

Item No. #-25

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

Submitted: February 12, 2010

For the Meeting of: February 16, 2010

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

Title: Report Back—Creation of Office of the Independent Budget Analyst

Contact Information: Matt Ruyak, Supervising Deputy City Attorney

(916) 808-5346

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REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Discussion
February 16, 2010

Honorable Mayor and
Members of the City Council

Title: Report Back – Creation of Office of the Independent Budget Analyst

Location/Council District: Citywide

Recommendation: (1) Review proposed framework for Council-adopted ordinance establishing an Office of the Independent Budget Analyst; and (2) provide further direction on proposed ordinance creating the Office of the Independent Budget Analyst.

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: On February 2, 2010, the City Council directed staff to return with alternatives for creating an Office of the Independent Budget Analyst.

Policy Considerations: The Council has indicated its intent to send to the City's voters the "Independent Budget Analyst Act of 2009" initiative measure. The draft ordinance discussed in this report is one that could be adopted by the City Council to create the Office of the Independent Budget Analyst with different parameters.

Environmental Considerations: None.

Sustainability Considerations: None.

Commission/Committee Action: None.

Rationale for Recommendation: The City Council has directed staff to return with alternative structures for an Office of the Independent Budget Analyst.

Financial Considerations: The cost of an Office of the Independent Budget Analyst is dependent upon the staffing level, which in turn is dependent upon the scope of duties placed upon the office. The draft proposed ordinance does not set a minimum staffing or funding level. An office with 1 FTE is estimated to cost \$225,000 annually. If a 3 FTE model is implemented, the cost is approximately \$500,000 per year. If the "Independent Budget Analyst Act of 2009" initiative measure is adopted, the office must remain in place for at least nine years.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: 
Matthew D. Ruyak
Supervising Deputy City Attorney

Recommendation Approved:


Eileen M. Teichert
City Attorney

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**ATTACHMENT 1****Background:****A. Examples of Independent Budget Analysts**

At City Council meetings where the need for an independent budget analyst has been discussed, the State Legislative Analyst Office (LAO) has been identified as a point of reference. The LAO performs numerous review and oversight activities for the state legislature. At the most basic level, the LAO works to see that the state executive branch implements legislative policy in a cost efficient and effective manner, by reviewing and analyzing the operations and finances of state government. The best-known function of the LAO is its analysis of the Governor's annual budget, and its companion document, *Perspectives and Issues*, which provides an overview of the California's fiscal picture and identifies major policy issues confronting the Legislature.

But the LAO does much more than that. For example, it reviews requests by the Governor's administration to make changes to the budget after adoption; it prepares special reports on the state budget and other topics; and it forecasts state revenue and expenditures. The LAO also prepares an impartial analysis of statewide ballot measures, "describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government." (Elec. Code, § 9087.) That analysis appears in the sample ballot. Although a City independent budget analyst might prepare a like impartial analysis for the City Council, there is currently no mechanism under the Elections Code for such an analysis of a local measure to appear on a local sample ballot.

The San Diego City Charter authorizes the city council to adopt an ordinance for "[t]he Office of the Independent Budget Analyst[, which] shall provide budgetary and policy analysis for the City Council." (San Diego City Charter, § 39.3.) According to the implementing ordinance, the office is "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." (San Diego Municipal Code, § 22.2301.) The duties of San Diego's independent budget analyst are identical to those outlined in the "Independent Budget Analyst Act of 2009" initiative measure proposed for Sacramento. (See San Diego Municipal Code, § 22.2304.)

The City and County of San Francisco Board of Supervisors has a budget and legislative analyst who provides independent fiscal and policy analyses, special studies, and management audit reports on City. The budget analyst reviews the proposed annual budget; analyzes and reports on all fiscal matters in proposed legislation; conducts management audits as requested by the Board; performs special fiscal analyses as requested by the Board; and performs other duties concerning pending legislation as requested by the Board or committee.

