No. 16-2

Supplemental Material

For

City of Sacramento

City Council
Financing Authority
Housing Authority
Redevelopment Agency

Agenda Packet

Submitted: February 2, 2009

For the Meeting of: Tuesday, February 3, 2009

X Additional Material
Attachment 3:
Strong Mayor Initiative: A Comparison and Analysis

TITLE: **WORKSHOP: REPORT BACK ON CHARTER REFORM AND CITY GOVERNANCE STRUCTURES**

Contact Information: Eileen M. Teichert, City Attorney, 808-5346
Shirley Concolino, City Clerk, 808-5442

STRONG MAYOR INITIATIVE: A COMPARISON AND ANALYSIS

By: Eileen Teichert, City Attorney

February 3, 2009

INDEX Page

INTRODUCTION

At the January 6, 2009, City Council meeting several Council members indicated they had received numerous constituent inquiries regarding the merits or lack of merits of the Strong Mayor Charter Amendment Initiative.[1] In addition to other related requests by the Council members, Council member McCarty requested preparation of this report with its presentation at a workshop. The purpose of the report is to aid the Council in formulating their assessments of the proposed Strong Mayor Charter Amendment Initiative and in recommending the legal means by which any needed revisions to the current City charter could be made.

This report entitled "Strong Mayor Initiative: A Comparison and Analysis" is prepared in response to those requests. This report does not answer the question whether Sacramento needs a strong mayor form of governance. Rather it is intended to help answer some questions about the strong mayor form of governance proposed by the Strong Mayor Initiative.

For ease of reading this report, an Executive Summary digests the key facts, analyses and conclusions. The Executive Summary includes several conclusions on certain legal issues arising out of the proposed Strong Mayor Charter Amendment Initiative but appropriately leaves the conclusions on policy issues to the policy makers—the City Council.

Chapter One provides an overview of the governance structures used by the ten most populous California cities and the four national cities that City leadership looks to at various times for best practices.

Next, the key provisions contained in the proposed Strong Mayor Initiative are explained and analyzed in Chapter Two. These provisions are compared with the charter provisions in the fourteen cities. Tables are used liberally in this Chapter and throughout this report to graphically explain the similarities and differences.

Chapter Three addresses what is "not" contained in the Strong Mayor Initiative, by grappling with the troubling issue of who is authorized to act on behalf of the City when the charter no longer states who has that authority. This chapter examines the "residual powers" that would no longer be clearly delegated under the Strong Mayor Initiative charter. These include the absence of a clear grant of power to enter into

[1] The Strong Mayor Charter Amendment Initiative was submitted to the City by proponent Thomas Hiltachk on December 12, 2008, for preparation of a ballot title and summary by the City Attorney. The ballot title and summary were completed December 29, 2008, starting the 180 day window for submittal of the requisite number of signatures on the initiative petitions.

contracts, to attend closed sessions, to authorize and settle lawsuits and claims, and to sit on the Redevelopment Agency Board and various state created bodies. The absence of "term limits" in the Strong Mayor Initiative is also addressed due to the uniform inclusion of term limits in all other strong mayor cities studied.

Chapter Four details and discusses the processes used by these fourteen cities to consider, adopt or revise a strong mayor form of governance through charter change.

Chapter Five provides the legal framework for making charter changes under California law.

For convenience of reference, Appendix A sets forth in full the proposed Strong Mayor Initiative.

Consistent with Council's request, City Clerk Shirley Concolino has prepared a history of Sacramento's charter in a separate document entitled "Sacramento Charter History" that is based upon records in the City Clerk's office.

The entirety of this report was authored by the City Attorney's Office. The City Attorney's Office prepared this report after much legal and documentary research including a review of the charters, charter commissions' reports, scholarly papers and media articles detailing and analyzing strong mayor charter reform efforts in these fourteen cities.

The reader is advised, however, that this report seeks to provide an overview, to facilitate Council members' questions and discussion. It has been drafted with the non-legal reader in mind. It is not intended to be a complete and final comparison and analysis with full references or citations.

EXECUTIVE SUMMARY

This report compares and contrasts the proposed Strong Mayor Initiative with the provisions not only in the existing Charter of the City of Sacramento but also the charters of the Top Ten California Cities and Four National Cities. One half of the comparison cities have Mayor-Council (also known as strong mayor) forms of governance-- five of the Top Ten California Cities and two of the Four National Cities. The remaining one-half of the comparison cities have Council-Manager forms of governance, except for Portland with its Commission form.

The comparison with these cities required review of the language "expressly stated" in the proposed Strong Mayor Initiative. The comparison also required analysis of important matters "not expressly stated" in the Strong Mayor Initiative Charter that other strong mayor cities' charters address, including apportionment of significant powers and limitations upon their strong mayors.

The conclusions based upon the comparisons and analyses are as summarized as follows:

Similarities With Strong Mayor City Charters

The structure of government and basic mayoral powers that would be established by the Strong Mayor Initiative are generally similar to those of most strong mayor cities' charters reviewed. That structure and establishment of basic mayoral powers include:

1. Mayor's position as the chief executive officer of the City.
2. City Council's role as legislative and quasi-judicial branch of the City.
3. Mayor's power to prepare and present the budget to the City Council;
4. Mayor's power to appoint the City Manager subject to City Council concurrence.
5. Creation of a Council President position.
6. Mayoral veto.

Differences With Strong Mayor City Charters

The strong mayor-council forms of governance in the comparison cities generally include a balance of powers, checks and balances, clear lines of authority and accountability. Essentially, this proposed Strong Mayor Initiative creates an imbalance of powers, lacks important checks and balances, and blurs the lines of authority and accountability contained in other strong mayor cities' charters.

1. Mayoral budgetary powers exceed any other city, except Los Angeles, with the mayoral budget becoming effective if council fails to override mayoral veto by the beginning of the fiscal year.

2. Powers of appointment, discipline and removal of subordinate staff exceed any other comparison city. Under the Strong Mayor Initiative, the Mayor would have unfettered power to remove over 526 unrepresented employees, and similar power over almost all other represented employees, subject only to civil service rules.

3. Mayoral appointments are deemed approved if not approved or disapproved by the City Council within thirty days. Only one other comparison city had such a provision further tilting the balance of power toward the position of Mayor.

4. Important checks and balances against increased mayoral powers provided by an independent City Treasurer, City Clerk and City Attorney are not present by having these Charter Officers serve at the pleasure of the Mayor.

5. The Mayor would straddle the executive and legislative divisions of government by continuing to vote on all matters coming before the City Council until the Ninth Council District is created in approximately 2011 or 2012. The Mayor's ability to vote, veto and vote not to override is unprecedented in any other comparison city and contributes to the imbalance in powers.

6. Lines of authority and accountability are blurred by eliminating the answer to the question "who has residual powers of the City?" As drafted, the Strong Mayor Initiative is ambiguous regarding residual powers previously clearly held by City Council. Residual powers are those powers not addressed in the Charter, such as authority to enter into contracts, attend closed sessions, settle claims, commence litigation, dispose of City property and file amicus curiae support.

7. All other strong mayor cities include term limits in their charters as a necessary check and balance against vesting strong powers in the office of the mayor. The Strong Mayor initiative does not include term limits

8. Unlike Top Ten California Cities and Four National Cities with strong mayors, Strong Mayor Initiative would be effective immediately, thereby conferring strong mayor powers on currently seated mayor.

9. The absence of legislative history for the charter amendment that would otherwise be provided by a charter review commission, combined with the ambiguities in the Strong Mayor Initiative, create a strong likelihood of disputes over and legal challenges as to the meaning of its various provisions.

Again, this report does not attempt to answer the question of whether the City of Sacramento needs a strong mayor form of governance. Rather this report leaves it up to the policy makers that are the City Council, to formulate their opinions on the merits or lack thereof of the Strong Mayor Initiative after reviewing these similarities and differences detailed in the report.

CHAPTER ONE:
FORMS OF GOVERNANCE

The City of Sacramento has operated under a Council-Manager form of government since 1921, when the Progressive movement was sweeping the nation and the state, in response to political corruption. Many charter reformers sought to protect their cities against east coast-style machine politics. The Strong Mayor Initiative proposes to change the City of Sacramento's form of government to Mayor-Council by amending the City Charter.

While this report places the forms of governance of the comparison cities into two primary categories—Mayor-Council and Council-Manager--this categorization is used for convenience only. Relying on these simplified categories of government structure is insufficient to shed light on a mayor's authority and ability to govern. Structures influence the actions of mayors, but do not necessarily constrict or empower them.

Each of the comparison cities has a unique charter, with no two exactly alike. A true Mayor-Council system, also referred to as a strong mayor system, grants its mayor budgetary powers, appointment and removal powers, management of day-to-day city affairs, power to propose legislation, and veto power. The distribution of authority over budgets, legislation, appointments of city officials and employees varies dramatically amongst the cities in each form of government. That distribution of authority in the proposed Strong Mayor Initiative and the comparison cities is examined in Chapter Two.

