Measure L:

Sacramento Checks and Balances Act of 2014

Report

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I. EXECUTIVE SUMMARY

Most cities are structured through one of two different forms of government: “council-manager” and “strong-mayor.” In council-manager cities, the mayor and each council member has equal strength in developing policy. The city manager handles the day-to-day community operations, including making all personnel decisions. The strong-mayor system is modeled after state and federal governments, so the mayor leads as a governor or the president would, and the city council acts as the legislature. As a result, the mayor does not have a vote, but does have veto power. Most large city governments, including New York City, Los Angeles, Chicago, and San Francisco, have a strong-mayor form of government.

Measure L, which is on the ballot in the city of Sacramento, aims to change the government structure from council-manager to strong-mayor. Revisions under Measure L would include removing the mayor’s vote on the city council, but giving the mayor veto power over ordinances and the city budget; vesting power akin to that of a chief executive officer in the mayor, rather than the city manager; conferring the power to make personnel decisions, including appointing and removing the city manager, to the mayor; and imposing term limits on the mayor and council members.

Proponents state a strong-mayor government would create more accountability, place checks and balances on the government, and help modernize Sacramento. Opponents, however, insist putting the ultimate power over city government into the hands of one elected official will make it easier for special interests to influence decision making. In addition, they feel the “system is working well…if it’s not broken, don’t break it.” This article will discuss

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3 Id.
5 Id.
10 CITY OF SACRAMENTO, REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L, available at http://portal.cityofsacramento.org/~/media/Files/City-Clerk/Elections/MeasureL.RebuttalAGAINST.pdf (“REBUTTAL TO FAVOR”).
Sacramento’s current government, the history of strong-mayor in Sacramento, how Measure L would change the law, constitutional and charter implications of the initiative, and public policy considerations.  

II. CURRENT LAW

In California, all incorporated cities are what are known as “general law” cities, unless the electorate of a city opts to be what is called a “charter city.” Sacramento is a charter city.

A. Charter Cities

In operation, a city’s charter is analogous to a state’s or country’s constitution. A city charter provides both broad authority and vestment of powers in a governing body, as well as acts as “an instrument of limitation on the broad power of charter cities over municipal affairs.” The city’s electorate must approve the charter and any revisions. Only conflicting provisions in the state or federal constitutions, or any state statute on a matter of statewide concern can preempt the laws contained in a city’s charter.

The California Constitution grants cities the authority to adopt a charter. Once a charter is adopted, a charter city has the power to create and regulate a police force and conduct municipal elections, and broad authority over its governmental structure, including all aspects of employment.

The 482 incorporated cities in California have either one of two forms of municipal governmental structure: the “council-manager” structure or the “strong-mayor” structure. General law cities must operate under the council-manager structure. While charter cities have the option of adopting either structural format, of California’s 120 charter-cities, “only five use the true strong-mayor form.”
B. Current Sacramento Charter Law

Like all city charters, Sacramento’s presiding document identifies a governing body, and vests widespread powers in it.24

1. The City Council: Article III

In its most-current version, Sacramento’s charter vests authority in the nine-member city council to act as the governing body of the city.25 The council comprises eight members, each elected from one of eight districts within the city limits.26 The ninth member of the council is the mayor.27 The city council is the legislative body within municipal government, and is vested with various powers including the power to propose and adopt city ordinances to be contained within the municipal code, reapportion and redistrict council-seat districts, conduct investigations into the affairs of city government, and conduct legislative business at public meetings.28 Currently, council members are not subject to any term limits.29

2. The Mayor: Article IV

The mayor is the “presiding officer of the city.”30 While he or she is a voting member of the council, the mayor also assumes the leadership role in relations between city government and the citizens of Sacramento.31 In effect, the mayor of Sacramento is seemingly intended as a position that will guide the council in the administration of its legislative duties, ensuring the priorities of the city’s citizens are furthered, all while maintaining a position of equal-footing with other members of the council.32 The charter also grants specific powers and duties to the mayor, including that he or she may propose ordinances and resolutions for the council to consider and shall appoint and may remove members of boards, commissions, and advisory agencies.33 The mayor is elected to a term of four years.34 Currently, there are no term limits for this office.35

3. The City Manager: Article V

Under the charter, the city manager is vested with the role and responsibility of being the city’s chief executive officer, overseeing the numerous departments that make up Sacramento’s municipal government.36 In essence, the city manager is responsible for the city’s day-to-day

24 SACRAMENTO, CAL. CHARTER, art. II §§ 10, § 20–21.
26 Id., art. III, § 21.
27 Id.
30 Id., art. IV, § 40.
31 Id., art. IV, § 40(b)(2).
32 Id., art. IV, § 40(b)(2)–(5).
33 Id., art. IV, § 40(b)(6)–(7).
34 Id., art. IV, § 42–43.
35 Id., art. IV, § 43.
36 Id., art. V, § 61(b).
administration. In addition, the charter vests in the city manager various powers and duties, including the responsibility to ensure that all laws and ordinances are enforced; to act as an advisor to the city council; to oversee and manage contracts, leases, and permits that the city council enters into for goods and services; and to propose the annual city budget.

Sacramento’s charter anticipates the need for separation of powers because it expressly prohibits the council from circumventing the city manager to work with any part of city government under the manager’s direction and supervision, including any attempts to appoint or hire any city officer or employee. Similarly, the charter provides for checks on the authority of the city manager through its grant of investigatory power to the city council. In order to remove the city manager from office, at least six city council members must approve his or her termination.

4. The Annual Budget: Article IX

Under the existing charter, the city manager develops and proposes the city’s budget for presentation to the city council not less than 60 days prior to start of each fiscal year. The city council then considers the budget recommendations during public hearings, and ultimately votes by resolution to adopt a budget for the upcoming fiscal year.

III. HISTORY OF STRONG-MAYOR

A. Strong-Mayor Government in Other Cities

Many city government structures were originally based on the executive and legislative branches of the federal government, but moved toward council-manager governance in the wake of a number of mayoral corruption scandals in the early 1900s.

Since the early 1990s, cities with more than 100,000 residents have steadily adopted strong-mayor systems. One reason is that growing cities have growing numbers of interest groups, and it is easier to have one person as a point-of-contact for those groups.

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37 2012 ANALYSIS, supra note 14, at 17.
38 SACRAMENTO, CAL. CHARTER, art. V, § 61(a), (c), (g), (i).
39 Id., art. V, § 62.
40 Id., art. V, § 62(a).
41 Id., art. V, § 63.
42 Id., art. IX, § 111(a).
43 Id.
Not all cities have embraced the trend.\textsuperscript{47} Columbia, South Carolina voters defeated a strong-mayor initiative last year despite support from the governor, Chamber of Commerce, and other mayors across the state.\textsuperscript{48} Large cities like Baltimore, Dallas, Indianapolis, Phoenix, and San Antonio maintain their council-manager systems.\textsuperscript{49} El Paso, Texas abandoned its strong-mayor system in 2004, while Topeka, Kansas and Cedar Rapids, Iowa chose to adopt council-manager governance when replacing their commission governments.\textsuperscript{50} Portland retains a council-manager form of government because voters there think “shared leadership is better than centralized power.”\textsuperscript{51}

In California, five cities have adopted a strong-mayor system: Fresno, Los Angeles, Oakland, San Diego, and San Francisco.\textsuperscript{52} Their structures vary; for example, Fresno and Oakland still have a city manager, while the other cities place all management decisions in the mayor’s hands.\textsuperscript{53}