B. The Draft Proposed Ordinance Framework

Attachment 2 is a draft ordinance intended to stimulate discussion and further direction from Council. The framework was crafted from several sources: the City Auditor ordinance adopted by City Council in 2009; elements of the Independent Budget Analyst Act of 2009 initiative measure; budget analyst frameworks from other jurisdictions; and conventions of the Sacramento City Code. Attachment 2 is crafted to create the office under the control of the Council; allow Council flexibility to expand and contract parameters for the office as the circumstances dictate; and avoid budget and staffing mandates into the distant future.

The draft ordinance includes some introductory findings about the mission of an Independent Budget Analyst and would add Chapter 2.19 to the Sacramento City Code. (Title 2 of the City Code covers "Administration and Personnel." Chapter 2.19 would follow the recently added Chapter 2.18, "Office of the City Auditor.") It establishes a broad framework for the independent budget analyst, by doing the following:

1. **Creating the Office of the Independent Budget Analyst.** The Independent Budget Analyst would be identified as a "city officer" under Section 70(d) of the Sacramento City Charter, appointed and removed by the City Council. This would be the second office established under Section 70(d). The first was the City Auditor. (See Ord. 2009-031.) As with the other council-appointed city officers, the Independent Budget Analyst would be the appointing authority for the office.
2. **Establishing Qualifications.** To perform municipal fiscal and economic analysis, it is logical to demand certain professional qualifications. The specific qualifications stated are consistent with that in San Diego, as well as the Independent Budget Analyst Act of 2009 initiative measure. However, the proposed section on qualifications allows the City Council to set, by resolution, different or additional qualifications as may become desirable or prudent. Additional flexibility has been added by allowing one person to serve as both the Independent Budget Analyst and the City Auditor.
3. **Duties.** This section has two parts. The specifically identified duties are those which appear to be core functions for budget analysts. Setting core functions, without excessive detail, is consistent with other City Code sections creating offices and departments. Indeed, this offered level of detail is more than usual. Subsection B of proposed 2.19.030 allows City Council flexibility in expanding or limiting the scope of duties for the office, in reaction to need and available resources, including budgeting.
4. **Written Reports.** The Independent Budget Analyst would be required to submit a timely analysis of the proposed annual budget. As the City Manager must submit a proposed budget by May 2 each year (and is historically submitted by May 1), June 1 has been chosen to

accommodate the independent budget analyst – i.e., providing time for budget review – while affording some time before the Council must adopt the annual budget before the end of the fiscal year. This date/timeline is worthy of further discussion by Council. To ensure the City Council and the public receives the benefit of the Independent Budget Analyst's work, the Independent Budget Analyst also would be required to submit such written reports as Council demands.

C. Comparison with the Independent Budget Analyst Act of 2009

1. Structural Differences

The following are some of the salient difference between the draft proposed ordinance and the Independent Budget Analyst Act of 2009 initiative measure.

- a. The Office is placed in City Code Chapter 2.19, rather than 2.33, to be alongside the other "Section 70(d) officer," the City Auditor.
- b. The office is created as a Charter § 70(d) officer, like the City Auditor.
- c. A section akin to the initiative's proposed section 2.33.020 is unnecessary, because of the provisions in the City Charter for appointment and removal of Section 70 officers.
- d. Qualifications. The sentence of the initiative's proposed 2.33.030 – regarding disqualification of any person currently working for the city's chief executive officer – was not included.
- e. The duties have been trimmed down to focus on core functions, with Council retaining an ability to augment the duties. This should allow greater flexibility in the staffing and budget of the office.
- f. Budget. The initiative's proposed section 2.33.050 is unlike any other City department or office, and was the focus of Council's February 2 discussion, i.e., potentially tying Council's hands on future budget decisions. Under the draft proposed ordinance, the office would be funded according to the City's annual budget resolution, or as Council otherwise deems appropriate.
- g. The initiative's provision regarding conflicts of interest has not been included, as the independent budget analyst will be covered the City's Conflict of Interest Code.
- h. Section 4 of the initiative, regarding the Department of Finance, is unrelated, and not necessary to the creation of the Office of the Independent Budget Analyst
- i. Section 5 of the initiative, regarding amendment, also is unnecessary, as the draft proposed ordinance is not an initiative.