Seven of the comparison-cities are Mayor-Council cities, six are Council-Manager cities, and one is a Commission run city. Mayor-Council cities are shown in **boldface** in the Tables throughout this report.

A. TOP TEN CALIFORNIA CITIES

At the request of Council member McCarty, this report compares the City's current charter and the proposed Strong Mayor Initiative with the ten most populous California cities. Those cities, their populations and their forms of city governance are set out in Table 1.

Table 1

TOP TEN CALIFORNIA CITIES

City	Population (2008 Dept. of Finance Est.)	Form of Governance
Los Angeles	4,045,873	**Mayor-Council**[2]
San Diego	1,336,865	**Mayor-Council**
San Jose	989,496	Council-Manager
San Francisco	824,525	**Mayor-Council**
Long Beach	492,642	Council-Manager
Fresno	486,171	**Mayor-Council**
Sacramento	475,743	Council-Manager
Oakland	420,183	**Mayor-Council**
Santa Ana	353,184	Council-Manager
Anaheim	346,823	Council-Manager

These cities are referenced in this report as the "Top Ten California Cities".

B. FOUR NATIONAL CITIES

At the request of Council member Cohn, four non-California cities are also included as comparison cities because City leadership looks to them for best practices at various times. These four cities, their populations and their forms of governance are set out in Table 2.

Table 2

FOUR NATIONAL CITIES

City	Population (2007 U.S. Census est.)	Form of Governance
Phoenix	1,552,259	Council-Manager
Seattle	594,210	**Mayor-Council**
Denver	588,349	**Mayor-Council**
Portland	550,396	Commission

These four non-California cities are referenced in this report as the "Four National Cities."

[2] The City of Los Angeles could be more accurately categorized as operating under a Mayor-Council-Commission form of governance.

C. UNITED STATES CITIES GENERALLY

Around the country, most cities operate under the council-manager form. As a general proposition, mid-size cities (250,000 to 500,000) are evenly split, while the largest cities skew towards a mayor-council form, as indicated in the table below.

Table 3

COMPARISON OF GOVERNANCE STRUCTURE BY CITY POPULATION[3]

Population (# of cities)	Mayor-Council (Percent)	Mayor-Council w/ Administrator (Percent)	Council-Manager (Percent)
10,000-24,999 (1470)	23.1	22.0	54.9
25,000-49,999 (670)	22.7	13.9	63.4
50,000-99,999 (365)	21.6	11.2	67.1
100,000-249,999 (172)	18.6	13.4	68.0
250,000-500,000 (38)	13.2	36.8	50.0
500,000-1,000,000 (23)	34.8	30.4	34.8
>1,000,000 (9)	11.1	55.6	33.3

[3] Source: James H. Svara, "Are Elected Executives Needed to Achieve Accountability to Citizens? Performance Issues and Form of Government in Large U.S. Cities" (2006) using 2005 population estimates.

CHAPTER TWO:
INITIATIVE COMPARISON WITH TOP TEN CALIFORNIA CITIES & FOUR NATIONAL CITIES

A. MAYORAL BUDGETARY POWERS

1. Current City Charter

- The City Manager is responsible for preparation and presentation of budget recommendations for the next fiscal year to the City Council no later than 60 days prior to the start of the fiscal year.

- After a public hearing the City Council, of which the Mayor is one member, adopts a budget resolution with proposed expenditures and appropriations for the next fiscal year.

- If the City Council fails to adopt a budget, the appropriations for current operations of the last fiscal year will be deemed effective until budget and appropriations for the current fiscal year are adopted.

- The budget may be amended according to the procedure established by the City Council.

2. Strong Mayor Initiative

A true strong mayor system grants its mayor budgetary powers, appointment and removal powers, management of day-to-day city affairs, power to propose legislation, and veto power. The Strong Mayor Initiative includes each of these powers and more.

- The Mayor is responsible for preparation and presentation of budget recommendations for the next fiscal year to the City Council no later than 90 days prior to the start of the fiscal year.

- After at least two public hearings the City Council adopts a budget of proposed expenditures and appropriations for the next fiscal year.

- If the City Council modifies all or a part of the Mayor's budget, the Council returns the modified budget resolution to the Mayor within 48 hours.

- The Mayor has five business days to approve the budget resolution, veto or make line item modifications. If the Mayor vetoes or modifies the Council budget resolution, the City Clerk must transmit the vetoed budget to the Council within 48 hours.

- The City Council then has five business days to override by at least six votes the mayor's veto or modification.

- City Council's failure to override the Mayor's veto or modification results in the Mayor's modified budget becoming effective immediately.

- City Council's failure to approve the budget as proposed by the Mayor or override the Mayor's veto of Council changes to the budget prior to the start of the fiscal year results in the Mayor's budget being deemed approved as presented.

- The budget may be amended at the request of the mayor and approval of the City Council.

These budgetary powers are among the Mayor's most significant forms of authority under the proposed Strong Mayor Initiative. If the Council does not act upon the Mayor's proposed budget by a set date, the Mayor's budget takes effect without City Council approval.

Additionally, as discussed below in Chapter Two, the Mayor continues to vote on all matters coming before the City Council until the Ninth Council District is created in approximately 2011 or 2012. This enables the following scenario under which the balance of power over the budget is further shifted to the office of the Mayor:

- Mayor submits budget to Council;

- Council adopts a resolution modifying the Mayor's budget with the Mayor voting no on the resolution adoption;

- Mayor vetoes in whole or by line item the Council budget resolution;

- Mayor has opportunity to vote against Council override of his own veto.

3. Top Ten California Cities

Budgetary power is potentially the most important tool a mayor can use to gain agreement with the mayoral agenda. All strong mayor cities provide their mayors power to prepare the initial budget in which their mayors lay out their own priorities and set the agenda for discussion, except Oakland, where the mayor-appointed City Administrator is responsible. In Council-Manager cities approval of the budget lies solely in the hands of the City Council. As expected in Mayor-Council cities (except Oakland), mayors are

given veto power in whole or by line item over the City Council adopted budget. However, only Los Angeles provides for automatic adoption of the mayor's budget if the city council fails to approve it by a set date, as is proposed in the Strong Mayor Initiative.

Table 4

BUDGET RESPONSIBILITY

Does Mayor have responsibility to prepare City Budget?

City	Yes	No
Los Angeles	X	
San Diego	X	
San Jose		X[4]
San Francisco	X	
Long Beach		X
Fresno	X	
Sacramento – Current		X
Oakland		X[5]
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

[4] Technically, the city manager prepares the budget, but it must be consistent with the mayor's budget message as adopted by council (which has full authority to modify the mayor's budget message).

[5] The mayor is responsible for presenting the budget to council, but the budget is prepared by the City Administrator "under the direction of the Mayor and Council."

Table 5

PRIMACY OF MAYOR'S BUDGET

Is mayor's proposed budget automatically effective if council fails to approve or override the mayor's proposed budget by beginning of fiscal year?

City	Yes	No
Los Angeles	X	
San Diego		X
San Jose		X
San Francisco		X
Long Beach		X[6]
Fresno		X
Sacramento – Current		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

4. Four National Cities

The Four National Cities pattern is consistent with that of the Top Ten California Cities, i.e., the strong mayor proposes the budget, while in Portland (without a strong mayor) by practice and not by charter the mayor currently proposes the budget. Denver joins Los Angeles as the lone comparison cities that provide for automatic adoption of the mayor's budget if the city council fails to approve it by a set date, as is proposed in the Strong Mayor Initiative

Table 6

BUDGET RESPONSIBILITY

Does Mayor have responsibility to prepare City Budget?

City	Yes	No
Phoenix		X
Denver	X	
Seattle	X	
Portland	X[7]	
Sacramento – Proposed	X	

[6] The city manager, not the mayor, proposes Long Beach's budget. The city manager's proposed budget is deemed the budget if the council fails to pass an appropriations ordinance by fiscal year end.

[7] The mayor and each commissioner are assigned departments by the mayor. The charter does not specifically delegate to the mayor budgetary responsibility, but currently, and historically, the mayor has been the Commissioner in Charge of the department responsible for the budget.

Table 7

PRIMACY OF MAYOR'S BUDGET

Is mayor's proposed budget automatically effective if council fails to approve or override the mayor's proposed budget by beginning of fiscal year?

City	Yes	No
Phoenix		X
Denver	X	
Seattle		X
Portland		X
Sacramento – Proposed	X	

B. APPOINTMENT & REMOVAL POWERS—CHARTER OFFICERS

1. Current City Charter

- City Council appoints the City Manager, City Clerk, City Treasurer and City Attorney.
- City Manager serves at the pleasure of the City Council, with the vote of six Council members required to remove the City Manager.
- City Clerk, City Treasurer and City Attorney serve and are removed at the pleasure of the City Council.