There is mixed feedback regarding California’s strong-mayor systems.\textsuperscript{54} Critics of Oakland’s system assert the charter is vague and creates uncertainty regarding which public official has responsibility over certain departments.\textsuperscript{55} Former Fresno mayor Karen Humphrey regrets her role in that city’s adoption of a strong-mayor system.\textsuperscript{56} On the other hand, San Diego’s strong-mayor governance successfully made it through a five-year trial period.\textsuperscript{57} Voters permanently adopted the structure in 2010, but made some changes, including adding a ninth council seat to prevent tie votes.\textsuperscript{58} There have, however, been abuses of power in San Diego since that permanent adoption.\textsuperscript{59}

\textsuperscript{48} Id.
\textsuperscript{51} Lynch, supra note 47.
\textsuperscript{53} Id.
\textsuperscript{55} Id.
\textsuperscript{56} Forum, supra note 11 (statement of council member Steve Hansen).
\textsuperscript{58} Id.
Despite the opinions on each side regarding the effectiveness of a strong-mayor structure in other California cities, research has shown the system to be equally as effective as council-manager governance. Both forms of government generally champion citizens’ needs in equal ways. No form of government is perfect, but both can be successful as long as those elected put the needs of the people first.

**B. Sacramento’s Prior Strong-Mayor Governments**

In 1849, the electorate of the soon-to-be formed City of Sacramento voted to adopt the Sacramento City Charter, thereby establishing Sacramento as a municipality. The charter reflected voters’ desires to move away from the alcalde court system, which the Treaty of Guadalupe Hidalgo established, and to implement a form of governance more reflective of the democratic process in the local governments of the eastern states from which they had emigrated. The form of government created was analogous to today’s strong-mayor form of government. Borrowing from the Spanish tradition, the 1849 charter created a “council-alcalde” system. An “alcalde” is a traditional municipal magistrate who had both judicial and administrative functions. In the modern Spanish language, *alcalde* is the equivalent of the English word *mayor*.

The council-alcalde form of government in Sacramento was brief; the Legislature passed a law in 1858 that consolidated city and county governments into one municipal system. In

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**Notes:**


61 *Id.*


64 *Id.*


68 *Id.*

1863, that radical change was overturned, and Sacramento returned to a mayor-council form of governance, which lasted until 1911.  

Although the city governance change several times throughout the century, it took until 1989 for a citizen commission to recommend a strong-mayor system in Sacramento, along with a return to a consolidated city and county government. Thus, the “new” concept of a strong-mayor system in Sacramento is actually not new at all, but rather reflects the ebb and flow of ideas regarding forms of governance.

C. Recent Sacramento Strong-Mayor Proposals

Prior to Measure L, there were three strong-mayor proposals, beginning with a version Sacramento Mayor Kevin Johnson advocated for shortly after taking office in 2008.

1. 2009 Citizen Initiative

In 2009, the city council voted to support a citizen-proposed strong-mayor initiative if enough citizen support was gathered through petition circulation to place it on the June 2010 ballot. The measure would have given the mayor power akin to that of a chief executive officer. The mayor would have taken on the duties of the city manager, including preparing budgets and appointing and removing the city manager, clerk, treasurer, and attorney, as well as most other city employees. The mayor no longer would have been a member of the city council, but would have been able to veto council decisions. To ensure that there would not be a tie vote in city council decisions, a ninth district would have been added.

At the same time that the council voiced its support for the initiative, the council recognized that the measure, as drafted, could have been unconstitutional. The initiative would have altered nine articles of the Sacramento City Charter. The breadth of these changes would

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72 Isenberg interview, supra note 65.


76 Id. at 3–4.

77 Id.

78 Id. at 3.

79 Id. at 7.
have amounted to a city charter revision, rather than an amendment.\textsuperscript{80} Since the California Constitution does not allow a city to revise its charter through the initiative process unless its city council places the measure on the ballot, the proposed initiative could have been found unconstitutional.\textsuperscript{81} Despite a warning from the city attorney regarding the possible unconstitutionality of the measure, it was placed on the ballot.\textsuperscript{82}

As a result, Bill Camp of the Sacramento Central Labor Council filed suit for a preliminary injunction to prevent a vote on the initiative before its constitutionality was adjudicated.\textsuperscript{83} The parties ultimately agreed that the initiative the electorate proposed was beyond voters’ power, so city officials removed it from the ballot, but the council did create a charter review committee to make recommendations for future charter revisions.\textsuperscript{84}

\section*{2. 2010 Council Proposal}

When the citizen-driven initiative was enjoined, the city council did consider placing a new charter revision on the June 2010 ballot.\textsuperscript{85} That version would not have given the mayor power to appoint the city attorney and other employees.\textsuperscript{86} However, it would still have limited the number of terms to which the mayor and council members could be elected and given the mayor appointment power for the city manager position.\textsuperscript{87} The revisions would have had a “sunset,” or expiration date, without voter re-approval.\textsuperscript{88} The city council did not vote to place the measure on the ballot, much to Mayor Johnson’s disappointment, because members said the mayor had not presented any evidence that the existing council-manager system was not working.\textsuperscript{89}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{80} Id. at 5, 7–10.
\item \textsuperscript{81} Id. at 5, 10.
\item \textsuperscript{83} Id.
\item \textsuperscript{85} \textsc{Kunal Merchant}, \textsc{Report Back: Charter Reform Package 2} (2010), \url{http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=2205&meta_id=191740}.
\item \textsuperscript{86} Kathleen Haley, \textit{Johnson Aims to Put Strong Mayor Plan on November Ballot}, SACRAMENTO PRESS (Feb. 16, 2010, 2:02 PM), \url{http://sacramentopress.com/2010/02/16/johnson-aims-to-put-strong-mayor-plan-on-november-ballot/}.
\item \textsuperscript{87} Id.
\item \textsuperscript{88} \textsc{Kunal Merchant}, \textsc{Report Back: Charter Reform Package 1} (2010), \url{http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=2205&meta_id=191740}.
\end{itemize}
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3. 2012 Expanded Council Proposal

After the initial attempts to place a measure on the 2010 ballot did not move forward, Mayor Johnson introduced a different proposal in 2012, which similarly did not make it to the ballot. The new mayoral powers that would have been granted were largely the same, but the plan would have added a ninth council district and council seat, as well as created an “at-large” council member position, bringing the total number of council seats to ten. The at-large member would have been elected city-wide, just like the mayor, and would have cast votes on behalf of the entire city since the mayor would no longer be able to vote. Because there would have been an even number of council members, however, the mayor would have been able to cast tie-breaker votes.

4. 2014 Measure L

For the latest iteration, Sacramento Tomorrow took over the movement to promote a strong-mayor government in the city. The group and its 28 advisory committee members worked to create a new proposal, and planned to reach out to the community for feedback. Very little feedback was sought, however, and voters did not have a chance to review the group’s recommendations.

In November 2013, the Sacramento City Council approved a resolution to place a revision to the city charter on the November 2014 ballot. That resolution ultimately became Measure L. The resolution is very similar to Mayor Johnson’s last proposal, but with slight changes, including a limit of three terms for the mayor, rather than two. Four council members—Angelique Ashby, Steve Cohn, Jay Schenirer, and Allen Warren—and Mayor Johnson voted in support, while council members Darrell Fong, Steve Hansen, Kevin McCarty, and Bonnie Pannell opposed the resolution. Council member Hansen is now leading the charge against Measure L with support from former Sacramento mayors Anne Rudin and Heather Fargo, the League of Women Voters, and the Democratic Party of Sacramento County.

