

# Item No. 20

## **“To Be Delivered” Material**

For

### **City of Sacramento**

City Council

Financing Authority

Housing Authority

Redevelopment Agency

### **Agenda Packet**

**Submitted:** July 31, 2009

**For the Meeting of:** Thursday, August 6, 2009

The attached materials were not available at the time the Agenda Packet was prepared.

**Title:** Independent Budget Analyst Ordinance Initiative and Strong Mayor Charter Amendment Initiative Options

Contact Information: **Matthew D. Ruyak, Supervising Deputy City Attorney**  
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# REPORT TO COUNCIL 20

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
[www.CityofSacramento.org](http://www.CityofSacramento.org)

Staff Report  
August 6, 2009

Honorable Mayor and  
Members of the City Council

**Title:** Independent Budget Analyst Ordinance Initiative and Strong Mayor Charter Amendment Initiative Options

**Location/Council District:** Citywide

**Recommendation:** 1) Discuss options and provide staff direction as to adoption of the Independent Budget Analyst Ordinance or placement of the ordinance initiative on the June 8, 2010, ballot; and 2) Discuss submission of the Strong Mayor Charter Amendment Initiative to the voters at a date to be determined by the City Council.

**Contact:** Matthew Ruyak, Supervising Deputy City Attorney, 808-5346

**Presenters:** Matthew Ruyak

**Department:** City Attorney's Office

**Division:** N/A

**Organization No:** 03001011

### **Description/Analysis**

**Issue:** Now that the Sacramento County Registrar of Voters has certified the sufficiency of signatures on the Independent Budget Analyst Ordinance and Strong Mayor Charter Amendment initiative petitions, the City Council must take action on the initiatives. The legal options available to the City Council as to the actions it must take are presented in the background section of this report.

**Policy Considerations:** None.

**Environmental Considerations:** None

**ATTACHMENT 1**

**Background:**

Two initiative petitions circulated by proponent Thomas W. Hiltachk have been certified by the County Registrar of Voters as having sufficient signatures to qualify for placement on a City of Sacramento ballot. The first initiative petition, described as the "Independent Budget Analyst Act of 2009," would amend the Sacramento City Code, creating a new Office of the Independent Budget Analyst. The office's function would be to assist the City Council in conducting budgetary inquiries and making budgetary decisions. The second initiative petition, described as the "Government Accountability and Charter Reform Measure of 2009" (Strong Mayor Charter Amendment Initiative), would amend the Sacramento City Charter to replace the current "Council-Manager" form of government with a "Mayor-Council" form also known as the "Strong Mayor" form of government.

The Sacramento County Registrar of Voters submitted Certificates of Sufficiency to the City Clerk on July 28, 2009, and the City Clerk submitted those Certificates to the City Council on August 6, 2009, immediately prior to this report.

The City Council's receipt of these Certificates of Sufficiency triggers certain obligations of the City Council. Those obligations, and options for fulfilling those obligations, differ for the two initiatives because the Independent Budget Analyst Ordinance Initiative proposes amendments to the City Code and the Strong Mayor Charter Amendment Initiative proposes amendments to the City Charter. Laws governing ordinance initiatives differ greatly from those governing city charter amendment initiatives. The legal options available to the City Council for each of the initiatives are set out below.

**Independent Budget Analyst Act of 2009 (Ordinance Initiative)**

Under the City Charter, this Ordinance Initiative petition needed at least 21,622 (10%) valid signatures of duly qualified electors of the City to qualify for a regular election; or 32,433 (15%) to qualify for a special election. The County Registrar of Voters' Office has verified that the petition did contain valid signatures of at least 10% of the electorate, but not more than 15%.

Under City Charter section 161(b) the Council has the following options:

1. Adopt the ordinance, without alteration; or
2. Submit the ordinance, without alteration, to the voters no later than the City's next regular election of June 8, 2010.

October 2011. If the charter amendment initiative is not approved by the voters until after October 2011, the redistricting of the ninth district would not occur until after a subsequent regular United States census.

Related to the creation of the ninth district is the issue of the term of office for the ninth district council member. Upon redistricting and establishment of the ninth council district boundaries a vacancy on the City Council would be created. Under the charter's existing provisions, City Council vacancies are filled either by Council appointment or by special election depending on the balance left on the term for that council district seat. A City Council vacancy is filled by special election unless the vacancy occurs within one year of the next general election at which such office would normally be filled, in which case the vacancy is filled by Council appointment.

