

## Law and Legislation Committee Report

915 I Street, 1<sup>st</sup> Floor

Sacramento, CA 95814

[www.cityofsacramento.org](http://www.cityofsacramento.org)

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**File ID:** 2019-00632

May 14, 2019

**Discussion Item 03**

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**Title:** Office of the City Auditor Ordinance

**Location:** Citywide

**Recommendation:** 1) Review an ordinance amending Sacramento City Code chapter 2.18, relating to the office of the city auditor; and 2) pass a Motion forwarding the ordinance to City Council for consideration.

**Contact:** Matthew Ruyak, Assistant City Attorney, (916) 808-5346, Office of the City Attorney; Jorge Oseguera, City Auditor, (916) 808-5442, Office of the City Auditor

**Presenter:** Matthew Ruyak, Assistant City Attorney; Jorge Oseguera, City Auditor

**Attachments:**

1-Description/Analysis

2-Draft Ordinance (redline)

3-Draft Ordinance (clean)

4-Resolution 2018-0317 (with Measure K language)

5-Former Sacramento City Code chapter 2.33 (Independent Budget Analyst's Office)

## Description/Analysis

**Issue Detail:** In November 2018, Sacramento city voters approved Measure K, which was placed on the ballot by the city council. Measure K, also known as the Sacramento City Government Accountability and Efficiency Act, established the city auditor as an officer under the Sacramento City Charter. It also combined the offices and duties of the city auditor and independent budget analyst into one office, to consolidate functions and provide the city auditor more robust resources.

Measure K also superseded certain provisions of the Sacramento City Code relating to the city auditor and independent budget analyst, while enshrining their core functions in the charter: independently assessing and reporting on city operations and services; and assisting the council in the conduct of budgetary inquiries and in the making of budgetary decisions. The measure provided a time to transition between the city auditor appointed under the Sacramento City Code and the installation of a city auditor as a charter officer, by making the auditor-related charter amendments effective July 1, 2019.

The draft ordinance presented for consideration was constructed from the following building blocks: (1) the express language of new charter section 77 [see Attachment 3]; (2) the current city code chapter covering the city auditor's office (chapter 2.18); and (3) the independent budget analyst's duties under former city code section 2.33.040 [see Attachment 4], which was deleted as a result of Measure K.

The draft ordinance amends chapter 2.18 by augmenting and clarifying the city auditor's functions, while also adding in former independent budget analyst duties. Below is a description of each new or modified section, or subsection, in the proposed amended chapter 2.18.

**2.18.010** Subsection A reiterates the purposes of the charter as set forth in section 77(a).

**2.18.030** Subsection A: the auditor would like the annual work-plan date changed to better align with office practice and the city's budget cycle. "Audit plan" is changed to "work plan," as now the auditor will do more than just audits.

Subsection B: a specific auditing standard is added to reflect the standards applicable to the auditing profession.

Subsection C: it is standard practice for government auditors to have periodic peer reviews, and this new subsection will ensure the council

receives regular reports on those reviews.

**2.18.040** Subsection B is added to reflect current practice.

**2.18.050** The current city code does not describe the auditor's duties or functions. However, charter section 77 states the auditor's duties will be as described by ordinance, so the duties are listed in this entirely new section.

Subsection A: this subsection reflects the performance-audit functions currently exercised by the city auditor. These are based upon the model legislation drafted by the Association of Local Government Auditors.

Subsection B: under state law and council resolution, the auditor manages the city's whistleblower hotline.

Subsection C: this list is taken almost verbatim from the former independent budget analyst duties listed in chapter 2.33 [see Attachment 4], excepting two items from that list as a result of the city auditor's conversations with councilmembers during his tenure as the interim budget analyst, and some minor language changes.

Subsection D: this subsection ensures council receives information and recommendations resulting from the city auditor's work, and reflects current practice.

Subsection E: the restriction on auditing councilmembers' offices is being carried over from the current code. Only a councilmember can request an audit of that councilmember's own office. If such a request is made, this subsection ensures an outside auditor will investigate, so that the city auditor can maintain independence and avoid real or perceived conflicts of interest.

**2.18.060** Subsection B: the city auditor would like to ensure the city is being treated fairly by those who conduct business with the city. This would provide that contractors would be subject to audit, if a contract so provides.

**2.18.070** Minor language change for better reading.

**Policy Considerations:** Independent auditing, research, and budget analysis can provide

objective information on the operations and cost-benefit analysis of government programs; assist managers in carrying out their responsibilities; inform better decision-making by elected officials; and help ensure full accountability to the public. The draft ordinance, which flows from the language in charter section 77, sets clear duties for the city auditor.