2. Estimated Cost

As presented with this report, the draft framework for an Office of the Independent Budget Analyst would have the office funded like any other City office or department, i.e., pursuant to the Council-adopted annual budget resolution. It would be for the Council to decide the appropriate budget, which necessarily would depend upon the staffing level for the office. Under the draft framework, there is no obligation to fund – or staff – the office at any particular level. However, assuming the Independent Budget Analyst is compensated similarly to the incoming City Auditor, or other department head, the Department of Finance has approximated an annual cost of \$225,000 for that person. That includes salary, benefits, overhead, etc. Each additional FTE (or fraction of FTE) obviously increases the cost, with an approximation of \$500,000 annually at the 3 FTE level.

On the other hand, if the Independent Budget Analyst Act of 2009 passes, the City will have no choice but to fund the office at a “reasonable” level for at least nine years. As discussed at the February 2 City Council meeting, if the voters approve the Independent Budget Analyst Act of 2009 initiative measure, the Office of Independent Budget Analyst will exist and the City “shall appropriate a reasonable budget” for the office. (See Initiative Section 3; proposed Sacramento City Code, § 2.33.050.) The City must do so for at least nine years. (See Initiative Section 5, subs. (b),(c).) If it failed to do so, the City could be compelled to do so by a court. After nine years, the Council must “assess the cost savings attributable to recommendations of the Office,” and if the assessment demonstrates the office is not providing a net cost savings to the City, the Council may abolish the office. (*Ibid.*) Thus, even if in years one through eight, the Council concluded the office did not provide cost savings, it would still be compelled to fund the office. In contrast, under the draft proposed ordinance the City Council could decide at any time that the office is not cost effective, making the independent budget analyst more accountable.

As discussed at the February 2, 2010, Council meeting, last August the City Treasurer provided the City Council an estimated cost of establishing the Office of Independent Budget Analyst as contemplated by the initiative ordinance. In sum, the City Treasurer estimated that at staffing level of 3 FTE, the current annual expenditure for the Office of Independent Budget Analyst under the initiative ordinance would be approximately \$500,000.



ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE ADDING CHAPTER 2.19 TO THE SACRAMENTO CITY CODE TO
CREATE THE OFFICE OF THE INDEPENDENT BUDGET ANALYST**

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

SECTION 1.

Section 5 of the Charter of the City of Sacramento provides that “[t]he city council may establish departments, divisions, offices and positions of employment not established by this Charter or created thereunder and shall have the power to abolish, merge or consolidate same.” Section 70 et seq. of the Charter further provides that the City Council may appoint officers of its own body to serve at the City Council’s pleasure. The City Council finds that the creation of a Council-appointed Independent Budget Analyst pursuant to the foregoing provisions serves the best interests of the City, by making the Independent Budget Analyst independent of the other City offices.

A budget analyst directly appointed by the City Council promotes independent and objective fiscal and policy review. An independent budget analyst assists the City Council by conducting a review and analysis of the proposed annual budget, as well as fiscal and economic analyses of current and proposed programs and policies. The independent budget analyst’s reviews and analyses will help inform the City Council of the consequences of the City’s policy decisions, as well as inform the Council on the operations and finances of city government.

SECTION 2.

Chapter 2.19 is added to the Sacramento City Code to read as follows:

Chapter 2.19

Office of the Independent Budget Analyst

2.19.010 Office of the Independent Budget Analyst Created

There is created an Office of the Independent Budget Analyst. The city council shall appoint the independent budget analyst, who shall be a city officer under Section 70, subdivision (d), of the Charter. The independent budget analyst shall have such

staff as the City Council may prescribe. The independent budget analyst shall appoint all other members of the independent budget analyst's office.

The mission of the office of the independent budget analyst is to assist the city council in the conduct of budget inquiries and in the making of budgetary decisions, by providing to city council reports and analyses of the proposed annual budget, and performing fiscal and economic analyses of current and proposed programs and policies.

2.19.020 Independent Budget Analyst Qualifications

A. The independent budget analyst shall have the professional qualifications of a college degree in finance, economics, business, other relevant field of study, or have a relevant professional certification, with experience in the area of municipal finance; or shall have such other or additional qualifications as the city council may establish by resolution. The independent budget analyst shall set the qualifications for subordinate staff.