2. Strong Mayor Initiative

- Mayor appoints the City Manager with concurrence of a majority of City Council.
- City Manager serves at the pleasure of the Mayor.
- Mayor appoints City Treasurer, City Clerk, and City Attorney, subject to advice and consent of City Council. Failure to take action on an appointment within 30 days results in appointment deemed confirmed.
- City Treasurer, City Clerk and City Attorney are removable at pleasure of the Mayor.

3. Top Ten California Cities

City Manager

The hallmark of a strong mayor form of governance is the mayor's authority to appoint and remove the City Manager. Not surprisingly, all strong mayor cities provide such authority to the mayor, except Los Angeles. Under Los Angeles' complicated and diffuse Mayor-Council-Commission form of government, there is no one "city manager" or "city administrator." Conversely, the Council-Manager cities vest the appointment and removal powers over the City Manager in the City Council.

The proposed Strong Mayor Initiative's provisions on selection and removal of the City Manager are consistent with the charter structures of Mayor-Council cities in the Top Ten California Cities.

Table 8

SELECTION AND REMOVAL OF CITY MANAGER[8]

Does mayor appoint/remove city manager?

City	Yes	No
Los Angeles	--	--
San Diego	X	
San Jose		X
San Francisco	X	
Long Beach		X
Fresno	X	
Sacramento – Current		X
Oakland	X	
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

[8] Except for Fresno, all city manager appointments by mayor require council confirmation. In San Francisco, the city administrator's term of office is five years, but may be removed by the mayor subject to approval of the Board of Supervisors.

City Treasurer

None of the Top Ten California Cities provide for appointment and removal of the City Treasurer by the mayor alone. Los Angeles' charter empowers the mayor to appoint the city treasurer, with removal of the city treasurer requiring City Council approval.

The Strong Mayor Initiative provides broader appointment and removal powers over the city treasurer than any other comparison city.

Table 9

SELECTION AND REMOVAL OF CITY TREASURER[9]

Does mayor appoint/remove city treasurer?

City	Yes	No
Los Angeles	X[10]	
San Diego	X	
San Jose		X
San Francisco		X
Long Beach		X
Fresno		X
Sacramento – Current		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X[11]	

[9] Includes other similar officers, such as Director of Finance (Santa Ana, San Jose), Auditor (Oakland, Long Beach), or Controller (Fresno), if Treasurer is not an identified charter officer.
[10] Council must approve appointment and removal.
[11] Council has the opportunity to reject appointment within thirty days, otherwise appointment is deemed approved. Removal is at Mayor's sole discretion.

City Clerk

None of the Top Ten California Cities provide for appointment and removal of the city clerk by the mayor alone. In fact, Los Angeles is the only comparison city in which the mayor appoints the city clerk; yet removal of the city clerk is subject to city council approval.

The Strong Mayor Initiative provides broader appointment and removal powers over the city clerk than any other comparison city.

Table 10

SELECTION AND REMOVAL OF CITY CLERK

Does mayor appoint/remove city clerk?

City	Yes	No
Los Angeles	X[12]	
San Diego		X
San Jose		X
San Francisco		X
Long Beach		X
Fresno		X
Sacramento – Current		X
Oakland		X
Santa Ana		X[13]
Anaheim		X
Sacramento – Proposed	X[14]	

[12] Council must approve appointment and removal.
[13] Removal requires 2/3 council vote.
[14] Council has the opportunity to reject appointment within thirty days, otherwise appointment is deemed approved. Removal is at Mayor's sole discretion.

City Attorney

No Top Ten California City provides for appointment or removal of the City Attorney by any one other than the City Council or the electorate in the case of the elected city attorneys in Los Angeles, San Diego, San Francisco, Long Beach and Oakland. Rather, Los Angeles expressly and the other cities implicitly regard the city attorney as serving an important oversight function as part of the "checks and balances" needed to counterbalance increased mayoral powers.

In reviewing its city charter to assure adequacy of "checks and balances," Los Angeles' Elected Charter Reform Commission had this to say:

> Other more general checks and balances exist to avoid corruption due to the increase in mayoral authority. For example, the Council, the City Attorney, and the City Controller all serve various oversight functions regarding actions of the Mayor. [T]he City Attorney releases opinions regarding the legality of different policy decisions....

The Strong Mayor Initiative eliminates this check and balance by providing mayoral appointment and removal powers over the city attorney unlike any other comparison city.

Table 11

SELECTION AND REMOVAL OF CITY ATTORNEY

Does mayor appoint/remove city attorney?

City	Yes	No
Los Angeles		X
San Diego		X
San Jose		X
San Francisco		X
Long Beach		X
Fresno		X
Sacramento – Current		X
Oakland		X
Santa Ana		X[15]
Anaheim		X
Sacramento – Proposed	X[16]	

[15] Two-thirds council vote required for removal.

[16] Council has the opportunity to reject appointment within thirty days, otherwise appointment is deemed approved. Removal is at Mayor's sole discretion.

Deemed Confirmed Appointments

The Strong Mayor Initiative's provision that mayoral appointees are deemed confirmed if the City Council fails to approve or reject the appointment within thirty days is one of a kind. For the Top Ten California Cities which require Council confirmation of the mayoral appointments (Fresno is the only exception), there is no default approval by inaction.

Table 12

MAYORAL APPOINTMENTS DEEMED CONFIRMED

Are mayor's appointees deemed confirmed if council fails to take action in a specified time?

City	Yes	No
Los Angeles		X
San Diego		X
San Jose		X
San Francisco		X
Long Beach		X
Fresno	X[17]	
Sacramento – Current		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

[17] Council confirmation is not necessary for Fresno's Chief Administrative Officer (i.e., city manager).

4. Four National Cities

City Manager

Of the Four National Cities, only Phoenix has a true city manager or city administrator. Denver is a consolidated city-county; its core administrative power is wielded by the mayor and the mayor's "cabinet," which is comprised of ten department heads. Portland divides its administrative power among the elected officials. Seattle also has a diffusion of power among the mayor, the president of the council, and department heads identified by the charter.

Table 13

SELECTION AND REMOVAL OF CITY MANAGER

Does mayor appoint/remove city manager?

City	Yes	No
Phoenix		X
Denver	--	--
Seattle	--	--
Portland	--	--
Sacramento – Proposed	X	

City Treasurer

As with the city manager position, it is difficult to compare the Four National Cities with respect to the treasurer. Neither Phoenix nor Portland makes the treasurer a charter officer. Denver's treasurer is subordinate to its Manager of Finance. And in Seattle, the charter provides that the treasurer's former duties have been assumed by the Director of Finance. In Seattle, all mayoral appointments require council confirmation; if the council continues to refuse nominees and the mayor fails to make a nomination within 90 days of a refusal, the council makes the appointment.

Table 14

SELECTION AND REMOVAL OF CITY TREASURER

Does mayor appoint/remove city treasurer?

City	Yes	No
Phoenix	--	--
Denver		X
Seattle	X	
Portland	--	--
Sacramento – Proposed	X	

City Clerk

None of the Four National Cities provide for appointment and removal of the City Clerk by the mayor alone. The city clerk is elected in Denver. In Portland, the clerk duties are held by the "Auditor," who also is elected. In Phoenix, the city clerk is not a charter officer, but a department head appointed by the city manager. In Seattle, the council selects the city clerk.

The Strong Mayor Initiative provides broader appointment and removal powers over the city clerk than any other comparison city.

Table 15

SELECTION AND REMOVAL OF CITY CLERK

Does mayor appoint/remove city clerk?

City	Yes	No
Phoenix		X
Denver		X
Seattle		X
Portland		X
Sacramento – Proposed	X	

City Attorney

Of the Four National Cities, only Denver provides for appointment or removal of the City Attorney by the mayor. In Denver, the city attorney is part of the mayor's cabinet. The Seattle city attorney is elected. The Phoenix city attorney is a department head not specifically identified in the charter, and is appointed by the city manager. The Portland city attorney is the sole city officer appointed by the Portland city council.

Table 16

SELECTION AND REMOVAL OF CITY ATTORNEY

Does mayor appoint/remove city attorney?

City	Yes	No
Phoenix		X
Denver	X	
Seattle		X
Portland		X
Sacramento – Proposed	X	

Deemed Confirmed Appointments

The Strong Mayor Initiative's provision that mayoral appointees are deemed confirmed if the City Council fails to approve or reject the appointment within thirty days has no analog in the Four National Cities Phoenix has no mayoral appointments. In Seattle, if the council continues to refuse nominees and the mayor fails to make a nomination within 90 days of a refusal, the council assumes the appointment power.

Table 17

MAYORAL APPOINTMENTS DEEMED CONFIRMED

Are mayor's appointees deemed confirmed if council fails to take action in a specified time?