**Economic Impacts:** None.

**Environmental Considerations:** None.

**Sustainability:** None.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** In November 2018, the voters approved an amendment to the Sacramento City Charter, establishing the city auditor as a charter officer. New charter section 77 provides that the city auditor shall have certain powers and duties, including those as may be prescribed by Council, and that the city auditor shall discharge the duties of the office as prescribed by ordinance. The proposed ordinance would implement these charter provisions.

**Financial Considerations:** Not applicable.

**Local Business Enterprise (LBE):** Not applicable.

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING CHAPTER 2.18 OF THE SACRAMENTO CITY CODE, RELATING TO  
THE OFFICE OF THE CITY AUDITOR**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

**SECTION 1.** Chapter 2.18 of the Sacramento City Code is amended to read as follows:

**CHAPTER 2.18 OFFICE OF THE CITY AUDITOR**

**2.18.010 Office of the city auditor-~~created~~.**

~~There is created an office of the city auditor. The city council shall appoint the city auditor, who shall be a city officer under Section 70, subdivision (d), of the Charter.~~

A. The purposes of the city auditor’s office are to independently assess and report on city operations and services, assist the council in the conduct of budgetary inquiries, assist the council in the making of budgetary decisions, and to discharge other duties as prescribed by law or council resolution.

B. The city auditor shall have such staff and budget as the city council may prescribe.

C. The city auditor shall appoint all other members of the city auditor’s office.

**2.18.020 City auditor qualifications.**

The city auditor shall be a certified public accountant, a certified internal auditor, or have such other or additional qualifications as the city council may establish by resolution. The city auditor shall set the qualifications for subordinate staff.

**2.18.030 ~~Audit~~Work plan and standards.**

A. By ~~April 15th~~March 1st each year, the city auditor shall submit an annual ~~auditwork~~ plan to the city council for approval. The annual ~~auditwork~~ plan may be amended during the year with the approval of the city council. The council may, by resolution, authorize a committee, charter officer, or an individual councilmember with respect to the councilmember’s own office, to request additional ~~work~~audits.

B. Audits shall be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) promulgated by the Comptroller General of the United States of America or as otherwise prescribed by council resolution.

C. The city auditor's office shall be subject to a peer review in accordance with applicable government auditing standards at least once every three years. A copy of the written report of this review shall be furnished to the city council.

#### **2.18.040 City auditor reports.**

A. The city auditor shall prepare a written report of the results of each audit conducted and will be responsible for retaining a copy as a permanent record.

B. The city auditor shall periodically review audit recommendations and investigations as practical to determine if responsive action has been taken. The city auditor may request status reports from audit subjects regarding actions taken to address audit findings and recommendations.

C. The council may prescribe by resolution the manner of report preparation and presentation.

#### **2.18.050 Duties of the city auditor.**

A. The city auditor shall conduct audits of city departments, offices, boards, commissions, and committees as directed by the council. Audits may be conducted for the following purposes:

1. Determining if city activities and programs have been authorized by applicable law or regulation, and are being conducted in compliance with applicable laws and regulations;

2. Evaluating if a department, office, board, commission, or committee is acquiring, managing, protecting, and using its resources economically, efficiently, equitably, and effectively;

3. Determining whether city programs, activities, functions, or policies are effective, including identification of any causes of inefficiencies or uneconomical practices;

4. Evaluating whether financial and other reports fairly, accurately, and fully disclose all information required by law, and determining whether there are appropriate bases for evaluating programs and activities, including the collection of, accounting for, and depositing of revenues and other resources; and

5. Determining if city departments and offices have established adequate operating and administrative procedures and practices, and internal control systems.

B. The city auditor shall manage the city's whistleblower hotline and determine if allegations of fraud, waste, abuse, or illegal acts need further investigation.

C. As directed by the city council, the city auditor shall assist the council's budgetary inquiries and budgetary decisions by:

1. Gathering, organizing, and analyzing data and information relative to budgetary issues;

2. Providing comparative studies of other cities;

3. Analyzing the city's past, current, and proposed revenues and expenditures;

4. Reviewing existing and potential tax revenues;

5. Analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options;

6. Reviewing the economic and fiscal effects of proposed legislation;

7. Constructing economic models and indices;

8. Preparing fiscal and economic analysis of city projects;

9. Providing policy research and fiscal analysis on proposed legislation; and

10. Preparing other reports relating to budgetary, economic, fiscal, and legislative policy concerns.

D. The city auditor shall make recommendations to the city council in connection with the city auditor's audits, investigations, analyses, studies, and reports.

