

Commissioners

Oakland Public Ethics Commission

April 8, 2024

Re: Support for City Charter and OMC Review and Amendments

As an organization that supports strengthening democracy across the state of California, and empowering individuals and communities, California Common Cause wishes to communicate our support for the proposed City Charter and municipal code reforms that the Public Ethics Commission (PEC) has included in this April's meeting agenda (item 13). In general, this proposal will serve to make the PEC a more independent body that can operate with integrity, and cannot be easily swayed, pushed, or altered by political factors occurring in the city.

In that regard, the reforms outlined in agenda item 13 will enable the PEC to more fully and more reliably accomplish its goals of pushing Oakland's democratic systems forward, and help make the city a beacon of what is possible if all individuals and communities are fully empowered by their local government. Our organization remains steadfastly committed to the successful implementation of the Democracy Dollars program, and all other aspects of Measure W, which passed overwhelmingly in the 2022 election. For that to occur, we understand the need for adequate funding for all of the PEC's responsibilities and rules that strengthen and empower the PEC.

There are two parts of the reforms identified in agenda item 13 in particular that we believe to be particularly important:

- Recommendation 15: Authorize the Commission, by supermajority vote, to refer ordinances relating to its subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration
- Recommendation 18: Provide that the Democracy Dollars Program minimum budget set-aside may be reduced in an extreme fiscal necessity by no more than the same proportion as any reductions in General Purpose Fund expenditures.

Recommendation 15, which matches the powers held by San Francisco's ethics commission, would ensure that the PEC, as the leading expert on ethics and campaign finance issues in the city and the most unbiased entity focused on these issues, can independently propose items to voters. The current system of having to go through Council makes it possible for political forces and dynamics to determine what voters have an opportunity to weigh in on, instead of what is the best policy and best serves the public interest. We feel this is a critically important best practice for ethics commissions to adopt statewide.

Recommendation 18, by ensuring that cuts to the Democracy Dollars program do not exceed the proportion of cuts for the city at-large, protects the Democracy Dollars program from being unfairly or disproportionately cut. Furthermore, in times of financial crisis, democracy is perhaps most important, and should not be the first and biggest financial cuts to balance a budget.

We have the following minor suggestions:

- Recommendation 12 may result in undue and inappropriate pressure on PEC Commissioners by the Mayor, City Council, or senior city staff on the question of hiring the Executive Director. You may wish to consider passing this in combination with a ban, or at least detailed disclosure of, *ex parte* communications between those parties and PEC members, on that specific topic or on all PEC business.
- On Recommendation 15, you may wish to explore a model of ballot referral in which the City Council is afforded a non-binding opportunity to weigh in with amendments before the PEC takes final action. After that process occurs, which should be required to happen within a certain limited timeframe, the PEC can either accept the Council's version of a ballot measure or vote via super-majority to place their own version on the ballot (or adopt some of the Council's amendments but not all). This allows for a broader discussion of any measures before they go to the ballot, not least because there is more public participation at City Council meetings than at PEC meetings.
- On Recommendation 19, we urge you to carefully define "immediate family." The Political Reform Act (PRA), for example, defines it to include a spouse and dependent children, leaving room for abuse by adult children.

Thank you all for continuing to work on making Oakland the best, most democratic city it can be. We continue to support your work, and look forward to continuing collaboration to bring this charter amendment to the voters of Oakland.

Best,

David Shor  
Money in Politics Program Manager  
California Common Cause