Recorder's Office has provided the City with a cost estimate of \$60,000 to consolidate and place three School District Reform Charter Amendments on the November 7, 2000 election. Council will be determining over the next few weeks if several School District reform measures are placed on the November 7, 2000 ballot. If Council decides to place this measure on the November 7, 2000 ballot, it would cost an approximate \$8,000 over the Registrar's prior estimate for the School District Reform Charter Amendments. If Council decides to place this measure on the March 6, 2001 regular municipal election ballot, the additional cost for this election would be approximately \$8,000.

At this time, in order to reimburse the Registrar's Office for signature verification costs, staff is recommending that a journal voucher be approved authorizing the Director of Finance to appropriate \$10,000 from the Unappropriated General Fund fund balance to the City Clerk's Election Account 8114-101-263000. Staff will request an additional appropriation of funds after Council determines which

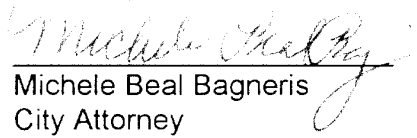
July 17, 2000

election it will place this measure on the ballot, and at the time formal resolutions calling the election are adopted.

Respectfully submitted,

Jane L. Rodriguez, CMC
City Clerk

Reviewed by:



Michele Beal Bagneris
City Attorney



Jay M. Goldstone
Director of Finance

**CERTIFICATE OF RESULTS
EXAMINATION OF INDIVIDUAL SIGNATURE VERIFICATION**

I HEREBY CERTIFY that I have caused to be examined and verified by the Office of the Registrar-Recorder of Los Angeles County, the signatures of the Petition for Submission to Voters of Proposed Amendment to the Charter of the City of Pasadena (Prohibiting Local Public Officials from Receiving a Public or Campaign Advantage from Recipients of Certain Public Benefits), with the following results:

Total Number of Signatures Filed	18,001
Total Number of Signatures Verified	18,001
Total Number of Signatures Found Sufficient	11,378
Total of Number of Signatures Found Not Sufficient	6,623
Number of Registered Voters in the City (Report dated October 12, 1999)	72,651
Number of Signatures Needed to Qualify (15%)	10,898

I HEREBY CERTIFY that the petition for a proposed Charter Amendment Prohibiting Local Public Officials from Receiving a Public or Campaign Advantage from Recipients of Certain Public Benefits, qualifies for an election ballot.



Jane L. Rodriguez, CMC
City Clerk

Dated: July 13, 2000

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CITY OF
CITY OF CHICAGO, ILL.


TITLE AND SUMMARY

“CHARTER AMENDMENT PROHIBITING LOCAL PUBLIC OFFICIALS FROM RECEIVING A PUBLIC OR CAMPAIGN ADVANTAGE FROM RECIPIENTS OF CERTAIN PUBLIC BENEFITS.”

The proposed Charter Amendment would prohibit local elected and appointed public officials from receiving any defined “personal or campaign advantage” from any person or entity to whom the public official has voted or exercised discretion to approve or award a defined “public benefit.” “Personal or campaign advantage” means anything with a monetary value in excess of \$50, compensated employment or any contribution to the official’s campaign for elective office. “Public benefit,” measured in a 12 month period, includes the following: services, material and supplies or equipment contracts in excess of \$25,000; real property sale or lease transactions in excess of \$25,000; franchises which generate in excess of \$50,000 in gross revenue in any 12 month period; certain land use related variances, permits or exceptions with a value in excess of \$25,000; tax abatement, exceptions or benefit in excess of \$5,000; or cash benefits of a net value in excess of \$10,000. The prohibition against the public official’s receiving any personal or campaign advantage extends through the first of the following: one year after expiration of the official’s term of office in which the public benefit was approved; one year after the official’s departure from office; or five years after the public

benefit was approved. Public officials shall be required to exercise due diligence to ascertain all circumstances which fall within the prohibitions and to disclose, on request, all who are known to them as public benefit recipients. In addition, written notice of the proposed amendment itself, if enacted, shall be incorporated in public documents such as bid invitations to all persons engaged in prospective business with, from or through the City. Knowing and wilful violation of the proposed amendment by a public official would be a misdemeanor. A right of civil enforcement action is created which would allow any resident of the City to file a lawsuit to enforce the proposed amendment against any public official in violation. Civil remedies against public officials found in violation are to include the following: restoration to the City of any personal or campaign advantage; civil penalty of up to 5 times the personal or campaign advantage received; injunctive relief; disqualification from public office for wilful, repeated or egregious violation, and attorney's fees. Civil penalties collected are to accrue 10% to the person bringing the action and 90% to the City General Fund.

Date: Dec. 15, 1999


Michele Beal Bagneris
City Attorney

NOTICE OF INTENT TO CIRCULATE PETITION

December 1, 1999

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Pasadena for the purposes of amending the City Charter. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

There is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period.

Respectfully submitted,

Paul Monsour

Paul Monsour
650 Cordova #19
Pasadena, CA 91101
(626) 796-7287

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CITY CLERK
CITY OF PASADENA

PASADENA

Charter Amendment

The Pasadena City Charter shall be amended by the addition of Article XVII to read as follows:

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ARTICLE XVII. TAXPAYER PROTECTION

Section 1701. Title

This Article shall be known as the City of Pasadena Taxpayer Protection Amendment of 2000.