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90 See Powell, supra note 73 (stating that the court stopped the first proposal in 2009 and the city council did not support proposals in 2010 and 2012).
91 Antonio Harvey, City Council Votes Against Strong Mayor, For Charter Commission, SACRAMENTO OBSERVER (Feb. 8, 2012), http://sacobserver.com/2012/02/city-council-votes-against-strong-mayor-for-charter-commission/.
92 Id.
93 Id.
94 Powell, supra note 73.
95 Id.
96 Id.; Interview with Matthew Ruyak, Assistant City Attorney, City of Sacramento, in Sacramento, Cal. (Sept. 3, 2014) (notes on file with the California Initiative Review).
99 Powell, supra note 73.
while Mayor Johnson has found allies in state Senator Darrell Steinberg, former Sacramento mayor Phil Isenberg, former New York City Mayor Michael Bloomberg, and several unions.  

IV. PROPOSED LAW

Measure L seeks to enact significant changes to the roles of the city council, mayor, and city manager, as well as how the budget is proposed and approved.  

A. The City Council: Article III

Measure L would reduce the size of the city council from nine to eight council members, removing the mayor as a member. As such, this new composition of council members has the potential to lead to ties on ordinances and other measures that come before the body for a vote. Measure L does not provide a provision to remedy tie votes that result from a council of eight members.

The council would also be required to elect a president and vice president from amongst its members. In the mayor’s absence from the city, the president and vice president would serve as mayor in their respective order, and would assume all the vested rights and powers of the mayor with the significant exceptions of “the power of any veto or any other discretionary privilege that is enjoyed” by the mayor.

The enactment of Measure L would impose term limits on council members. Specifically, each city council member would only be permitted to serve three, four-year terms. This change would not apply retroactively to terms already served by existing council members.

101 Lillis-Hansen, supra note 98; CITY OF SACRAMENTO, ARGUMENT AGAINST MEASURE L, available at http://portal.cityofsacramento.org/~/media/Files/City-Clerk/Elections/MeasureL_Against.pdf [“AGAINST”]; CITY OF SACRAMENTO, REBUTTAL TO ARGUMENT AGAINST MEASURE L, available at http://portal.cityofsacramento.org/~/media/Files/City-Clerk/Elections/MeasureL_Against.pdf [“REBUTTAL TO AGAINST”].
103 Id. § 21 (amending SACRAMENTO, CAL. CHARTER, art. III, § 21 and adding SACRAMENTO, CAL. CHARTER, art. IV, § 47).
104 Forum, supra note 11 (statements of council member Steve Hansen and Nancy Miller, partner, Miller & Owen).
105 Id.
107 Id. § 19 (amending SACRAMENTO, CAL. CHARTER, art. IV, § 45).
108 Id. § 7 (amending SACRAMENTO, CAL. CHARTER, art. III, § 26).
109 Id.
110 Id.
In addition, Measure L seeks to add two requirements relating to community interaction and involvement. First, Measure L would require that the city council hold at least two of its city council meetings per year outside of its chambers. The purpose of this requirement is to “improve citizen involvement and accessibility to [council] meetings.” The revision would also require voter approval for increases in council member compensation that exceed five percent. Second, Measure L would require the city council to establish by ordinance a “Neighborhood Advisory Committee,” with the intended purpose of “considering the interests of the city’s neighborhoods.” The text of Measure L does not elaborate on the intended duties or responsibilities of this committee, and thus it is not clear what the scope of this newly-established body would be.

B. The Mayor: Article IV

Under Measure L, the position of mayor would be transformed from being a largely symbolic “presiding officer,” to the role of the city’s chief executive officer. In addition, the basic description of the mayor’s role would be expanded to provide that he or she “shall have the executive and administrative authorities, powers, and responsibilities of the city as provided herein, including but not limited to the power and duty to execute and enforce all laws, ordinances, and polices of the city.” Measure L would make specific changes to the mayor’s “authorities, powers, and responsibilities,” as they relate to the city’s annual budget, the mayor’s place and role within the governance structure, the mayor’s administrative powers, and the mayor’s interaction and community involvement. A mayor would be limited to three, four-year terms. This limit, however, would not apply retroactively to the current mayor’s previously-served terms.

1. The Mayor’s Interaction with the City Council

As discussed above, Measure L would remove the mayor as a voting member of the city council, thereby reducing the number of council members from nine to eight. In the mayor’s new role, he or she would retain the right, but would not be obligated, to “attend and be

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111 Id. §§ 11, 16 (amending SACRAMENTO, CAL. CHARTER, art. III, §§ 31, 38).
112 Id. § 11 (amending SACRAMENTO, CAL. CHARTER, art. III, § 31).
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114 Id. § 10 (amending SACRAMENTO, CAL. CHARTER, art. III, § 29).
115 Id. § 16 (adding SACRAMENTO, CAL. CHARTER, art. III, § 38).
116 Id.; Interview with Steve Hansen, council member, City of Sacramento, in Sacramento, Cal. (Sept. 30, 2014) (“Hansen interview”) (notes on file with the California Initiative Review).
118 Id.
119 Id.
120 Id. § 18 (amending SACRAMENTO, CAL. CHARTER, art. IV, § 43).
121 Id.
122 Supra Part IV.A.
123 Id. § 21 (amending SACRAMENTO, CAL. CHARTER, art. III, § 21).
heard” at city council meetings. The mayor would not have a right to vote on matters before
the council. Because the mayor is no longer a member of the council, the newly composed
council of eight members presents the opportunity for tie votes on ordinances and other measures
that come before the body. Measure L, however, does not provide a remedy for how tie votes
will be broken.

2. The Annual Budget

Measure L would transfer the responsibility and power to propose the city’s annual
budget from the city manager to the mayor. The mayor would be required to propose an
annual budget to the city council no later than 90 days before the start of each fiscal year.
Following the city council’s review, alteration of, and passage of a budget, under Measure L, the
mayor would possess line-item veto power, which means that he or she would have the power to
unilaterally strike specific portions of the council’s approved budget in part or in entirety.


In addition to the mayor’s existing authority to propose ordinances and resolutions for the
city council to consider, Measure L would give the mayor veto power over any ordinances the
council passed. This mayoral veto power is akin to the veto power of other executive heads,
such as the president and the governor.