E. If an individual councilmember has requested an audit of that councilmember's own office, the city auditor shall retain an independent outside auditor to conduct the audit.

#### **2.18.0560 Access to information.**

A. City departments, offices, and employees shall provide the city auditor access to all sources of information, property, and personnel relevant to the performance of an audit, unless restricted or prohibited by law. This section shall not apply to the office of any elected official, unless that elected official requested the audit, of that official's own office.

B. If a city contract so provides, the city auditor shall have access to the contracting party's employees, financial records, performance-related records, property, and equipment related to the services or goods provided under the contract.

**2.18.0670 Noninterference with city auditor.**

No person shall directly or indirectly coerce or attempt to coerce the city auditor relative to the city auditor's examinations, audits, or the appointment or removal of any employee ~~which is made~~ by the city auditor.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective:



**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

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THE OFFICE OF THE CITY AUDITOR**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

**SECTION 1.** Chapter 2.18 of the Sacramento City Code is amended to read as follows:

**CHAPTER 2.18 OFFICE OF THE CITY AUDITOR**

**2.18.010 Office of the city auditor.**

- A. The purposes of the city auditor’s office are to independently assess and report on city operations and services, assist the council in the conduct of budgetary inquiries, assist the council in the making of budgetary decisions, and to discharge other duties as prescribed by law or council resolution.
- B. The city auditor shall have such staff and budget as the city council may prescribe.
- C. The city auditor shall appoint all other members of the city auditor’s office.

**2.18.020 City auditor qualifications.**

The city auditor shall be a certified public accountant, a certified internal auditor, or have such other or additional qualifications as the city council may establish by resolution. The city auditor shall set the qualifications for subordinate staff.

**2.18.030 Work plan and standards.**

- A. By April 15th each year, the city auditor shall submit an annual work plan to the city council for approval. The annual work plan may be amended during the year with the approval of the city council. The council may, by resolution, authorize a committee, charter officer, or an individual councilmember with respect to the councilmember’s own office, to request additional work.
- B. Audits shall be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) promulgated by the Comptroller General of the United States of America or as otherwise prescribed by council resolution.

C. The city auditor's office shall be subject to a peer review in accordance with applicable government auditing standards at least once every three years. A copy of the written report of this review shall be furnished to the city council.

**2.18.040 City auditor reports.**

A. The city auditor shall prepare a written report of the results of each audit conducted and will be responsible for retaining a copy as a permanent record.

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C. The council may prescribe by resolution the manner of report preparation and presentation.

**2.18.050 Duties of the city auditor.**

A. The city auditor shall conduct audits of city departments, offices, boards, commissions, and committees as directed by the council. Audits may be conducted for the following purposes:

1. Determining if city activities and programs have been authorized by applicable law or regulation, and are being conducted in compliance with applicable laws and regulations;

2. Evaluating if a department, office, board, commission, or committee is acquiring, managing, protecting, and using its resources economically, efficiently, equitably, and effectively;

3. Determining whether city programs, activities, functions, or policies are effective, including identification of any causes of inefficiencies or uneconomical practices;

4. Evaluating whether financial and other reports fairly, accurately, and fully disclose all information required by law, and determining whether there are appropriate bases for evaluating programs and activities, including the collection of, accounting for, and depositing of revenues and other resources; and

5. Determining if city departments and offices have established adequate operating and administrative procedures and practices, and internal control systems.

B. The city auditor shall manage the city's whistleblower hotline and determine if allegations of fraud, waste, abuse, or illegal acts need further investigation.

C. As directed by the city council, the city auditor shall assist the council's budgetary inquiries and budgetary decisions by:

1. Gathering, organizing, and analyzing data and information relative to budgetary issues;
2. Providing comparative studies of other cities;
3. Analyzing the city's past, current, and proposed revenues and expenditures;
4. Reviewing existing and potential tax revenues;
5. Analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options;
6. Reviewing the economic and fiscal effects of proposed legislation;
7. Constructing economic models and indices;
8. Preparing fiscal and economic analysis of city projects;
9. Providing policy research and fiscal analysis on proposed legislation; and
10. Preparing other reports relating to budgetary, economic, fiscal, and legislative policy concerns.

D. The city auditor shall make recommendations to the city council in connection with the city auditor's audits, investigations, analyses, studies, and reports.

E. If an individual councilmember has requested an audit of that councilmember's own office, the city auditor shall retain an independent outside auditor to conduct the audit.

**2.18.060 Access to information.**

A. City departments, offices, and employees shall provide the city auditor access to all sources of information, property, and personnel relevant to the performance of an audit, unless restricted or prohibited by law. This section shall not apply to the office of any elected official, unless that elected official requested the audit of that official's own office.