Section 1702. Findings and Declarations

(a) The people of the City of Pasadena ("City") find that the use or disposition of public assets are often tainted by conflicts of interest among local public officials entrusted with their management and control. Such assets, including publicly owned real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials.

(b) The people find that public decisions to sell or lease property, to confer cable, trash hauling and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with the expectation of, and subsequent receipt of, private benefits from those so assisted to involved public 'decision makers'. The people further find that the sources of such corruptive influence include gifts and honoraria, future employment offers, and anticipated campaign contributions for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective private buyers, lessees, and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.

(c) Accordingly, the people declare that there is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period, as provided herein.

Section 1703. Definitions

(a) As used herein, the term public benefit does not include public employment in the normal course of business for services rendered, but includes a contract, benefit, or arrangement between the City and any individual, corporation, firm, partnership, association, or other person or entity to:

- (1) provide personal services of a value in excess of \$25,000 over any 12 month period,
- (2) sell or furnish any material, supplies or equipment to the City of a value in excess of \$25,000 over any 12 month period,

(3) buy or sell any real property to or from the City with a value in excess of \$25,000, or lease any real property to or from the City with a value in excess of \$25,000 over any 12 month period,

(4) receive an award of a franchise to conduct any business activity in a territory in which no other competitor potentially is available to provide similar and competitive services, and for which gross revenue from the business activity exceeds \$50,000 in any 12 month period,

(5) confer a land use variance, special use permit, or other exception to a pre-existing master plan or land use ordinance pertaining to real property where such decision has a value in excess of \$25,000,

(6) confer a tax abatement, exception, or benefit not generally applicable of a value in excess of \$5,000 in any 12 month period,

(7) receive cash or specie of a net value to the recipient in excess of \$10,000 in any 12 month period.

(b) Those persons or entities receiving public benefits as defined in Section 1703(a)(1)-(7) shall include the individual, corporation, firm, partnership, association, or other person or entity so benefiting, and any individual or person who, during a period where such benefit is received or accrues,

(1) has more than a ten percent (10%) equity, participation, or revenue interest in that entity, or

(2) who is a trustee, director, partner, or officer of that entity.

(c) As used herein, the term personal or campaign advantage shall include:

(1) any gift, honoraria, emolument, or personal pecuniary benefit of a value in excess of \$50;

(2) any employment for compensation;

(3) any campaign contributions for any elective office said official may pursue.

(d) As used herein, the term public official includes any elected or appointed public official acting in an official capacity.

Section 1704. City Public Official Shall Not Receive Personal or Campaign Advantage From Those To Whom They Allocate Public Benefits

(a) No City public official who has exercised discretion to approve and who has approved or voted to approve a public benefit as defined in Section 1703(a) may receive a personal or campaign advantage as defined in Section 1703(c) from a person as defined in Section 1703(b) for a period beginning on the date the official approves or votes to approve the public benefit, and ending no later than

(1) one year after the expiration of the term of office that the official is serving at the time the official approves or votes to approve the public benefit;

(2) one year after the official's departure from his or her office whether or not there is a pre-established term of office; or

(3) five years from the date the official approves or votes to approve the public benefit;

whichever is first.

(b) Section 1704(a) shall also apply to the exercise of discretion of any such public official serving in his or her official capacity through a redevelopment agency, or any other public agency, whether within or without the territorial jurisdiction of the City either as a representative or appointee of the City.

Section 1705. Applicable Public Beneficiaries Section. Responsibilities of City Public Officials and Advantage Recipients

(a) City public officials shall practice due diligence to ascertain whether or not a benefit defined under Section 1703(a) has been conferred, and to monitor personal or campaign advantages enumerated under Section 1703(c) so that any such qualifying advantage received is returned forthwith, and no later than ten days after its receipt.

(b) City public officials shall provide, upon inquiry by any person, the names of all entities and persons known to them who respectively qualify as public benefit recipients under the terms of Sections 1703 and 1704.

Section 1706. Disclosure of the Law

The City shall provide any person, corporation, firm, partnership, association, or other person or entity applying or competing for any benefit enumerated in Section 1703(a) with written notice of the provisions of this Article and the future limitations it imposes. Said notice shall be incorporated into requests for 'proposal', bid invitations, or other existing informational disclosure documents to persons engaged in prospective business with, from, or through the City.

Section 1707. Penalties and Enforcement

(a) In addition to all other penalties which might apply, any knowing and willful violation of this Article by a public official constitutes a criminal misdemeanor offense.

(b) A civil action may be brought under this Article against a public official who receives a personal or campaign advantage in violation of Section 1704. A finding of liability shall subject the public official to the following civil remedies:

- (1) restitution of the personal or campaign advantage received, which shall accrue to the general fund of the City;
- (2) a civil penalty of up to five times the value of the personal or campaign advantage received;
- (3) injunctive relief necessary to prevent present and future violations of this Article;
- (4) disqualification from future public office or position within the jurisdiction, if violations are willful, egregious, or repeated.

(c) A civil action under subdivision (b) of this section may be brought by any resident of the City. In the event that such an action is brought by a resident of the City and the petitioner prevails, the respondent public official shall pay reasonable attorney's fees and costs to the prevailing petitioner. Civil penalties collected in such a prosecution shall accrue 10% to the petitioner and 90% to the City's general fund.

Section 1708. Severability

If any provision of this Article is held invalid, such invalidity or unconstitutionality shall not affect other provisions or applications which can be given effect without the invalidated provision, and to this end the provisions of this Article are severable.