In order to determine if special election or appointment is appropriate, the date of the next general election at which the ninth district council seat is filled must be known. The existing charter states that elections for council districts one, three, five, and seven shall be held in 1994 and every four years thereafter (i.e., 2010, 2014, etc.), and elections for council districts two, four, six, eight and the mayor shall be held in 1992 and every four years thereafter (i.e., 2012, 2016, etc.).

Unfortunately, the Strong Mayor Charter Amendment Initiative failed to amend the "Elections" section of the charter and does not provide for an election term for the ninth district council seat. The existing charter does not include a mechanism for establishing the election term for new districts. While the existing charter does allow the City Council to establish by ordinance "procedures" governing city elections, substantive changes to the terms of office for City Council members may be made only by charter amendment. In order to fill this ninth district council seat a further charter amendment would be necessary to correct this omission.

This leaves the effective date for filling the ninth district council member seat indefinite. Accordingly, no maximum time limits for setting the Strong Mayor Charter Amendment election date could be ascertained. Staff continues to research the legal issues concerning the initiative's failure to provide for election of the ninth district council member.

As provided in the Elections Code, and assuming the legal validity of the Strong Mayor Charter Amendment Initiative, the Council's options are to submit the Strong Mayor Charter Amendment to the voters at:

1. A special election called for that purpose; or
2. The next established municipal election date; or
3. Any established election date under Elections Code section 1000.

**ATTACHMENT 2**

**Independent Budget Analyst Ordinance Initiative**

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.

#### 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.

#### 2.33.050 Budget

The city shall appropriate a reasonable budget for the Office of Independent Budget Analyst.

#### 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.

### **SECTION 4. DEPARTMENT OF FINANCE**

Chapter 2.32 of Title 2 of the Sacramento City Code shall be amended, as follows (deletions of existing language are denoted by ~~strike-out type~~ and additions of new language are denoted in underline type):

#### 2.32.010 Department of Finance

**Attachment 3**

**Strong Mayor Charter Amendment Initiative**

F. Sacramento deserves and needs reform of its government to meet the challenges of the 21<sup>st</sup> century. Therefore, the People hereby enact the Government Accountability and Charter Reform Measure of 2009.

### **SECTION 3. CHARTER AMENDMENT**

Be it enacted by the People of the City of Sacramento:

Articles III, IV, V, VII, and IX of the Charter of the City of Sacramento are amended to read as indicated below. Deletions of existing language are denoted by ~~strike-out type~~ and additions of new language are denoted in underline type. Sections of each Article that are not affected by this Amendment are not duplicated below.

#### Article III The City Council

##### § 20 Powers.

All legislative and quasi-judicial powers of the city shall be vested in the city council except as otherwise provided in this Charter.

##### § 21 Composition.

The legislative body of the city shall be a city council of nine members, ~~consisting of the mayor and eight other members~~. Each council member ~~other than the mayor~~ shall be nominated and elected by the electors of the district in which such person resides as provided in Article X.

##### § 22 Districts.

The city is hereby divided into ~~eight~~ nine council districts, designated First through ~~Eighth~~ Ninth Districts, respectively. Council districts in existence upon the effective date of this charter amendment shall continue to exist until altered as provided in Section 24. The Title of the office of each member of the council ~~other than the mayor~~ shall bear the number accorded the district of such member.

##### § 26 Terms of office.

Each member of the city council ~~other than the mayor~~ shall serve for a term of four years and until a successor qualifies.

##### § 27 Qualifications of members.

Each member of the council or candidate therefore, and the mayor or candidate therefore, ~~other than for the office of mayor~~, at the date of candidacy and election or appointment, shall be an elector and a resident in such member's district for not less than 30 days preceding the date of candidacy and election or appointment, as the case may be, and must continue to reside in such district during the term of office, except that no boundary change under Section 24 or 25 shall disqualify a member from serving the remainder of the term. The term "elector" means a person who qualifies to vote at either a state election or federal election held in the State of California. "Date of candidacy" shall mean the date of filing nominating papers or equivalent declaration or candidacy.



(b) Except as otherwise provided elsewhere in this Charter, and with the exception or ordinances which take effect immediately upon adoption, ordinances shall be adopted in compliance with either the procedure set forth in Subsection (c) or Subsection (d) of this section.