Measure L would limit the mayor’s veto power. Specifically, the mayor would not
have veto power over “urgency” ordinances—those that would either take effect immediately
upon adoption or less than 30 days after adoption—relating to an election, an emergency, or an
ordinance adopted pursuant to a state law. In addition, the mayor would lack veto power over

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124 Id. § 17 (amending SACRAMENTO, CAL. CHARTER, art. IV, § 40(b)(4)).
125 Id.
126 Forum, supra note 11 (statements of council member Steve Hansen and Nancy Miller, partner, Miller & Owen).
127 Id.
128 SACRAMENTO, CAL. CITY COUNCIL RES. NO. 2013-0362, EXHIBIT A, § 17 (2013), available at
http://portal.cityofsacramento.org/~media/Corporate/Files/CityClerk/Elections/07142014_MeasureText_Charter.pdf (amending SACRAMENTO, CAL. CHARTER, art. IV, § 40(b)(6)).
129 Id.
130 Id.
131 Id.; SACRAMENTO, CAL. CHARTER, art. IV, § 40(b)(5).
132 AGAINST, supra note 101.
134 Id.; SACRAMENTO, CAL. CHARTER, art. III, § 32(g).
ordinances adopting the recommendations of the Independent Citizens’ Redistricting
Commission, which Measure L’s revisions would create.\textsuperscript{135}

The mayor would be required to review all adopted ordinances and resolutions and
approve or veto them within ten days of the city council’s adoption.\textsuperscript{136} If the mayor were to take
no action on a measure, it would be deemed approved.\textsuperscript{137} If the mayor were to exercise the veto
power, however, he or she must include an explanation of the basis for that decision.\textsuperscript{138} The
council would have 30 days to reconsider a vetoed matter, but could only override the mayor’s
veto if the reconsidered ordinance or resolution receives at least six council votes in favor of its
adoption.\textsuperscript{139}

4. City Manager Appointment

A significant new authority under Measure L would be the mayor’s right to appoint the
city manager, a power currently vested in the city council.\textsuperscript{140} While the city council’s right to
confirm the appointee would restrict this power, the mayor’s ability to remove the city manager
would not be subject to any outside approval and would not require good cause.\textsuperscript{141} Furthermore,
Measure L would require the mayor to hold an open meeting at which citizens may ask questions
regarding the qualifications of the candidates for city manager before making an appointment.\textsuperscript{142}

5. Community Interaction

If enacted, Measure L would require that the mayor address the citizens of Sacramento on
an annual basis through a “State of the City” address.\textsuperscript{143} Similar to the executive addresses of the
president and governors, the mayor’s State of the City statement would not just address the

\textsuperscript{135} SACRAMENTO, CAL. CITY COUNCIL RES. NO. 2013-0362, EXHIBIT A, § 21 (2013), available at
http://portal.cityofsacramento.org/~media/Corporate/Files/City-
Clerk/Elections/07142014_MeasureText_Charter.pdf (adding SACRAMENTO, CAL. CHARTER, art. IV, §
47); Id. § 6 (2013) (amending SACRAMENTO, CAL. CHARTER, art. III, § 25).
\textsuperscript{136} SACRAMENTO, CAL. CITY COUNCIL RES. NO. 2013-0362, EXHIBIT A, § 21 (2013), available at
http://portal.cityofsacramento.org/~media/Corporate/Files/City-
Clerk/Elections/07142014_MeasureText_Charter.pdf (adding SACRAMENTO, CAL. CHARTER, art. IV, §
47(c)(2)).
\textsuperscript{137} Id.
\textsuperscript{138} Id.
\textsuperscript{139} Id. (adding SACRAMENTO, CAL. CHARTER, art. IV, § 47(c)(2)–(3)).
\textsuperscript{140} Id. § 7 (amending SACRAMENTO, CAL. CHARTER, art. IV, § 40(b)(8)); SACRAMENTO, CAL. CHARTER,
art. V, § 60.
\textsuperscript{141} SACRAMENTO, CAL. CITY COUNCIL RES. NO. 2013-0362, EXHIBIT A, § 7 (2013), available at
http://portal.cityofsacramento.org/~media/Corporate/Files/City-
Clerk/Elections/07142014_MeasureText_Charter.pdf (amending SACRAMENTO, CAL. CHARTER, art. IV,
§ 40(b)(8)).
\textsuperscript{142} SACRAMENTO, CAL. CHARTER, art. V, § 60.
\textsuperscript{143} SACRAMENTO, CAL. CITY COUNCIL RES. NO. 2013-0362, EXHIBIT A, § 7 (2013), available at
http://portal.cityofsacramento.org/~media/Corporate/Files/City-
Clerk/Elections/07142014_MeasureText_Charter.pdf (amending SACRAMENTO, CAL. CHARTER, art. IV,
§ 40(b)(2)).
general status of city government, but would also include the mayor’s policy recommendations for the coming year. Measure L would also require the mayor to host and participate in at least two “town hall” meetings each year as a means of receiving public input. Measure L does not indicate how the mayor should utilize such public input in formulating ordinances or policy.

C. The City Manager: Article V

Measure L seeks to significantly alter the role and authorities prescribed to the city manager. No longer appointed by the city council, the city manager would be appointed by the mayor, with confirmation by the council. Specifically, the city council would have ten business days to either confirm or reject a mayoral city manager appointee. Failure to confirm or reject would constitute approval.

Measure L most dramatically seeks to alter the process by which the city manager may be removed from office. If approved by the voters, under Measure L the city manager would be subject to dismissal per the mayor, without council notification or approval. This proposed change is in stark contrast to the charter’s current procedure for removal of the city manager, which prohibits such action unless at least six members of the city council vote in favor of such removal. The current charter specifies that no city manager may be removed within the first twelve months of his or her term of office, except for cause. This provision would no longer exist if Measure L is enacted.

Functionally, the overall role of the city manager in citywide government would be dramatically altered from the position’s current status. No longer would the city manager be the city’s chief executive officer, but would become the city’s chief administrative officer. Similarly, the charter’s overall description of the position’s purpose would be amended to read that the city manager is “acting on the mayor’s behalf and in furtherance of the mayor’s powers” when he or she carries out the position’s duties.

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144 Id.
145 Id.
146 See id. (noting that there are no parameters for use of town hall feedback).
147 Id. § 22 (amending SACRAMENTO, CAL. CHARTER, art. V, § 60).
148 Id.
149 Id.
150 Id.
151 Id.
152 Id.
153 Id. § 25 (deleting SACRAMENTO, CAL. CHARTER, art. V, § 63).
154 SACRAMENTO, CAL. CHARTER, art. V, § 63 (citing “incompetence, malfeasance, misfeasance or neglect of duty” as reasons for removal in the first year).
156 Id. § 23 (amending SACRAMENTO, CAL. CHARTER, art. V, § 61).
157 Id.
158 Id.
D. The Annual Budget: Article IX

In addition to transferring the power to propose the budget from the city manager to the mayor, Measure L would establish the Office of the Independent Budget Analyst. 159 The city council would be responsible for appointing the head of that office, whose duties would be “to assist and advise the city council in conducting budgetary inquiries and in making budgetary decisions.” 160 The independent budget analyst would be subject to removal by the council, at any time with or without cause. 161

The city council would be required to hold a minimum of two public hearings on the proposed budget within a specified timeframe. 162 Upon the city council’s request, the independent budget analyst would provide an unbiased analysis of the mayor’s proposed budget. 163 Once these procedures are complete, the city council would be required to adopt a budget no less than 30 days before the start of each fiscal year. 164

As discussed previously, the mayor would have the ability to approve or veto the budget, or exercise a line-item veto. 165 The only limitation placed on the mayor’s line-item veto power would be the restriction that he or she may not veto any portion of the proposed budget relating to the city council’s own internal expenditures. 166 Once the mayor’s review of the budget was complete, any sections approved would become effective immediately. 167

Measure L would clarify that the city’s annual budget may be amended, revised, or modified at any point during the fiscal year, so long as such an amendment, revision, or modification follows the procedure outlined above. 168

E. Other Major Charter Changes

Measure L would also add several significant sections to the charter related to ethics and government transparency. 169