B. If a city contract so provides, the city auditor shall have access to the contracting party's employees, financial records, performance-related records, property, and equipment related to the services or goods provided under the contract.

**2.18.070 Noninterference with city auditor.**

No person shall directly or indirectly coerce or attempt to coerce the city auditor relative to the city auditor’s examinations, audits, or the appointment or removal of any employee by the city auditor.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective:

## RESOLUTION NO. 2018-0317

Adopted by the Sacramento City Council

July 31, 2018

### Approving Ballot Measure Text to be Submitted to the Voters in a Question Relating to Sacramento City Charter Amendment to be Included with the Consolidated General Municipal Election of November 6, 2018

#### BACKGROUND

- A. The City of Sacramento values transparency, accountability, and informed decision-making. Its residents support the function of an independent internal auditor's office and would like to ensure its continued operation for the foreseeable future.
- B. The office of the city auditor is a council creation by virtue of Ordinance 2009-031, which added chapter 2.18 to the city code. With five votes, the council can at any time delete chapter 2.18 of the city code and eliminate the office of the city auditor. If the city auditor position is established in the charter, the council could no longer eliminate the office of the city auditor by a vote of the council.
- C. Combining the duties of the city auditor's office and independent budget analyst's office results in greater government efficiency and accountability.

#### BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1: That the City Council approves for submittal to the voters at the November 6, 2018 General Municipal Election the measure attached hereto as Exhibit A, along with the following question:

#### **Measure \_\_ - Sacramento City Government Accountability and Efficiency Act**

“Shall the measure amending the city charter adding the city auditor as a charter officer: combining duties of the city auditor and the independent budget analyst, as may be further prescribed by ordinance; repealing the city code related to the budget analyst; and amend the charter to allow city council to set an annual meeting calendar by resolution, be adopted?”

**Table of Contents:**

Exhibit A- Sacramento City Government Accountability and Efficiency Act

Adopted by the City of Sacramento City Council on July 31, 2018, by the following vote:

Ayes: Members Ashby, Guerra, Hansen, Harris, Jennings, Schenirer, and Mayor Steinberg

Noes: Member Carr

Abstain: None

Absent: Member Warren

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy  
Date: 2018.08.08 13:55:59  
-07'00'

\_\_\_\_\_  
Mindy Cuppy, City Clerk

*The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.*

## Sacramento City Government Accountability and Efficiency Act

### Section 1. Title, Findings, and Purpose.

#### A. Title.

This charter amendment and city code repeal is titled and may be cited as the “Sacramento City Government Accountability and Efficiency Act” (hereinafter, the “Act”).

#### B. Findings.

1. The City of Sacramento values transparency, accountability, and informed decision-making. Its residents support the function of an independent internal auditor’s office and would like to ensure its continued operation for the foreseeable future.
2. Since its first audits in 2010, the city auditor’s office has provided vital oversight, accountability, and information to the public, which has generated substantial cost savings and improved the delivery of vital city services.
3. Sacramento’s citizens and municipal management want and need to know not only whether city funds are handled properly in compliance with laws and regulations, but also whether public programs are achieving their intended purposes efficiently, effectively, and equitably.
4. Independent auditing, research, and budget analysis can provide objective information on the operations and cost-benefit analysis of government programs; assist managers in carrying out their responsibilities; inform better decision-making by elected officials; and help ensure full accountability to the public.
5. The city auditor’s whistleblower-hotline-generated investigations have detected, deterred, and resolved reported instances of fraud, waste, and abuse.
6. Recognized government auditing standards provide a framework for improved government decision-making, oversight, risk management, and accountability.
7. Combining the duties of the city auditor’s office and independent budget analyst’s office – as they existed before the adoption of this Act – results in greater government efficiency and accountability.

8. Amending the charter to grant greater flexibility to schedule regular council meetings will allow the city council to better respond to community issues.

C. Purpose and Effect.

Under current law, the city auditor is an officer established by ordinance. The city council can, by ordinance, eliminate the office of the city auditor. To help preserve city-government accountability achieved through the work of the city auditor, this Act establishes the city auditor as an officer under the Sacramento City Charter. It also combines the offices and duties of the current city auditor and independent budget analyst into one office, to consolidate functions and provide the city auditor more robust resources. Once established under the charter, the city auditor's office could no longer be eliminated by the city council.

This Act also supersedes provisions of the Sacramento City Code relating to the city auditor and independent budget analyst, while enshrining their core functions in the charter: independently assessing and reporting on city operations and services; and assisting the council in the conduct of budgetary inquiries and in the making of budgetary decisions.