City	Yes	No
Phoenix	--	--
Denver		X
Seattle		X
Portland		X
Sacramento – Proposed	X	

C. APPOINTMENT & REMOVAL POWERS—STAFF

1. Current City Charter

- City Council appoints and removes their own staff who are exempt from civil service.
- City Manager appoints, disciplines and removes Department Heads, directors and all other subordinate officers and employees, subject to civil service provisions.
- City Treasurer, City Clerk and City Attorney have power to appoint, discipline and remove their own staff.

2. Strong Mayor Initiative

- Mayor appoints, disciplines and removes Department Heads, directors and all other subordinate officers and employees, subject to civil service provisions. (Approx. 5,700 employees)[18]

[18] Source: City of Sacramento, Department of Human Resources Jan. 30, 2009.

- All non-civil service officers and employees of City may be suspended or removed at the pleasure of the Mayor (except those appointed by City Clerk, City Treasurer and City Attorney). (Approx. 526 employees)

- All other City civil service employees may be suspended or removed at the pleasure of the Mayor, subject to civil service requirements. (Approx. 5,200 employees)

The exceptions to these mayoral appointment, discipline and removal powers are as follows:

- City Council retains powers to appoint and remove their own staff. (Approx. 24 employees)

- City Treasurer, City Clerk and City Attorney retain powers to appoint, discipline and remove own staff. (Approx. 86 employees)

3. Top Ten California Cities

None of the Top Ten California Cities give the mayor either the appointment or removal power over subordinate city employees. Such authority is granted instead to the city manager, other charter officers, or department heads.

Table 18

SELECTION AND REMOVAL OF SUBORDINATE CITY STAFF

Does mayor appoint/remove subordinate City staff?

City	Yes	No
Los Angeles		X
San Diego		X
San Jose		X
San Francisco		X
Long Beach		X
Fresno		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

Table 19

SELECTION AND REMOVAL OF DEPARTMENT HEADS

Does mayor appoint/remove department heads?

City	Yes	No
Los Angeles	X[19]	
San Diego	X	
San Jose		X
San Francisco		X[20]
Long Beach		X
Fresno		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

4. Four National Cities

None of the Four National Cities provide the mayor direct appointment and removal powers over subordinate staff. These cities also have varying methods for the appointment of department heads. In Denver, the mayor appoints the department heads, ten of whom comprise the mayor's cabinet.

Table 20

SELECTION AND REMOVAL OF SUBORDINATE STAFF

Does mayor appoint/remove subordinate staff?

City	Yes	No
Phoenix		X
Denver		X
Seattle		X
Portland		X
Sacramento – Proposed	X	

[19] Department heads (known as "chief administrative officers") may appeal removal to the city council, which may reinstate that person by a two-thirds vote.
[20] Department heads are appointed by the city manager with the concurrence of the mayor.

Table 21

SELECTION AND REMOVAL OF DEPARTMENT HEADS

Does mayor appoint/remove department heads?

City	Yes	No
Phoenix		X
Denver	X	
Seattle	X	
Portland		X
Sacramento – Proposed	X	

D. VOTING, VETO AND OVERRIDE

1. Current City Charter

- The Mayor is a member of the City Council with the same voting rights as other members, and with no veto power. On most matters five votes are required to pass a motion and adopt resolutions and ordinances.

2. Strong Mayor Initiative

- Prior to creation of the 9th district, the Mayor can vote, veto and then vote again whether or not to override his/her own veto of matters before the Council. This triple power would stay in effect until 2011 or 2012, when the ninth council district is created.

- After the ninth council district is created, the mayor may only veto, but not vote.

- The Mayor's approval and veto powers encompass all ordinances except: 1) ordinances calling for or related to an election; 2) emergency ordinances; 3) other ordinances made effective immediately under state law; 4) ordinances adopted on matters where the Council has acted as a quasi-judicial body and where a public hearing was required by law implicating the due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and 5) ordinances regarding salaries for the Mayor or City Council.

- Mayoral veto must be exercised within 15 days after the City Clerk transmits the ordinance to the Mayor. The Mayor then has two days to transmit the veto to the Clerk.

- The Council does not have "veto" powers over Mayoral actions, but the City Council may override mayoral vetoes.

- If the Council does not vote to override the veto within 15 days, the veto stands.

- See A.2 above for additional mayoral veto powers over the budget resolution.

3. Top Ten California Cities

- No mayor in these cities has powers to vote, veto and vote to override as contained in the proposed City Charter. The mayors in strong mayor cities have powers to veto but not vote, except in Oakland, where the mayor may vote if the council is evenly divided.

Table 22

MAYORAL VOTING POWER

Does the mayor vote?

City	Yes	No
Los Angeles		X
San Diego		X
San Jose	X	
San Francisco		X
Long Beach		X
Fresno		X
Oakland	X[21]	X
Santa Ana	X	
Anaheim	X	
Sacramento – Proposed	X[22]	

[21] The Oakland mayor only has a vote on council "if the council members are evenly divided." Otherwise it is specified that the mayor has no vote.
[22] Mayor has voting powers until the Ninth District is created in approximately 2011-2012.

Table 23

MAYORAL VETO POWER

Does mayor have power to both vote and veto?

City	Yes	No
Los Angeles		X
San Diego		X
San Jose		X
San Francisco		X
Long Beach		X
Fresno		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X[23]	

4. Four National Cities

No mayor in these cities has powers to vote, veto and vote to not override as contained in the proposed Strong Mayor Initiative. The mayors in strong mayor cities all have powers to veto but not vote.

Table 24

MAYORAL VOTING POWER

Does the mayor vote?

City	Yes	No
Phoenix	X	
Denver		X
Seattle		X
Portland	X	
Sacramento – Proposed	X[24]	

[23] Mayor has three powers: to vote, to veto and to vote not to override veto, until the Ninth District is created in approximately 2011-2012. Thereafter, the Mayor reverts to veto powers only.
[24] Mayor has voting powers until the Ninth District is created in approximately 2011-2012.

Table 25

MAYORAL VETO POWER

Does mayor have power to both vote and veto?

City	Yes	No
Phoenix		X
Denver		X
Seattle		X
Portland		X
Sacramento – Proposed	X[25]	

E. COUNCIL PRESIDENT

1. Current City Charter

- Annually the Mayor selects a Vice-Mayor from among the Council Members to serve in his/her absence from the City or a Council meeting to serve as acting mayor until the mayor returns.

2. Strong Mayor Initiative

- Council selects a Council President to serve the functions formerly served by the Mayor in presiding over the conduct of City Council meetings.

- If the mayor becomes incapable of acting as mayor and incapable of delegating duties, or a vacancy exists in the office of mayor, the Council President becomes acting mayor.

3. Top Ten California Cities

The Strong Mayor Initiative is consistent with the practice of the Top Ten California Cities. If the mayor does not preside over council, that is, because in strong mayor cities the mayor is not part of the council, most city charters provide for the council to select a presiding council officer from amongst the council. The council president (or, in Oakland and San Jose, the council-selected vice-mayor) assumes the mayor's duties if the mayor's office becomes vacant.

[25] Mayor has voting powers until the Ninth District is created in approximately 2011-2012.

Table 26

COUNCIL PRESIDENT

Does the charter provide for a council president?

City	Yes	No
Los Angeles	X	
San Diego	X	
San Jose		X
San Francisco	X	
Long Beach		X
Fresno	X	
Sacramento – Current		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	X	

4. Four National Cities

The Strong Mayor initiative is consistent with practices in the strong mayor Four National Cities.

Table 27

COUNCIL PRESIDENT

Does the charter provide for a council president?

City	Yes	No
Phoenix		X
Seattle	X	
Denver	X	
Portland		X

F. AUDIT POWER

1. Current City Charter

- Council has power to "make investigations into the affairs of the city government and conduct of any department, office, agency, officer or employee… ." It has the power to subpoena witnesses and documents for this purpose. Any committee of the council has these same powers.

- This includes the power to "audit." An "investigation" is commonly defined as "a detailed examination,"[26] and an "audit" is defined as a "formal or official examination and verification of books of account" or "a methodical examination and review of a situation or condition."[27] That is, an audit is simply a species of investigation.

2. Strong Mayor Initiative

- Expressly states Council has the power to "audit," a power already possessed by Council under the current charter. Although the change may be presumed to have an intent and purpose, it would seem to merely clarify a power already held by the Council. Without a legislative history, interpretation is subject to debate.

3. Top Ten California Cities

When council's powers of inquisition are expressly addressed (e.g., Fresno, San Jose, Santa Ana), the term "investigation" is used. The term "audit" is not used with respect to council powers. Several cities – San Diego, San Jose, Long Beach, and Oakland – have an auditor as a charter officer. . In San Francisco, the Board of Supervisors is required to use an independent auditor for an annual financial audit.

4. Four National Cities

The term "audits" is not one specifically used in these city charters – with respect to council's powers, although like the Top Ten California cities, they do have investigatory powers. Additionally, each of these cities has an auditor as a charter officer.

---

[26] Webster's Third New International Dictionary (2002) 1189.
[27] Webster's Third New International Dictionary (2002) 143.