B. The independent budget analyst, if qualified, may also serve as the City Auditor.

2.19.030 Duties of the Independent Budget Analyst

A. The duties of the independent budget analyst shall include:

1. Reviewing and analyzing the proposed annual budget.
2. Reviewing the economic effects of proposed legislation.
3. Performing fiscal and economic analyses of current and proposed city programs and policies.
4. Making recommendations to the city council with respect to the analyses, reviews, and reports described in this chapter.

B. The independent budget analyst shall have such other duties as the city council may establish by resolution.

2.19.040 Independent Budget Analyst Reports

A. By June 1, the independent budget analyst shall present to the city council the written report addressing that year's proposed annual budget under Section 2.19.030.

B. The independent budget analyst shall prepare and present to the city council written reports as directed by motion or resolution of the council.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

MAYOR

City Clerk

Passed for Publication:

Published:

Effective:

DRAFT



INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

To the Honorable Clerk of the City of Sacramento:

We, the undersigned, registered, qualified voters of California, residents of the City of Sacramento, hereby propose an ordinance relating to the Office of Independent Budget Analyst and Department of Finance, and petition you to immediately submit this initiative to the City Council for submission to the voters of the City of Sacramento at a special election pursuant to Elections Code section 9214, or the next regular municipal election for which it qualifies.

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

SECTION 1. TITLE

This initiative measure may be known and referred to as the "Independent Budget Analyst Act of 2009."

SECTION 2. FINDINGS AND DECLARATION OF PURPOSE

- A. The City of Sacramento is facing one of the worst budget crises in its history. Traditional sources of revenue to the City are experiencing a dramatic downturn, while the cost of providing and the demand for City services are increasing.
- B. At the state level, the Legislative branch has benefitted from obtaining objective and unbiased advice from the Office of the Legislative Analyst. That office provides the state Legislature with fiscal analyses of policy proposals, critiques of the Governor's budget proposals and suggests long-term fiscal reforms. Other cities have created similar positions for the benefit of their city council.
- C. The City Council and the taxpayers of the City of Sacramento will benefit from the same clear, objective, and unbiased analysis and advice regarding all legislative items bearing financial impacts to the City. Therefore, the People hereby enact the Independent Budget Analyst Act of 2009.

SECTION 3. ESTABLISHMENT OF OFFICE OF INDEPENDENT BUDGET ANALYST

Chapter 2.33 shall be added to Title 2 of the Sacramento City Code, as follows:

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.

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.

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.

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

The department of finance shall be responsible to the chief executive officer ~~city manager~~ for the financial affairs of the city.

2.32.020 Director of Finance

The director of finance shall have direct supervision over the department of finance and the administration of the financial affairs of the city and shall carry out any duties imposed by the city charter and the chief executive officer ~~on the controller~~. For purposes of this title, the director of finance shall mean the director or his or her designee.

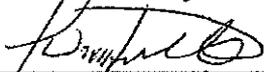
SECTION 5. AMENDMENT

- (a) Notwithstanding Elections Code section 9217, the city council may amend this Act to further its purposes without submission to the voters.
- (b) After nine years, but not later than ten years after the effective date of this Chapter, the city council shall assess the overall cost to operate the Office of Independent Budget Analyst, and the cost savings attributable to recommendations of the Office of Independent Budget Analyst.
- (c) After the assessment required by subdivision (b) of this Section is complete, the city council may by majority vote abolish the Office of Independent Budget Analyst if the assessment demonstrates that the Office of Independent Budget Analyst is not providing a net cost savings to the city.

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 establishing the Office of Independent Budget Analyst. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The City of Sacramento is the seventh largest city in California, but its City government currently functions as that of a much smaller city. Sacramento is facing serious budgetary challenges, and Sacramento's elected officials require more sophisticated expertise and guidance on budgetary matters. The establishment of an Independent Budget Analyst to provide clear, objective and unbiased analysis and advice to the City Council will greatly assist the City Council and the taxpayers of Sacramento.



Thomas W. Hiltachk



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