(c) The ordinance shall be first passed by the council for publication of title. At least six days shall elapse between the date the ordinance was passed for publication of title and the date it is adopted by the council. The title of the ordinance shall be published by printing said title in a newspaper of general circulation published within the City designated by the council as the official newspaper of the City, no later than the third day immediately preceding the date of the adoption of the ordinance. No part of any ordinance, or proposed ordinance, other than its title, need be published.

(d) In lieu of the procedure set forth in Subsection (c) of this section, ordinances shall be published in the official newspaper of the City within ten days after adoption by the council.

(e) Ordinances which take effect immediately upon adoption, may be adopted without compliance with Subsections (b), (c) or (d) of this section.

(f) Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption and approval by the mayor or the override of a mayoral veto pursuant to this Charter, or at any later date specified therein.

(1) Except as otherwise provided in this Charter, an ordinance adopted by the city council shall be transmitted to the mayor within 48 hours by the City Clerk for the mayor's approval or veto.

(2) The mayor shall have 15 days from the date of transmittal by the City Clerk to approve or veto an ordinance. If the mayor fails to act within such period, the ordinance shall be deemed approved.

(3) If the mayor vetoes an ordinance, the mayor shall state the reasons for such veto which shall be transmitted to the city council by the City Clerk within 48 hours. The city council shall have 15 days from the date of transmittal by the City Clerk to reconsider the ordinance. If after such reconsideration, at least six council members vote in favor of passage of the ordinance, that ordinance shall become effective notwithstanding the mayor's veto. If the vetoed ordinance does not receive six affirmative votes after reconsideration, the ordinance shall not be approved or enacted and shall have no legal effect.

(g) The following ordinances shall take effect immediately upon adoption by the city council without approval by the mayor, or at such later dates, of less than thirty (30) days after adoption, as may be specified in the ordinances:

(1) An ordinance calling for or otherwise relating to an election;

(2) An ordinance adopted as and declared by the city council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six members of the council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility, other than one operated by the city, may be so enacted; and

(3) An ordinance adopted pursuant to a state law by virtue of which such ordinance shall be effective immediately.

(h) Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required.

#### § 34 Investigations.

The city council or any duly appointed committee of the members of the council may make investigations and audits into the affairs of the city government and the conduct of any

- (7) Shall appoint and may remove members of the boards and commissions and advisory agencies in accordance with Article XV except as otherwise provided in this Charter;
- (8) Shall have and exercise such other powers and duties as provided in this Charter, the laws of the state, and ordinances and resolutions of the city.
- (9) Except as otherwise provided in this Charter, shall appoint all heads or directors of departments of the city, and all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the mayor who are exempt from the rules and regulations of the civil service board pursuant to Charter Section 83 may be suspended or removed at the pleasure of the mayor.

§ 44 Mayor—Compensation and expenses for full-time service.

The mayor shall serve the City full-time and shall receive compensation as established by the compensation commission pursuant to Section 29 of Article III of this Charter. The mayor shall devote his or her full time and attention to the duties of the office.

§ 45 Succession Vice Mayor; Mayor Pro Tem.

~~At the first council meeting in January of each year, the city council shall elect one of its members, other than the mayor, to serve as vice mayor during the ensuing calendar year. During any absence of the mayor from the city or a meeting of the city council, the vice mayor shall be the acting mayor until the mayor returns. In addition, if If the mayor becomes incapable of acting as mayor and incapable of delegating duties, or if a vacancy exists in the office of mayor, the Council President vice mayor shall become the acting mayor. In the event of the absence, vacancy in office or inability of both the mayor and vice mayor to perform their duties, the council may appoint one of its members to serve as mayor pro tem. The mayor pro tem shall temporarily act in the capacity of an acting mayor. Any person serving as an acting mayor under this section shall continue to hold office as a member of the city council. An acting mayor shall possess all powers of the office of mayor and shall be subject to all prescribed duties for such office.~~

§ 46 Mayor—Vacancy.

A vacancy in the office of the mayor shall be filled by special election to be called by the city council as provided in Section 154 of this Charter, unless such vacancy occurs within one year of the next general election at which the office of mayor would normally be filled, in which case the vacancy shall be filled by the Council President appointment by a majority of the members or the city council then in office. ~~A person elected or appointed to fill a vacancy in the office of mayor shall hold office for the unexpired term of the former incumbent.~~

## Article V City Manager

§ 60 City Manager—Appointment, qualifications and removal.

There shall be a city manager who shall be appointed by the mayor subject to the concurrence of a majority of the city council. The city manager shall be selected solely on the basis of executive and administrative qualifications. The city manager shall ~~be appointed by and shall serve at the pleasure of the mayor city council~~.