CHAPTER THREE:
THE RESIDUAL POWERS & LIMITS

A. ALL POWERS NOT OTHERWISE GRANTED BY CHARTER

The City of Sacramento is a municipal corporation that can act only through duly authorized persons. One of the most important functions of a city charter is to clearly state who is duly authorized to act for the City.

1. Current City Charter

Who has power to act on behalf of the City? Section 20 of the current City Charter clearly and succinctly answers that question.

- "All powers of the city shall be vested in the city council except as otherwise provided in this Charter."

There are many instances in the Charter where specific powers and duties are explicitly conferred upon the Mayor, City Manager, City Treasurer, City Clerk, City Attorney, Police Chief, Fire Chief, Boards and Commissions and others. However, the Charter cannot and does not exhaustively detail all possible powers that could be exercised by the City. The powers not otherwise explicitly delegated in the Charter are the "residual powers" of the City.

The charter grants the City Council all residual powers of the city, that is, those powers not explicitly given to others in the Charter. Section 20 is intended to sweep all of those innumerable residual powers into the purview of the City Council. Even where the charter is silent, there is no question about who has power to act on behalf of the City. It is the City Council.

2. Strong Mayor Initiative

The drafters of the Strong Mayor Initiative inserted three words into Section 20 and by doing so inserted much uncertainty as to the residual powers.

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

The insertion of these words into crucial Section 20, without a replacement section elsewhere in the charter to vest "all powers of the city...except as otherwise provided in this Charter" in anyone, creates a critical "gap" in the previously clear designation of the

City Council as the body with power to act on behalf of the City. The implications are far reaching.

3. Top Ten California Cities

The charters for Los Angeles and San Diego simply provide that "all legislative" powers are held by the city council. In San Diego the failure to include a "residual powers" clause resulted in the creation of the 2007 Charter Review Committee, because, as the mayor explained, some roles and responsibilities were unclear. Likewise, Oakland's charter language creates ambiguity, as the council has no administrative powers, but "shall exercise the corporate powers of the city and . . . it shall be vested with all powers of legislation . . . ."

Table 28

CITY COUNCIL'S RESIDUAL POWERS

Does city council retain all residual powers?

City	Yes	No
Los Angeles		X
San Diego		X
San Jose	X	
San Francisco	X	
Long Beach	X	
Fresno	X	
Sacramento – Current	X	
Oakland	?	?
Santa Ana	X	
Anaheim	X	
Sacramento – Proposed	?	?

? = Charter creates uncertainty as to who holds residual powers of the City.

4. Four National Cities

Phoenix and Portland have charter provisions unambiguously giving the council the residual powers. However, the strong mayor cities of Denver and Seattle have charters that compartmentalize powers between the executive and legislative departments, without an express assignment of the residual power. We have not yet determined how these cities address this problem on a practical level.

Table 29

CITY COUNCIL'S RESIDUAL POWERS

Does city council retain all residual powers?

City	Yes	No
Phoenix	X	
Denver		X
Seattle		X
Portland	X	
Sacramento – Proposed	?	?

? = Charter creates uncertainty as to who holds residual powers of the City.

B. CONTRACTING AUTHORITY

1. Current City Charter

- "All powers of the city shall be vested in the city council except as otherwise provided in this Charter." The City Council has all powers to award contracts and authorize their execution.

- Charter Article XIV requires the City Manager to purchase, contract for the purchase of goods, equipment, materials, supplies, services or undertaking of public projects in accordance with City Council adopted ordinances, except as provided in the Charter.

2. Strong Mayor Initiative

- Charter is changed to state that when the mayor authorizes the City Manager, the City Manager may execute contracts. This is in addition to City Manager's authority to execute contracts when authorized by provisions of the charter or by ordinance or resolution.

- It is unclear if the Strong Mayor Initiative drafters intended one of the executive powers of the mayor to be the power to award and execute contracts.

- If so, the Mayor may award contracts in any amount without public comment, knowledge, or scrutiny since contract awards would not be on City Council agendas.

3. Top Ten California Cities

The proposed language in the Strong Mayor Initiative has no analog amongst the Top Ten California Cities.

Table 30

CONTRACTING AUTHORITY

Do city manager's enumerated powers include entering into contracts solely upon mayor's authorization?

City	Yes	No
Los Angeles	--	--
San Diego		X
San Jose		X
San Francisco		X[28]
Long Beach		X
Fresno		X
Sacramento – Current		X
Oakland		X
Santa Ana		X
Anaheim		X
Sacramento – Proposed	?	?

? = Charter is unclear if Mayor has power, apart from the City Council, to authorize City Manager to award contracts.

[28] The City Administrator is given power to award contracts "without interference from the Mayor or Board of Supervisors."

4. Four National Cities

The proposed language in the Strong Mayor Initiative has no analog in Phoenix, the only one of the Four National Cities having a city manager.

Table 31

CONTRACTING AUTHORITY

Do city manager's enumerated powers include entering into contracts solely upon mayor's authorization?

City	Yes	No
Phoenix		X
Denver	--	--
Seattle	--	--
Portland	--	--
Sacramento – Proposed	?	?

? = Charter is unclear if Mayor has power, apart from the City Council, to authorize City Manager to award contracts.

C. CLOSED SESSIONS/LITIGATION/SETTLEMENT/AMICUS FILING AUTHORITY

1. Current City Charter

- Charter Section 20: "All powers of the city shall be vested in the city council except as otherwise provided in this Charter."

- The City Council has all powers to authorize settlements of claims and lawsuits against the City, and therefore, to participate in closed sessions on these matters with the City Attorney.

- The City Council has all powers to authorize commencement of litigation by the City, except where the City is prosecuting violations of its laws.

- Closed sessions between the City Attorney and City Council to authorize settlement and commencement of litigation are disclosed on City Council meeting agendas and authorizations are reported out in accordance with the Brown Act.

- Requests for authorization to file *amicus curiae* support are considered by the City Council during agendized items at regular meetings.

2. Strong Mayor Initiative

- As discussed in Subchapter A above, the insertion of limiting language in Charter Section 20 make it unclear whether the City Council or the Mayor has authority over settling and authorizing litigation.

- If such powers are vested in the Mayor, litigation cases may be settled and authorized by the Mayor in consultation with the City Attorney without agendizing or reporting out of such discussion or action.

- If such powers are not vested in the Mayor, litigation cases may be settled in closed sessions which the Mayor will no longer attend and upon which the Mayor will have no input.

- The same is true for amicus support requests, that will either by-pass the public process by direct Mayoral authorization, or the Mayor will be left out of the decision-making process by placement of the matter on a City Council agenda for consideration at a meeting not attended by or voted on by the Mayor.

3. Top Ten California Cities

- This is not an issue in cities with charters containing "all powers vested in the City Council" language.

- The Los Angeles Charter expressly addresses authority to settle and commence litigation. Authority is divided among the mayor, council, boards, and city attorney, in keeping with their respective authority.

- San Diego's 2007 Charter Review Committee has recommended charter amendments to clarify ambiguities in the existing charter language over who has authority over the control and settlement of litigation.

- Another anomaly identified by the San Diego 2007 Charter Review Committee as worthy of further study regards the Mayor's ability to attend and vote at closed sessions. Their charter amendment removed the mayor from the council; however, the mayor retains the ability to preside over closed sessions– but without a vote.

- Recognizing the absence of clarity in their charter, the San Diego 2007 Charter Review Committee's subcommittee on the Interim Strong Mayor has requested that a future committee or commission study the issue of who should decide whether the city files *amicus curiae* briefs in important cases.

4. Four National Cities

In Phoenix and Portland, these issues do not arise, as the mayor is a full member of the council, which retains all residual powers.

The Denver charter provides that the mayor or council have independent authority to initiate litigation, but does not address settlement authority.

The Seattle charter does not expressly address these issues. However, according to the Seattle City Attorney's Office, the mayor in practice, at least, does not attend closed sessions, and the elected city attorney makes decisions on these issues in accordance with authorization from the city council.

D. REDEVELOPMENT AGENCY, HOUSING AUTHORITY, JPAS, REGIONAL ORGANIZATIONS

1. Current City Charter

- Mayor is one member of the City Council--the City's governing body and legislative body.
- As a City Council member the Mayor fully participates as a member of the boards of the City of Sacramento Redevelopment Agency ("RDA"), Housing Authority and Financing Authority.
- The Mayor has authority to appoint, with Council approval, council members (including the Mayor) to boards of regional organizations such as SACOG, SAFCA, RT and Regional San.

2. Strong Mayor Initiative

- The amendments remove the mayor from the council. (See, e.g., § 21.)
- If the mayor is no longer a member of the council, the mayor also is no longer a member of the City's "legislative body" or "governing body".
- Thus, the mayor could not serve on any board which requires its constituents to be a "member of the council", a "member of the legislative body", or a "member of the governing body." Some possible applications include: SAFCA, RT, the RDA (See, e.g., Health & Safety Code, § 33007.)