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159 Id. § 17 (amending SACRAMENTO, CAL. CHARTER, art. IV, § 40(b)(4)); Id. § 29 (amending SACRAMENTO, CAL. CHARTER, art. IX, § 111).
161 Id.
162 Id. (amending SACRAMENTO, CAL. CHARTER, art. IX, § 111(b)(1)).
163 Id.
164 Id.
165 Id. (amending SACRAMENTO, CAL. CHARTER, art. IX, § 111(b)(2)).
166 Id.
167 Id.
168 Id. (amending SACRAMENTO, CAL. CHARTER, art. IX, § 111(b)(3)).
169 See, e.g., id. § 5 (amending SACRAMENTO, CAL. CHARTER, art. III, § 24(a)) (appointing an independent redistricting commission).
1. Reapportionment and Redistricting

Measure L seeks to establish a nine-member independent redistricting commission to establish the boundaries of city council districts, thereby removing that power from the city council.\textsuperscript{170} The city council would have to pass an ordinance that establishes the commission, denotes qualifications required of members, and establishes a process by which members shall be appointed to serve on the commission no later than 180 days after voters approve Measure L.\textsuperscript{171} The city council and the mayor would be precluded from taking part in any commission member appointments.\textsuperscript{172} Upon conclusion of a regular United States census, the commission would examine council district boundaries to ensure compliance with population regulations, and adopt modifications to those boundaries, if necessary.\textsuperscript{173} Under the existing charter, this is a duty the city council holds.\textsuperscript{174} Furthermore, any boundary modifications the commission made would be sent to the council, and the council would be required to adopt the commission’s findings without making changes to them.\textsuperscript{175}

2. Ethics and Transparency

Measure L would require the city council to take two direct actions to ensure ethical conduct and transparency.\textsuperscript{176} Specifically, the city council would be required to adopt a “Code of Ethics and Conduct” and a “Sunshine Ordinance.”\textsuperscript{177}

a. Code of Ethics and Conduct

If approved, Measure L would require the city council to develop and adopt a “Code of Ethics and Conduct,” for all city officials and appointed members of boards, commissions, and committees.\textsuperscript{178} The council would be required to adopt this code of conduct within 180 days of Measure L’s passage.\textsuperscript{179} Aside from the requirement that the code include a procedure for removing any elected official or appointed member from office who “substantially violates” the code, no other substantive details of what the code would or should contain are included in Measure L’s text.\textsuperscript{180} Similarly, the text of Measure L also does not stipulate any consequences if the council fails to adopt a code of ethics.\textsuperscript{181}

\textsuperscript{170} Id.
\textsuperscript{171} Id.
\textsuperscript{172} Id.
\textsuperscript{173} Id.
\textsuperscript{174} SACRAMENTO, CAL. CHARTER, art. III, § 24(a).
\textsuperscript{176} Id. § 14 (adding SACRAMENTO, CAL. CHARTER, art. III, § 36).
\textsuperscript{177} Id.
\textsuperscript{178} Id.
\textsuperscript{179} Id.
\textsuperscript{180} Id.
\textsuperscript{181} Hansen interview, supra note 116.
Measure L would also require the city council to adopt an ordinance establishing an ethics committee for the purpose of the ongoing review and monitoring of the “Code of Ethics and Conduct.”\(^{182}\) In creating this committee, the council would have the discretion to determine the required qualifications and conditions of service of future committee members, including any compensation for service, reimbursement for expenses, terms of office, and methods for appointment and removal from office, so costs are currently unknown.\(^{183}\) Measure L clarifies that this newly established ethics committee “is not a board, commission, or advisory agency for purposes of Article XV or § 40.”\(^{184}\) Article XV of the charter defines what boards, commissions, and advisory agencies are, and delegates powers and responsibilities.\(^{185}\) Section 40 delegates the power to appoint or remove members of boards, commissions, and advisory agencies to the mayor.\(^{186}\) Thus, Measure L’s articulation that the ethics committee is not a board, commission, or advisory agency seems to be have been included simply to make clear that it will not have substantive powers.\(^{187}\)

b. Sunshine Ordinance

In addition, if Measure L is approved, the city council would be required to adopt a so-called “Sunshine Ordinance” within 180 days of its passage.\(^{188}\) The stated purpose of this ordinance would be to “liberally provide for the public’s access to city government meetings, documents, and records.”\(^{189}\) It is not apparent how Measure L’s Sunshine Ordinance would differ from existing open government laws, as Measure L does not specify the precise content of the future ordinance.\(^{190}\)

The preeminent existing law that requires transparency in local government proceedings is the Ralph M. Brown Act (the Brown Act), which the Legislature approved in 1953.\(^{191}\) The Brown Act statutorily guarantees the public’s right of access to local government meetings.\(^{192}\) The Brown Act also places significant restrictions on how local governments may convene to


\(^{183}\) Id.

\(^{184}\) Id.

\(^{185}\) SACRAMENTO, CAL. CHARTER, art. XV, §§ 230-232.

\(^{186}\) SACRAMENTO, CAL. CHARTER, art. IV, § 40.

\(^{187}\) Hansen interview, supra note 116.


\(^{189}\) Id.

\(^{190}\) Id.


\(^{192}\) Id. at 1; CAL. GOV’T CODE § 54953.
conduct public business as a means of ensuring the public’s right of access to such proceedings.\footnote{CAL. GOV’T CODE § 54954.}

Because Measure L does not specify the exact provisions of the Sunshine Ordinance, it is unclear at this time if the intention is that the ordinance should exceed the requirements of existing law.\footnote{Hansen interview, supra note 116.} It should be noted, however, that local governments do have the ability to impose requirements of open government and transparency that exceed the requirements of the Brown Act.\footnote{CAL. GOV’T CODE § 54953.7.}


Finally, Measure L also includes provisions requiring prior voter authorization for future changes to certain sections of the charter.\footnote{SACRAMENTO, CAL. CITY COUNCIL RES. NO. 2013-0362, EXHIBIT A, § 30 (2013), available at http://portal.cityofsacramento.org/~media/Corporate/Files/City-Clerk/Elections/07142014_MeasureText_Charter.pdf.} For example, the proposed amendments related to reapportionment and redistricting, if passed, could only be amended if a majority of the voters held as such in a regular election.\footnote{Id. § 30(B).} The rest of Measure L’s proposed changes would “sunset,” or expire, on December 31, 2020, and would be automatically repealed and removed from the charter.\footnote{Id. § 30(C).} However, Measure L would require the council to place a measure on the ballot at an election no later than November 3, 2020 to allow voters to consider whether to make Measure L’s changes permanent.\footnote{Id.}

V. \textsc{Constitutional and City Charter Implications}

A. \textit{Single-Subject Rule}

The California Constitution imposes a single-subject rule on all initiatives put before the electorate.\footnote{CAL. CONST. art. II, § 8(d).} This rule applies to all initiatives, whether they are put on the statewide ballot or a local ballot.\footnote{Hernandez v. Los Angeles, 167 Cal. App. 4th 12 (2008).} The single-subject rule says an initiative is permissible only if “all of its parts are reasonably germane to each other, and to the general purpose or object of the initiative.”\footnote{Senate v. Jones, 21 Cal. 4th 1142 (1999).} This rule, however, applies only to \textit{initiatives}, and not to other types of ballot measures.\footnote{CAL. CONST. art. XI, § 3(b); Hernandez, 167 Cal. App. 4th at 23.}

The California Constitution provides two ways to amend a city charter with the voters for approval: (1) by an initiative qualified for the ballot through the procedures outlined in the
California Election Code or (2) by a ballot measure sponsored by the governing body of a municipality.\(^{204}\)