This Act provides a time to transition between the city auditor appointed under the Sacramento City Code and the installation of a city auditor as a charter officer.

Under current law the charter specifies that the city council hold meetings after 5:00 PM weekly, except for four weeks as designated. This Act would authorize the council to set its annual meeting schedule by resolution, require that a majority of the regular council meetings be held after 5:00 PM, and require that all city council meetings comply with the Brown Act.

**Section 2.** Section 70 of the Sacramento City Charter is amended to read as follows:

**§ 70 Appointive officers.**

The following other city officers shall be appointed by the city council:

- (a) City Clerk;
- (b) City Attorney;
- (c) City Treasurer;
- (d) City Auditor; and



- (e) Such other officers and employees of its own body as it deems necessary.

**Section 3.** Section 77 is added to the Sacramento City Charter to read as follows:

**§ 77 City Auditor.**

- (a) The city council shall appoint a city auditor and shall prescribe the qualifications, duties, and compensation of such officer. The city auditor shall independently assess and report on city operations and services; shall assist the council in the conduct of budgetary inquiries and in the making of budgetary decisions; and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the city council. The city auditor shall appoint all other members of the city auditor's office.
- (b) The city auditor shall discharge the duties of the office as prescribed by ordinance enacted by the city council.

**Section 4.** Chapter 2.33 of the Sacramento City Code is hereby repealed.

**Section 5.** Section 31 of the Sacramento City Charter is amended to read as follows:

**§ 31 Meetings.**

The city council shall hold regular meetings and provide the time, place, and manner of holding its meetings, by annual resolution. A majority of regular council meetings shall be held after 5:00 p.m. All meetings of the council shall be open to the public, except as permitted by state law.

**Section 6.** Effective Date.

This Act shall take effect as provided in California Government Code sections 34459 and 34460, except that Sections 2 and 3 of this Act shall not be operational until July 1, 2019.

**Section 7.** Severability.

The provisions of this Act, including any portion, section, subsection, paragraph, subparagraph, sentence, clause, or word, are severable. If any provision of this Act or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## **Chapter 2.33 OFFICE OF INDEPENDENT BUDGET ANALYST**

### **2.33.010 Office of independent budget analyst.**

There is hereby created the office of independent budget analyst, a city department whose designated function is to assist the city council in the conduct of budgetary inquiries and in the making of budgetary decisions. (Ord. 2010-006 § 3)

### **2.33.020 Independent budget analyst.**

A. The independent budget analyst is the administrative head of the department and shall be appointed by majority vote of the city council.

B. The city council may remove the independent budget analyst from office by a majority vote of the members of the city council at any time, with or without cause. (Ord. 2010-006 § 3)

### **2.33.030 Qualifications of the independent budget analyst.**

Appointees serving as independent budget analyst shall have the professional qualifications of a college degree in finance, economics, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have experience in the area of municipal finance or substantially similar equivalent experience. No person shall be eligible to serve as the independent budget analyst or a member of the staff of the independent budget analyst who, during the previous eight years, has served on the staff of a city chief executive officer or city councilmember, or has been a registered lobbyist with the city. (Ord. 2010-006 § 3)

### **2.33.040 Duties of the independent budget analyst.**

The duties of the independent budget analyst shall include:

- A. Providing a formal, comprehensive review and analysis of the proposed annual budget;
- B. Gathering, organizing, and analyzing data and information relative to budgetary issues;
- C. Providing comparative studies of other cities as they relate to municipal finance;
- D. Engaging in fiscal forecasting and planning, including developing means of financing long-range capital improvement programs;
- E. Analyzing the city's past, current, and proposed revenues and expenditures;
- F. Reviewing existing and potential tax revenues;
- G. Analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options;
- H. Reviewing the economic effects of proposed legislation;

- I. Constructing economic models and indices as directed by the city council;
- J. Preparing fiscal and economic project analysis as directed by the city council;
- K. Providing policy research and fiscal analysis on proposed legislation;
- L. Preparing such other reports relating to budgetary and legislative policy concerns as directed by the city council; and
- M. Making recommendations to the city council in connection with the analysis, studies, and reports described herein. (Ord. 2010-006 § 3)

### **2.33.050 Budget.**

The city shall appropriate a reasonable budget for the office of independent budget analyst. (Ord. 2010-006 § 3)

### **2.33.060 Conflict of interest code.**

A conflict of interest code shall be adopted for the independent budget analyst and staff of the independent budget analyst, subject to city council approval. The independent budget analyst and members of the staff of the independent budget analyst shall be required to complete and file statements of economic interests in accordance with the conflict of interest code. (Ord. 2010-006 § 3)