3. Top Ten California Cities

The City of San Diego's strong mayor charter amendment failed to address the mayor's role in boards of the redevelopment agency, housing authority, and other joint power authorities and intergovernmental agencies on which City Council members serve by state law or intergovernmental agency agreement. The proposed Strong Mayor Initiative has these same omissions and would subject Sacramento to many of the same issues faced by San Diego.

San Diego

In 2005 after passage of San Diego's strong mayor measure Proposition F, the San Diego City Attorney issued an opinion that the strong mayor, having been removed from the council under the strong mayor charter change, could no longer sit as a member of the redevelopment agency. When San Diego voters ratified Proposition F, they removed the mayor from the City's redevelopment process. Since the mayor was only allowed to preside over the city council in closed session meetings, and could not vote with that body, the Mayor could not act as part of the Redevelopment Agency (RA).

However, Proposition F placed most City staff in the executive branch of City government, and thus under the mayor as CEO. The executive branch includes some city employees working on redevelopment projects, under contract to the RA. Therefore, some of those working under contract with the RA are under control of the CEO-Mayor.

To address this issue San Diego's 2007 Charter Review Committee recommended charter amendments to authorize the mayor to act as the Chief Executive Officer of any organization established by federal or state law for which the city council acts as the governing or legislative body. In this capacity, the mayor would supervise the administrative affairs of these organizations, and hold the same administrative and procedural power and authority that the mayor has in conducting city affairs, including the power of veto. This would institutionalize San Diego's practice of naming the mayor as Executive Director of the Redevelopment Agency. These charter amendment recommendations are under review for legality.

The strong mayor charter amendment also did not include a provision regarding intergovernmental relations. Thus, the Subcommittee on Interim Strong Mayor conducted research into the issue whether the Charter should spell out a process for handling intergovernmental relations. The San Diego Subcommittee's request that a future committee or commission study this matter more fully has not resulted in a charter amendment as of this report's date.

Intergovernmental Relations

A few Top Ten California Cities have charter language specifically addressing intergovernmental relations. In Los Angeles and San Francisco, the mayor is specifically vested with powers to coordinate or represent the city in intergovernmental relations. In

Oakland, the mayor is given similar powers, "as directed by Council." On the other hand, Long Beach expressly reserves to "the City" (i.e., the council, through its residual powers) the ability to conduct intergovernmental relations.

4. Four National Cities

Due to the significant differences in state law on the issue of state created and intergovernmental agencies a meaningful comparison and analysis is not feasible

E. TERM LIMITS

1. Current City Charter

- None.

2. Strong Mayor Initiative

- None.

3. Top Ten California Cities

- All of the Top Ten California Cities with strong mayor governance have term limits. Additionally, the Cities of San Jose and Anaheim, with their Council-Manager structures, have terms limits for the mayor.

Table 32

TERM LIMITS

Does charter establish term limits for mayor?

City	Yes	No
Los Angeles	X	
San Diego	X	
San Jose	X	
San Francisco	X	
Long Beach		X[29]
Fresno	X	
Sacramento--Current		X
Oakland	X	
Santa Ana		X
Anaheim		X
Sacramento – Proposed		X

[29] Long Beach's charter does not provide a legal term limit, but a practical one: the clerk is prohibited from accepting nomination papers from any person who served two terms as mayor, and is prohibited from placing that person's name on the ballot. However, the person may become mayor through write-in ballots.

4. Four National Cities

The Four National Cities are evenly split with respect to mayoral term limits.

Table 33

TERM LIMITS

Does charter establish term limits for mayor?

City	Yes	No
Phoenix	X	
Seattle		X
Denver	X	
Portland		X
Sacramento – Proposed		X

CHAPTER FOUR:
CHARTER HISTORIES FOR TOP TEN CALIFORNIA CITIES & FOUR NATIONAL CITIES

A. TOP TEN CALIFORNIA CITIES CHARTER AMENDMENT PROCESSES

1. Los Angeles

Although Los Angeles had a mayor-council form of government since its 1925 charter, transformation from a weak-mayor system to a strong mayor system came in June 8, 1999, when voters approved a New Charter by a margin of sixty percent to forty percent. The New Charter went into effect on July 1, 2000.

In the first year of his administration (1992) Mayor Riordan convened several meetings with prominent civic leaders to start charter reform. During this time, however, advisors to Riordan encouraged him to fulfill other campaign promises, such as improving public safety and increasing the number of LAPD officers, before initiating charter reform. After several unsuccessful efforts to get Council concurrence with appointed charter commissions recommendations, in 1996 Riordan supported a petition-driven initiative to create a district-elected charter reform commission. The voters approved the initiative creating the charter commission in April 1997 while simultaneously electing the commission's members in the April primary and the June runoff elections. The elected commission consisted of ten members endorsed by organized labor, three by Riordan, one by both, and one independent and included elected Charter Reform Commission chairman Erwin Chemerinsky.

A council-appointed Charter Reform Commission operated concurrently but separately, with both commissions ultimately blending their respective recommendations for charter reform into one compromise proposal for submittal to the voters. One point of contention between the two commissions was the mayor's power to fire department heads (general managers). The compromise reached was the mayor could fire general managers and the Council could reinstate general managers by a two-thirds vote, but only if the general managers appealed their dismissals.

The mayor gained significant authority in the New Charter, receiving the power to grant pay raises to general managers within guidelines set by the Council. The mayor also gained the power to direct intergovernmental relations. The mayor also gained unilateral firing authority of appointed city commissioners without Council veto. Finally, the New Charter required the creation of a system of self-elected advisory neighborhood councils, and it prevented the Council from modifying decisions made by city commissions.

2. San Diego

San Diego's current Mayor-Council form is in a "trial period."[30] In November 2004, the voters approved strong mayor trial Proposition F (51.43% Yes; 48.57% No). The measure amended the charter to suspend certain provisions of the charter to create a Mayor-Council form of government for a five-year trial period. By the charter's own terms, the change to a Strong Mayor did not become effective until January 1, 2006—more than one year after passage of Proposition F. The strong mayor trial remains in effect only until December 31, 2010, unless its permanency is approved by the voters at a mandatory election in June 2010.

After Proposition F passed, two committees were established to address the details associated with the transition to a Mayor-Council form or government. The City Council Transition Committee was established by the city council on April 18, 2005, and was composed of all council members except the mayor. The committee met frequently to develop recommendations, regarding how the new role of the council would be implemented. The Citizens' Advisory Committee was created by the council on March 1, 2005, and included 11 members. Its purpose was to provide input and assistance to the council throughout the transition process.

In January 2007, Mayor Jerry Sanders called for the establishment of the San Diego Charter Review Committee, as he had noted a number of problems in the shift away from the Council-Manager form of government. After little more than a year of operating under the strong mayor trial form of governance, Mayor Sanders wrote:

> "In the City's first year operating under Article XV: Strong Mayor Trial Form of Governance it has become apparent there are a number of areas where clarification and fine-tuning would help achieve the original intent of this reform. . . I believe that we can all agree roles and responsibilities are unclear, the business of the public is not optimally served, and that a fresh review of this Charter section is a timely priority."[31]

At Mayor Sanders' request a 15-member 2007 Charter Review Committee was formed and presented its final report on October 4, 2007. The committee made 11 recommendations for the 2008 ballot; 3 recommendations for a later ballot; and identified 11 items for potential future study by a future committee. An altered version of one of its recommendations was placed on the ballot and approved at the June 2008 election as Proposition B. Proposition B modified the sunset provision in Proposition F by requiring the city council to place on the 2010 ballot a vote on permanency of the strong mayor charter structure. Also in June 2008, the voters passed Proposition A (exempting core public safety services from managed competition) and Proposition C (modifying certain charter officer responsibilities, and modifying the treasurer appointment process); both of those measures resulted from the 2007 Charter Review Committee's recommendations.

---

[30] City of San Diego Charter, § 250.

[31] Memorandum from Mayor Jerry Sanders to City Council, dated January 22, 2007.

3. San Jose

In 1985, San Jose's voters approved amending its charter to strengthen both the powers of the mayor and of the council while retaining its Council-Manager system. This was the first change in mayoral powers since 1916. The charter reform came on the heels of a financial crisis caused by the city's loss of $60 million in bad bond investments purportedly caused by city officials acting in violation of financial investment policies.

The 1985 charter amendment gave the mayor power to nominate candidates for the city manager post and created an office of public information under the mayor, enhancing the mayor's role as spokesperson for the city. The amendment also strengthened the powers of the city council over the budget and required approval by both the mayor and council of department head selection.

Since the late 1990's the charter has been amended a few times, mostly with respect to public contracting, but there has been no qualified voter measure to change the Council-Manager form during that time.

4. San Francisco

In 1993 voters mandated through Proposition N a thorough review and revision of the 1930's drafted Charter. In 1994, the Charter Reform Advisory Task Force and Citizen's Advisory Committee on Charter Reform were established. However, the Board of Supervisors declined to place the measure developed by the task force and committee on the 1994 ballot.