By definition, an initiative is “the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.”\(^{205}\) The California Election Code sets forth the initiative process whereby the electorate may draft and approve laws.\(^{206}\) An initiative may only be put before the electorate for approval after satisfying various requirements, including having the Secretary of State certify its language and obtaining a specified number of signatures when the initiative is circulated for pre-ballot approval.\(^{207}\)

Similarly, the California Constitution vests power in a city’s governing body to propose by ballot measure ordinances and changes to a city’s charter.\(^{208}\) The distinctive differences between the power vested in the electorate and the power vested in a governing body are the name attributed to each proposal (‘initiative’ for the former, ‘ballot measure’ for the latter) and in the process by which such proposals make it to the ballot.\(^{209}\)

Thus, given the clear language of the Constitution, a ballot measure proposed by a city’s governing body is not, by definition, an initiative.\(^{210}\) Because Measure L’s origin lies with the city council and not the electorate, it is by definition a ballot measure, and is therefore not subject to the limitations of the single-subject rule.\(^{211}\)

B. Charter Revision versus Charter Amendment

A city’s charter may be changed via one of two methods: by amendment or by revision.\(^{212}\) Whether a change is an amendment or a revision is determined by how substantial the proposed change would be.\(^{213}\) Furthermore, a charter amendment may be proposed by the electorate through the initiative process or by a ballot measure sponsored by the city’s governing body.\(^{214}\) Conversely, a charter revision may only be proposed by the city’s governing body through a ballot measure.\(^{215}\)

“Although the Constitution does not define the terms ‘amendment’ or ‘revision,’ the courts have developed some guidelines” for their interpretation.\(^{216}\) An amendment is a less substantial change; one that does not substantially alter the Constitution (or a charter) in any

\(^{204}\) CAL. CONST. art. XI, § 3(b); Hernandez, 167 Cal. App. 4th at 21.
\(^{205}\) CAL. CONST. art. II, § 8(a).
\(^{206}\) CAL. ELEC. CODE §§ 9255–9269 (West 2014).
\(^{207}\) Id.; CAL. CONST. art. II, § 8(b)–(c).
\(^{208}\) CAL. CONST. art. XI § 3(b); CAL. CONST. art. XVIII, §§ 1–2.
\(^{209}\) CAL. CONST. art. II, § 8(a) (defining the initiative power); CAL. CONST. art. XI, § 3(b) (vesting right to adopt, amend, or revise a charter).
\(^{210}\) CAL. CONST. art. II, § 8(a).
\(^{211}\) CAL. CONST. art. XI, § 3 (b); Hernandez, 167 Cal. App. 4th at 21–22.
\(^{212}\) CAL. CONST. art. XI, § 3(a).
\(^{214}\) CAL. CONST. art. XI, § 3(b); CAL. CONST. art. II, § 8(a).
\(^{215}\) CAL. CONST. art. XI, § 3(b).
\(^{216}\) Raven, 52 Cal. 3d at 350.
meaningful quantitative or qualitative fashion. Conversely, a revision is a more substantial, far-reaching change. The courts have developed a two-part test for determining whether a proposed change is simply an amendment, or if it rises to the level of a revision. That test measures both the quantitative and qualitative effects that the proposed measure would have on a charter, and if the effect of either category is substantial, the courts will find the proposed measure to be a revision.

The same provision of the California Constitution that authorizes a city to adopt a charter also authorizes the governing body of a city to amend or revise the city’s charter. Conversely, only the power to amend a charter, not revise it, is given to the voters. Thus, a revision to a city’s charter may only be accomplished when a city’s governing body votes to place the revision on the ballot, and it is subsequently approved by the voters. This is why the original attempt to place a citizen-proposed strong-mayor initiative on the ballot was deemed unconstitutional, because it constituted a substantial revision, not a simple amendment. Because Measure L also seeks to accomplish a revision to city’s charter, it was properly placed on the ballot as a ballot measure sponsored by the city council, not through the initiative process.

VI. PUBLIC POLICY CONSIDERATIONS

Measure L’s main support comes from the group “Sacramento Tomorrow,” which includes developer Angelo Tsakopoulos and Mayor Kevin Johnson. Council member Steve Hansen, who represents central Sacramento, Land Park, and part of Natomas, leads “Stop the Power Grab,” the coalition of Measure L opponents. Both sides are passionate about their arguments for and against the measure. Neither side, however, has undertaken a fiscal analysis of the measure. As a result, there are open questions regarding how much different portions of the revision will cost.

Proponents admit the “city is well-served by its city manager and current form of government,” but believe Measure L would be an improvement. Opponents are not swayed;

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217 Id. (reasoning that substantial changes can amount to a revision, not a mere amendment).
218 Id.
219 Id. at 351.
220 Id.
221 CAL. CONST. art. XI, § 3(b).
222 Id. art. XVIII, § 3.
223 Id. §§ 1–2, 4.
225 CAL. CONST. art. XVIII, § 1.
227 Lillis-Hansen, supra note 98.
228 See In FAVOR, supra note 9; AGAINST, supra note 101.
230 Forum, supra note 11 (statement of Nancy Miller, partner, Miller & Owen).
with recent successes under the current structure, like the development of the new Kings basketball arena, they seek more concrete proof that a strong-mayor system would be better able to accomplish similar tasks.\(^{231}\) This section will examine the arguments on both sides of Measure L.\(^{232}\)

**A. The City Council: Article III**

Under the strong-mayor government, the city council would continue to have eight members elected from districts each representing one-eighth of the city, but the mayor would no longer have a council seat or vote.\(^{233}\) Some argue the mayor could get the authority to cast a tie-breaker vote, since there will be an even number of council members.\(^{234}\) Those opposing Measure L insist allowing the mayor to vote in the event of a tie is inappropriate.\(^{235}\)

At this time, however, there is no protocol in event of a tie under Measure L.\(^{236}\) A vote of four-to-four would mean an ordinance would not pass.\(^{237}\) Proponents say this probably will not be a problem, or will only be a minor issue, although admit both sides are speculating.\(^{238}\) They point out that five votes will be required just as in the existing system.\(^{239}\) But, five votes under the proposed system require the support of 62.5 percent of the council, rather than just over 55 percent, which opponents say is higher than appropriate.\(^{240}\) It is interesting to note that if Sacramento already had a five-vote requirement and a non-voting mayor, Measure L would not be on the ballot since the five-four vote would have been a tie without the mayor’s vote.\(^{241}\)

Although each member’s representation and vote would not change, they would lose some of their authority.\(^{242}\) For example, the city council would no longer appoint the city manager, and the mayor would be able to veto city council-approved ordinances and budgets.\(^{243}\) Because the mayor will have more power at the expense of the city council as a whole, Measure L opponents assert council members will have difficulty serving their constituents in the most

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\(^{231}\) Id. (quoting council member Steve Hansen as saying “we got the arena going in less than a year”);
Hansen interview, supra note 116.

\(^{232}\) Infra Parts A–E.

\(^{233}\) REBUTTAL TO AGAINST, supra note 101.


\(^{236}\) Forum, supra note 11 (statement of Nancy Miller, partner, Miller & Owen).

\(^{237}\) Id.

\(^{238}\) Isenberg interview, supra note 65.

\(^{239}\) Forum, supra note 11 (statement of Nancy Miller, partner, Miller & Owen).

\(^{240}\) Hansen interview, supra note 116.

\(^{241}\) Forum, supra note 11 (statement of council member Steve Hansen).