(c) to contact officers and employees designated by the mayor ~~city manager~~ for the purpose of advising said officers and employees or citizen complaints relating to the operation of city government.

#### § 63 Removal of City Manager

~~The city manager cannot be removed from office except by a vote of six members of the city council. The city manager shall not be subject to removal from office within twelve months of the date that the city manager first assumes the duties of office except for incompetence, malfeasance, misfeasance or neglect of duty. If the removal is proposed within the first twelve months, the city manager may demand written charges and a public hearing before the city council prior to the date upon which his removal becomes effective; but the decision of the city council shall be final, conclusive and binding upon the city manager, and pending such hearing the council may suspend the city manager from duty without loss of normal compensation.~~

### Article VI Other Appointive Officers

#### § 70 Appointive officers.

The following other city officers shall be appointed by the mayor subject to the concurrence of a majority of the city council:

- (a) City Clerk;
- (b) City Attorney;
- (c) City Treasurer; and
- (d) Such other officers and employees pursuant to Section 40(b)(9) of this Charter ~~its own body as it deems necessary.~~

#### § 71 City Clerk.

~~The city council shall appoint a city clerk who shall have custody of and shall be responsible for the official seal and records of the city. The city clerk shall act as secretary of the city council and all other boards, commissions and agencies of the city. The city council shall prescribe the qualifications additional duties and compensation of the city clerk. The city clerk shall appoint subject to the civil service provisions of this Charter, such deputies and employees as the council may by resolution prescribe.~~

#### § 72 City Attorney.

~~The city council shall appoint a city attorney and shall prescribe the qualifications, duties and compensation of the city attorney ~~such officer~~. The city attorney shall serve as legal counsel to the city government and all officers, departments, boards, commissions and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the city council. In situations where the city attorney determines there is a conflict in representation by that office, the city council may authorize the retention or other legal counsel to represent one of the conflicting parties. The city attorney shall appoint all other members of the city attorney's office.~~

#### § 73 City Treasurer.

The city treasurer shall be responsible for the deposit and investment of all funds of the city treasury not made subject to the control of others pursuant to this Charter. The city treasurer shall

~~until the new budget and appropriation measures are adopted. The budget may be amended during the fiscal year in accordance with the procedure established by the council.~~

(b) If the council approves the budget resolution as proposed by the mayor, the budget shall become effective immediately. If the council modifies all or part of the budget proposed by the mayor, the budget resolution shall be transmitted to the mayor within 48 hours by the City Clerk. The mayor shall thereafter and within five business days of such transmittal either approve the budget as modified by council, veto, or modify any line item with such budget as modified by the council. If the mayor approves the budget as modified by council, the budget shall become effective immediately. If the mayor vetoes or modifies all or any line item within such budget modified by the council, the City Clerk shall transmit the vetoed budget to the council within 48 hours. The council shall thereafter and within five business days of such transmittal reconsider the mayor's vetoed or modified budget. If after such reconsideration, at least six council members vote to override any of the mayor's vetoed or modified budget, the budget shall become effective immediately notwithstanding the mayor's veto or modification. If after reconsideration, the council does not vote to override the mayor's veto or modification, the budget as modified by the mayor shall become effective immediately.

(c) If the city council fails to approve the budget as proposed by the mayor prior to the start of the fiscal year, the budget as proposed by the mayor shall be deemed to be approved as presented.

(d) The budget may be amended during the fiscal year upon the request of the mayor and the approval of a majority of the city council.

#### § 117 Annual audit.

The ~~mayor city manager~~ upon approval of the city council shall engage each year an independent certified public accountant who shall examine and report to the council on the annual financial statement of the city. The accountant shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds, and of such other officers, employees, or departments as the city council may direct. The accountant shall submit an audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the city council, and shall be available for public inspection and review.

### **NOTICE OF INTENT TO CIRCULATE PETITION**

Notice is hereby given by the person whose name appears hereon of his intention to circulate the petition within the City of Sacramento for the purpose of amending the City Charter. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Most other major cities in California have changed their charters to a more traditional representative form of government in which the elected mayor serves as the city executive, much like the governor or president. The city council serves as the legislative branch of government. The city manager serves the city under the direction and supervision of the mayor. These cities include San Diego, Los Angeles, Fresno, San Francisco, and Oakland.

A more representative form of city government will lead to a more effective and accountable government where the elected city officials are truly responsible for the day-to-day