A new group was created by the Board of Supervisors in 1995, the Select Committee on Charter Reform. Like the 1994 proposal, the document proposed by the committee in 1995 was based on the 1980 proposed charter. Reform highlights included shortening the 370-page document to 88 pages; modernizing the charter by eliminating sexist language, guaranteeing diversity and inclusion in city government, and protecting civil rights; merging the recorder and assessor functions; increasing government accountability; and giving some of the chief administrative officer's (CAO) authority to the mayor while replacing the CAO with a city administrator. Proposition E passed on Nov. 7, 1995, 58 percent to 42 percent, and the new charter became effective July 1, 1996.

5. Long Beach

Long Beach became a charter city on July 5, 1921, and has operated under the Council-Manger form since that time. In May 2007, seven charter amendment measures (Propositions A through G) were submitted to the voters. Propositions A, D, E, F, and G passed.

Proposition A strengthened the mayor's veto by increasing votes needed for council override, gave the mayor line item veto for the budget, and increased the mayor's power to remove the city manager and commission members. The amendment proposal was the result of more than two years of consideration, beginning with a 2004 Government Reform Task Force (GRTF) and including city council deliberation. The GRTF recommendations were sent to the council's Charter Review Committee, and in 2006 the GRTF recommendations were presented to the council.

Although Proposition A modified the mayor's power, the "strong mayor" issues was not among the measures, and there has been no qualified voter measure to change the Council-Manager form in the past decade.

6. Fresno

The "strong mayor" amendments approved by Fresno's voters were originally formulated by a Charter Review Committee. The committee consisted of 9 members – one from each council district, plus three at large. The formation of the committee was a result of the recommendations of the Little Hoover Commission. The committee met for the first time on July 15, 1992.

The Charter Review Committee formed several subcommittees – Academic/Research, Citizen Input, Official Input, and Finance. The full committee met regularly for three months. It met with a panel of academicians, elected city officials, citizens, citizen groups, and other local officials. It received materials from the city, the League of California Cities, and the Fresno League of Women Voters.

The committee presented its written recommendations to the Fresno City Council on November 3, 1992. The council thereafter placed the charter amendment measure on the ballot for 1993. Fresno voters approved the charter amendments creating the Mayor-Council form of government in April 1993. However, by the express terms of the charter amendment measure, the Mayor-Council form of government did not become operative until January 1997. (1997 was the year of the next city-wide mayoral election.)

7. Sacramento—See City Clerk's "Sacramento Charter History".

8. Oakland

In both 1992 and 1996 (Measure F) Mayor Elihu Harris unsuccessfully attempted to get approval for broad charter changes establishing a strong mayor system in Oakland. Mayor Harris' efforts met with criticism in the press alleging Mayor Harris' inability or unwillingness to exercise leadership under the then existing Council-Manager form of government.

With the backing of mayoral candidate Jerry Brown, strong mayor charter reform Measure X met success at the polls in 1998 at the same election in which Jerry Brown was elected mayor. Packaged with the strong mayor provisions in Measure X were a

number of reforms characterized by analysts as electorally popular including: a two-term limit on the mayor, an elected city attorney, a requirement that all council pay raises be voter approved, and a sunset date on the strong mayor provisions. Measure X was placed on the ballot with the mayoral election via the petition initiative process.

On April 1, 2003, the city council established a Measure X Limited Charter Review Committee (15 members), to prepare for city council consideration proposed charter amendments related to eight specific aspects of Measure X. The committee held seven televised meetings, and reported back to council in September 2003. One of those recommendations (Measure P) went to the voters in March 2004. Passage of Measure P repealed the sunset provision of Measure X making permanent the strong mayor system.

9. Santa Ana

Santa Ana's charter was adopted in 1952. It creates a Council-Manager form of government. In the past decade the charter has been amended numerous times, including amendments regarding term limits, but there has been no qualified voter measure to change the Council-Manager form in the past decade.

10. Anaheim

Anaheim, incorporated in 1876, became a charter city 1964. It operates under the Council-Manager form of government. Although the charter has undergone two major revisions since 1964 (the last being in 1989) and numerous narrow revisions in the past decade, there has been no qualified voter measure to change the Council-Manager governance form in the past decade.

Table 34

CHARTER AMENDMENT PROCESS[32]

Was strong mayor charter amendment proposal drafted by a charter reform commission?

City	Yes	No
Los Angeles	X[33]	
San Diego		X
San Francisco	X	
Fresno	X	
Oakland		X
Sacramento – Proposed		X

[32] Table includes only those Top Ten California Cities that have adopted or modified the "strong mayor" system.

[33] Los Angeles had two commissions – one elected and one appointed – acting simultaneously. The proposal submitted to the voters was a compromise approved by both commissions.

Table 35

EFFECTIVE DATE OF CHARTER CHANGES[34]

Did strong mayor charter amendment take effect immediately?

City	Yes	No
Los Angeles		X
San Diego		X
San Francisco		X
Fresno		X
Oakland	X[35]	
Sacramento – Proposed	X	

B. FOUR NATIONAL CITIES

Comparison of charter amendments in other states is problematic, due to the differences in state laws governing charter changes. However, the recent charter change in Portland presents similarities to the issue facing Sacramento.

1. Phoenix

By adoption of a charter in 1913, Phoenix became one of the first cities in the nation to adopt the council-manager form of government. In November 1948, the people voted to strengthen the city manager's position in municipal government plus increase the Council membership to seven. There have been no significant changes to the Phoenix charter in the last ten years, and it remains a council-manager government.

2. Denver

Denver has been operating under a strong mayor charter since 1904, except for a brief spell from 1913 to 1916, when the voters tried a commission form of government. In 1916, they approved another charter amendment giving complete executive power back to the mayor. Since that time there have been many separate amendments to the charter, and a Charter Revisions Committee of the City Council meets regularly to look at potential changes and additions. Many of the amendments to the charter have slowly diminished the power of the mayor.

---

[34] Table includes only those Top Ten California Cities that have adopted or modified the "strong mayor" system.

[35] Simultaneous with the election of the new mayor.

3. Seattle

Seattle has had four separate charters during its lengthy history. Each has been subject to both minor and major revisions and amendments. The first Charter (1869) was approved by an act of the Territorial Legislature. The three subsequent charters were Freeholder Charters (1890, 1896 and 1946). Freeholder Charters are written by citizens elected at special Freeholder elections and then submitted to the electorate for ratification. Two proposed Freeholders Charters submitted in 1914 and 1975 were rejected by the electorate. The last revision of the 1946 charter occurred on November 6, 2007. None of these revisions affected the form of government, but did affect ballot measure procedures.

4. Portland

In November 2005, the Portland City Council appointed a panel of 26 Portlanders to take the first comprehensive look at the City Charter since 1913. This independent volunteer citizen committee was known as the Charter Review Commission.

The commission held over 100 public meetings, collected information from a variety of sources including review of written reports, invited testimony from legal and academic experts, and public testimony, including: testimony from current and former elected officials of Portland and other municipalities, city employees, community organizations, neighborhood associations and other stakeholder groups and individuals; testimony of outside experts in government studies and public administration; and a survey of comparably-sized cities. All of the commission's meetings were open to the public and televised. The commission reported formally to the city council three times throughout the 15 months of its work, in addition to meeting individually with city commissioners. The commission's final recommendations were submitted to the city council in January 2007 and referred to the voters. As a result of the commission's work, four charter measures were submitted to the voters in May 2007.

Measure 26-91 would have replaced the Commission form of government with a Mayor-Council-Manager hybrid. The question presented to the voters was: "Shall executive authority be transferred from Commissioners to the Mayor, and Council exercise legislative and quasi-judicial duties?" The measure failed, 23.75% Yes, 76.25% No.

However, Measure 26-89 passed. As a result, the Portland charter now contains express provisions for charter review and amendment, including the requirement that every 10 years, the council convene a charter review commission to review and recommend amendments to the charter.

CHAPTER FIVE:
LEGAL MECHANISMS FOR CHARTER CHANGES

A city charter serves as the constitution of the city. A city may adopt a charter by majority vote of its electors and may be amended, revised, or repealed in the same manner. A charter amendment, revision, or repeal thereof shall be published in the official state statutes. The provisions of a charter are the law of the State and have the force and effect of legislative enactments. (Cal. Const., art. XI, Sec. 3(a).)

There are three ways to amend a city charter in the state of California.—charter commission, initiative and City Council measure. Regardless of which of the above three methods are used to develop the charter amendments, more than fifty percent of the voting electorate in the city must approve the amendments. If provisions of two or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. (Cal. Const., art XI, Sec. 3(d).)

A. CHARTER COMMISSION

1. Overview

A charter commission is a formal body created to review a city's charter and make recommendations for any changes to the charter. A charter commission comes into being by either the affirmative vote of the electorate or the decision of a city council.