\(^{242}\) See IMPARTIAL ANALYSIS, supra note 8, at 1 (noting the city council loses appointment power and can be overridden with a mayoral veto).

\(^{243}\) Id.
positive way. They decry the shift in power away from nine people to one person—the mayor.

There is an emphasis on interaction between the city council and community through Measure L’s creation of a Neighborhood Advisory Committee. The text of the measure, however, leaves the details of this committee completely open. Supporters insist this was to make Measure L more comprehensible and ensure it did not get bogged down with minor details as past versions did. Opponents are a little more cynical. They call the committee and other components of the measure that require future ordinances “sweeteners,” saying each could be implemented by ordinance now, if they were truly important. They believe way the measure is written, however, makes the committee seem as if it will be non-substantive because it is not a “commission,” which would have the power to make changes. Still, supporters maintain that the committee will be an integral part of the city government because its meetings will be open to the public and the city council may take its suggestions under advisement.

Measure L’s opponents do not believe it is necessary to change the power structure because the city council and mayor have worked together to achieve so many positive things, including creating a budget surplus and keeping the Kings in Sacramento. Supporters assert, however, that balancing the budget, creating jobs, and reducing crime would be streamlined with a strong-mayor system.

B. The Mayor: Article IV

In Sacramento’s current council-manager system, the mayor is a “figurehead,” attending ribbon cuttings and promoting the city for tourism. Yet, citizens expect the mayor to solve
citywide problems and take responsibility for government decisions. Measure L supporters, including former mayor Phil Isenberg, believe the measure will bring the mayor’s duties and abilities better in line with public expectations.

1. **From Figurehead to CEO**

Measure L proponents decry the fact that the city manager—currently the equivalent of a chief executive officer—is not elected. That is why they want the elected mayor to take on CEO-type duties, including managing police and fire services. But, the mayor may not have any business or management experience, which is why cities hire professional managers. Therefore, Measure L is a hybrid, where the city can benefit from the manager’s expertise and the mayor’s accountability, according to supporters.

Consolidation of power could also make city departments more effective, according to supporters, because the mayor would have a greater ability to hold them accountable than the city manager can while he or she is beholden to the varied interests of council members. Opponents see this as an opportunity for the mayor to do whatever he or she wishes with city services, without any accountability until, possibly, the next election.

The term limits imposed on the mayor would, according to supporters, provide a check on the mayor’s power. The city manager is unelected, but Measure L proponents prefer placing that much power into the hands of someone who can be removed through an election or, if he or she is reelected, at the end of a set number of terms. Some opposed to Measure L do not believe a vote every four years is enough to balance the amount of power that would be vested in the mayor. Others do not like term limits because placing an artificial limit on the time an official can be in office “inappropriately constrains the options of the electorate.”

2. **Mayoral Veto Power**

Although the mayor would be able to veto city council decisions, Measure L proponents note that this does not give ultimate power to the mayor because the veto can be overridden.

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256 Isenberg interview, supra note 65.
257 Id.
258 IN FAVOR, supra note 9.
259 Id.
260 Forum, supra note 11 (statement of Heather Fargo, former mayor, City of Sacramento).
261 Id. (statement of Daniel Conway, chief of staff, Mayor Kevin Johnson).
263 AGAINST, supra note 101.
264 IN FAVOR, supra note 9.
266 REBUTTAL TO FAVOR, supra note 10.
267 EDGAR, supra note 84.
268 IN FAVOR, supra note 9.
But, six members, or 75 percent of the council, would have to vote to override the veto, which would give the mayor more power than any Governor or the President because the supermajority required is larger than that at the State or Federal level.  

How a mayor may use the veto power is unknown, but supporters say it removes any “temporary block to council actions, or conversely, a temporary block to the mayor’s actions.” Former mayor Phil Isenberg speculated that it will be reserved for fundamental issues. Now, there is an incentive for the mayor and city council to not make sweeping, and perhaps controversial, decisions because one would need the support of four others. Veto power may thus encourage more change.

The community may not want the mayor to have this power; a citizen-run committee engaged to make recommendations regarding a strong-mayor government in Sacramento voted overwhelmingly to condemn mayoral veto power. Of course, Measure L opponents also feel it is an inappropriate amount of power to vest in one person.

3. Appointment Power

Measure L proponents emphasize the positive checks and balances that would occur if the mayor appointed the city manager with council concurrence and a public meeting about the proposed city manager’s qualifications. Those against Measure L, however, stress the fact that the mayor can remove the city manager at will can cut against these checks and balances.

The mayor’s appointment power under Measure L would be more limited than under past strong-mayor proposals in Sacramento. This revision, however, still divides city employees into those responsible to the mayor and those who answer to the city council, which could make the city’s hierarchy confusing. Community members who prefer the current council-manager government see advantages in a “unified structure…[with] a single consolidated group of professional staff under the direction of the city manager, who is responsible to the full city council,” including the mayor.

269 AGAINST, supra note 101.
270 Isenberg interview, supra note 65.
271 Id.
272 Id.
273 Id.
274 EDGAR, supra note 84 (showing a vote of 10–1 against granting veto power).
275 Hansen interview, supra note 116.
278 See TEICHERT, supra note 74 (listing appointment duties that would have been granted under the 2009 initiative).
279 EDGAR, supra note 84.
280 Id.
4. Community Interaction

Since under Measure L, the mayor would no longer be a voting member of the city council, opponents decry that the mayor can choose not to attend meetings.281 They assert a mayor could theoretically never hear the concerns of Sacramento citizens if he or she did not go to city council meetings, and could make decisions based solely on meetings with private individuals or groups.282 “There could be ‘far less public access to the mayor.’”283 This would also be a circumvention of the Brown Act if the mayor does not attend meetings for which public access is required under the act.284 Of course, even if a mayor does attend meetings, he or she is not required to take community comments made at those meetings under consideration when making decisions.285

Supporters of Measure L counter criticism about the omission of Brown Act standards by pointing to the power of the electorate to remove the mayor if he or she is not responsive to the people.286 Also, the mayor and council members alike will continue to engage members of the public outside of meetings, which very few citizens attend.287 That engagement, coupled with additions to mayoral power, may actually be more productive according to proponents, since members of the public often comment at meetings regarding topics over which the mayor and city council have no power.288 “Government provides an endless number of ways to comment,” and proponents point to the new comment forums available under Measure L, including two town hall meetings each year in which the mayor must participate.289

C. The City Manager: Article V

Supporters of Measure L stress that the city manager will still provide his or her expertise to the mayor, so Sacramento will still have professional guidance.290 They say the only issue is whether a voter believes the mayor should or should not direct the city manager.291

281 AGAINST, supra note 101.
282 Id.
283 EDGAR, supra note 84.
284 Hansen interview, supra note 116.
285 See Julie Murphy, Letter to the Editor, Strong Mayor: Is the Mayor’s Office for Sale, SACRAMENTO BEE (Sept. 6, 2014, 9:09 AM), http://www.sacbee.com/2014/09/06/6684080/is-the-mayors-office-for-sale.html (referring to “Michelle Rhee’s statement that her husband [Mayor Kevin Johnson] really doesn’t base his decision-making on public testimony at city council meetings”).
286 See IN FAVOR, supra note 9 (implying the mayor will make “superior…decisions” because of his or her accountability to the electorate).
287 Forum, supra note 11 (statement of Daniel Conway, chief of staff, Mayor Kevin Johnson).
288 Isenberg interview, supra note 65 (stating people want to comment on things the city does not manage and that “government in America is roughly the equivalent of public psychotherapy”).
290 Forum, supra note 11 (statement of Daniel Conway, chief of staff, Mayor Kevin Johnson).
291 Isenberg interview, supra note 65.
If the city manager is mayor-appointed, however, those against Measure L believe the manager will work to support only the mayor’s goals, not those of the city council or the electorate. Some have even said the city manager may become a de facto chief of staff to the mayor. Since the city manager would no longer have a one-year grace period during which he or she could not be removed, the person in that position could feel pressure to follow the mayor, regardless of the reason or outcome.

One item that has not been addressed is whether the city manager’s compensation will change if the position encompasses fewer duties. Former mayor Heather Fargo speculated that the city manager’s pay will not decrease, but the mayor would probably get a raise so that he or she is not making less than the manager, who would be the mayor’s subordinate.

**D. The Annual Budget: Article IX**

The mayor would create and present the budget if Measure L is approved, which means either the budget would be more voter-influenced because the mayor is elected or the budget would be full of favors to friends and donors, depending on which side of the debate is speaking.

It could be easier for special interests to influence just one person wielding budgetary power, rather than an entire city council. Since deep-pocketed donors have contributed to the campaign supporting Measure L—developer Angelo Tsakopoulos has donated $100,000, the California Association of Realtors has contributed just under $50,000, Niello Co. has backed the campaign with $25,000, and Mark Friedman, a Kings owner, has given more than $14,000—perhaps the monetary influence that opponents are worried about is already taking effect. “Access [to leaders] would be focused and limited to certain individuals” with a lot of money, according to Measure L’s opposition. Yet supporters insist special interests will still need to work with all eight council members, although they recognize the measure will streamline a currently “sluggish bureaucracy where...to get something done, they often have to convince at least five city council members, which can take a lot of time and money.”

As with any other council vote, the mayor would have veto power, and overriding that veto with a supermajority could prove difficult. The creation of an independent budget analyst could provide a balance against the mayor’s power. If the analyst makes recommendations...

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292 REBUTTAL TO FAVOR, supra note 10.
293 Forum, supra note 11 (statement of Steve Hansen, council member, City of Sacramento).
294 SACRAMENTO, supra note 11 (statement of Heather Fargo, former mayor, City of Sacramento).
295 IN FAVOR, supra note 9; AGAINST, supra note 101.
296 Id. note 101.
297 See Ryan Lillis, Strong Mayor’s About Clout, SACRAMENTO BEE (Sept. 5, 2014, 7:46 PM), http://www.sacbee.com/2014/09/05/6683295/sacramentos-power-players-line.html (quoting Andrew Acosta as saying, “they’d rather have one conversation than eight” regarding the top donors).
298 Id. (quoting former Sacramento mayor Heather Fargo).
299 Id.
300 AGAINST, supra note 101.
301 IN FAVOR, supra note 9.
that the city council adopts, the mayor may be less likely to use a line-item veto against those recommendations or an overall veto against the budget. Although Measure L creates the analyst position, it fails to make recommendations regarding his or her qualifications and does not consider the cost of hiring a new department head. Therefore, it is unclear if an independent budget analyst will actually be appointed or whether the position is financially feasible if Measure L passes.

E. Other Major Charter Changes

Measure L will require the city council to fill in some of the details left out of its text, but will also allow voters to alter the provisions during future general elections.

1. Required Ordinances

Several of the main Measure L charter alterations require the council to pass a separate ordinance within six months of the measure’s passage. These include the creation of committees for redistricting and ethics, as well as a Sunshine Ordinance. Proponents of Measure L did not prescribe the parameters of these programs in the measure because voters found prior versions of strong-mayor initiatives overwhelming when they included all of these details.

This reasoning does not comfort opponents, who say the “trust us and wait” argument shows a lack of substance in the reforms. Council member Hansen foresees a “delicate dance” to create ordinances substantive enough so that they have a purpose, but not too substantive so that they might be vetoed. Since the ordinances do not require a charter change, council member Hansen would prefer to create substantive ordinances that reform ethics, streamline governance, and change election rules without a measure half-heartedly commanding the city council to do so.

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303 See REBUTTAL TO AGAINST, supra note 101 (inferring “an unprecedented light of transparency” could mean the mayor would be less likely to not follow analyst recommendations).
305 Id.
306 See, e.g., id. § 14 (providing for the creation on an ethics committee and Sunshine Ordinance).
307 Id.
308 Id. § 5 (amending SACRAMENTO, CAL. CHARTER, art. III, § 24(a)); Id. § 14 (adding SACRAMENTO, CAL. CHARTER, art. III, § 36).
309 Forum, supra note 11 (statement of Daniel Conway, chief of staff, Mayor Kevin Johnson).
310 Hansen interview, supra note 116.
311 Id.
312 Id.
2. Amendment by Ballot

Measure L’s charter changes can be amended through future initiatives or measures placed on the ballot, which could help to close any gaps that surface.\textsuperscript{313} For example, if the measure passes and tie votes in the city council become a problem, voters can solve the issue with a general election ballot measure.\textsuperscript{314} This was an issue that San Diego voters fixed when they permanently approved their city’s strong-mayor system.\textsuperscript{315}

If Measure L passes, voters may also choose not to keep a strong-mayor government when the bill sunsets in 2020.\textsuperscript{316} The provision is similar to how other cities adopted their strong-mayor systems.\textsuperscript{317} Some feel that the sunset date provides false hope for those who dislike the form of governance; after all the arguments on Measure L, they say voters will be less likely to change the charter because they don’t want a repeat of “this agony.”\textsuperscript{318} Opponents do not want the next six years to be an experiment, and assert that such a major change to the charter should be permanent or not happen at all.\textsuperscript{319} A few cynics believe the sunset might be designed so that the strong-mayor system only benefits Mayor Johnson and not his successors.\textsuperscript{320}

VII. CONCLUSION

Ultimately, the decision Sacramento voters make may not really alter the way the city government works.\textsuperscript{321} Researchers have found the council-manager structure and the strong-mayor system are fairly equal in terms of ability to implement citizen-supported policies.\textsuperscript{322} Both forms of government generally conform to their constituents’ desires because they are equally responsive to their communities.\textsuperscript{323}

\textsuperscript{314} Id.
\textsuperscript{318} Forum, supra note 11 (statement of Steve Hansen, council member, City of Sacramento).
\textsuperscript{319} Hansen interview, supra note 116.
\textsuperscript{320} Contra Isenberg interview, supra note 65 (theorizing the sunset was instead included to make the measure more popular).
\textsuperscript{322} Id.
\textsuperscript{323} Id.
Measure L’s proponents insist the revision would create a better, more modern form of
government that will reduce “bureaucratic roadblocks.”324 Opponents recognize the popularity of
Mayor Johnson and understand why voters would give him more governmental control, but fear
the measure places too much power in the position, which voters may not like as much when a
less-popular mayor is in charge.325

Regardless of the way they vote, voters should bear in mind that Measure L proposes a
substantial revision to Sacramento’s existing charter, and the breadth of the proposal warrants
careful consideration of the specific changes.326

324 REBUTTAL TO AGAINST, supra note 101.
325 REBUTTAL TO FAVOR, supra note 10; Michael Murphy, Letter to the Editor, Measure L: Developer
Dollars Support the Power Grab, SACRAMENTO BEE (Sept. 4, 2014, 9:09 AM),
326 See, e.g., supra Sections IV–VI (discussing implications of the measure’s passage).