The recommendations of a City Council appointed charter commission are subject to approval and revision by the City Council before placement on the ballot.

The charter amendment recommendations of an elected charter reform commission go directly to the voters without prior Council approval. (Cal. Gov't Code, section 34452(a).)
After a charter commission has been created, it must review the entire charter and prepare a draft of proposed revisions. The proposed amendments are completed and filed with the city clerk in time for submission to the voters at the next general or a special election.

2. Formation

A charter commission may be established by any of three procedures:

a. The governing body, that is the City Council, may establish a charter commission. (Cal. Const. art. XI, Sec. 3(b).)

b. The City Council may submit to the city voters the question of whether or not to draft or revise the charter and elect a charter commission. (Cal. Const., art. XI, Sec. 3(c).)

c. Where verified signatures of 15 per cent of the qualified voters of the City on petitions are submitted to the City an election must be held to determine whether to draft or revise a charter and elect a charter commission. (Cal. Const., art. XI, Sec. 3(c).)

3. Composition

Charter Commissions, whether elected or appointed, are usually chaired by a retired judge or legal scholar. For example, Los Angeles' 1997 elected Charter Reform Commission was chaired by legal scholar and dean of University of California Irvine School of Law, Erwin Chemerinsky, while the appointed charter commission was chaired by George Kieffer, a partner with Manatt, Phelps & Phillips and a former Regent of the University or California. San Diego's 2007 appointed Charter Review Committee was chaired by John G. Davies, a former Judicial Appointments Secretary to California Governors Pete Wilson and Arnold Schwarzenegger.

Other members of typical charter commissions usually reflect a cross-section of the city with representation of all city constituencies, with each council member getting an opportunity to select a member or vote on the membership.

B. INITIATIVE

Where amendments to a municipal charter are petitioned for by 15 per cent of the qualified voters of the city, as verified by the county elections official, the initiative process is under way. If the petition signatures are found sufficient, the city clerk must certify the results at the next regular City Council meeting. The City Council must then place the initiative on a ballot for election. The City Council retains significant discretion about when to place it on for election.

C. CITY COUNCIL MEASURE

A measure amending the city charter can be proposed directly by the City Council The City Council adopts a resolution to place the proposed measure amending the city charter on a regular election ballot or a special election called by the City Council.

APPENDIX A:

PROPOSED STRONG MAYOR CHARTER AMENDMENT INITIATIVE

THOMAS W. HILTACHK
455 Capitol Mall, Suite 801
Sacramento, California 95814
(916) 442-7757

RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO

2008 DEC 12 P 3:46

December 12, 2008

Ms. Shirley Concolino
City Clerk
Historic City Hall
915 I Street
Sacramento, CA 95814

Re: Charter Amendment Initiative Measure to be Submitted to Voters

Dear Ms. Concolino:

Please find enclosed a copy of a proposed charter amendment initiative measure and Notice of Intent to Circulate Petition for the City of Sacramento. I am the proponent of this measure and am a registered voter within the City of Sacramento. A signed proponent affidavit as required by section 9608 of the California Elections Code is attached. Please transmit the charter amendment initiative measure to the City Attorney for a Title and Summary pursuant to California Elections Code Section 9203. Lastly, please find enclosed for submission a check in the amount of $200.

Should you have any questions or require additional information, please contact me at 455 Capitol Mall, Suite 801, Sacramento, CA 95814 or (916) 442-7757. Thank you.

Very Truly Yours,

Thomas W. Hiltachk

AFFIDAVIT

I, Thomas W. Hiltachk, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Signed: _____ Dated this 12th day of December, 2008

Thomas W. Hiltachk
7629 Marina Cove Drive
Sacramento, CA 95831

PETITION FOR SUBMISSION TO VOTERS OF PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF SACRAMENTO

To the Honorable Clerk of the City of Sacramento:

We, the undersigned, registered and qualified voters of the State of California, residents of the City of Sacramento, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of the City of Sacramento this petition and request that the following proposed amendment to the charter of the City be submitted to the registered and qualified voters of the City for their adoption or rejection at an election on a date to be determined by the City Council.

The proposed charter amendment reads as follows:

SECTION 1. TITLE

This initiative measure may be known and referred to as the "Government Accountability and Charter Reform Measure of 2009."

SECTION 2. FINDINGS AND DECLARATION OF PURPOSE

A. The City of Sacramento has been governed by a "Council-Manager" form of government since 1920.

B. In 2002, the Charter was amended by the voters to make the elective office of mayor a full-time job, with full-time pay. However, the powers and duties of the mayor were not changed and are largely the same as the part-time members of the city council.

C. While the public is entitled to believe that the elected mayor and council representatives are accountable for the day-to-day management of the city, including all city services, the reality is that the city is managed by an unelected city manager and bureaucrats that report only to the city manager.

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

E. A more representative form of city government will lead to a more effective and accountable government where the elected city officials are truly responsible for the day-to-day management and affairs of the city. If city services are inadequate, citizens should be able to hold their elected representatives responsible for such failures.

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

SECTION 3. CHARTER AMENDMENT

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

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

Article III The City Council

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

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

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

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

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

§ 28 Vacancies.
A vacancy on the city council ~~other than the office of the mayor~~ shall be filled by special election to be called by the council as provided in Section 154 of this Charter, unless such vacancy occurs within one year of the next general election at which such office would normally be filled, in which case the vacancy shall be filled by appointment by a majority of the remaining members of the council. A person elected or appointed to fill a vacancy shall hold office for the unexpired term of the former incumbent. Absence from five consecutive regular meetings of the city council, unless excused by resolution of the council, shall operate to vacate the seat of the ~~mayor or~~ council member so absent.

§ 29 Compensation.
There shall be established a compensation commission whose function shall be to establish the compensation for the mayor, members of the city council, and public members of city boards and commissions. The commission shall be comprised of five members selected ~~pursuant to Section 230 of Article XV of this Charter~~ by the city council for staggered four-year terms. The chair of the commission shall be a retired judicial officer and all members shall be residents of the City of Sacramento. The commission shall meet at least once a year and shall serve without compensation. The city shall fund the expenses of the commission. Within one hundred eighty (180) days of passage of this measure, the commission shall set the compensation for the mayor and members of the city council. Compensation shall be reasonable and consistent with other cities similar in size and structure.

§ 30 Rules, quorum and voting.
(a) The city council shall determine its rules of procedure according to rules which it shall adopt. Meetings of the city council shall be presided over by a member chosen to serve as the Council President under rules adopted by the city council. The Council President shall serve for a term of one-year and may be re-appointed by the city council to successive terms.
(b) A majority of the members of the council then in office shall constitute a quorum, except that a lesser number may adjourn from time to time and may compel attendance or absent members in a manner provided by ordinance or resolution.
(c) The city council shall act only by ordinance, resolution or motion. Except as otherwise provided in this Charter, the affirmative vote of five council members ~~or the council~~ shall be necessary to pass any ordinance, resolution or motion. The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them. Until such time as a ninth council district is created as required by this Charter amendment, the mayor may vote on all matters pending before the council, including ordinances, resolutions, or any other legislative, administrative, or quasi-judicial matter.

§ 32 Ordinances.
(a) Every proposed ordinance shall be introduced in writing. The enacting clause of each ordinance enacted by the council shall be "Be it Enacted by the Council of the City of Sacramento." The enacting clause of each ordinance enacted by the initiative or referendum process shall be "Be it Enacted by the People of the City of Sacramento." Each ordinance shall contain a title which shall state in general terms the subject or subjects contained in the ordinance.

(b) Except as otherwise provided elsewhere in this Charter, and with the exception or ordinances which take effect immediately upon adoption, ordinances shall be adopted in compliance with either the procedure set forth in Subsection (c) or Subsection (d) of this section.
(c) The ordinance shall be first passed by the council for publication of title. At least six days shall elapse between the date the ordinance was passed for publication of title and the date it is adopted by the council. The title of the ordinance shall be published by printing said title in a newspaper of general circulation published within the City designated by the council as the official newspaper of the City, no later than the third day immediately preceding the date of the adoption of the ordinance. No part of any ordinance, or proposed ordinance, other than its title, need be published.
(d) In lieu of the procedure set forth in Subsection (c) of this section, ordinances shall be published in the official newspaper of the City within ten days after adoption by the council.
(e) Ordinances which take effect immediately upon adoption, may be adopted without compliance with Subsections (b), (c) or (d) of this section.
(f) Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption and approval by the mayor or the override of a mayoral veto pursuant to this Charter, or at any later date specified therein.
(1) Except as otherwise provided in this Charter, an ordinance adopted by the city council shall be transmitted to the mayor within 48 hours by the City Clerk for the mayor's approval or veto.
(2) The mayor shall have 15 days from the date of transmittal by the City Clerk to approve or veto an ordinance. If the mayor fails to act within such period, the ordinance shall be deemed approved.
(3) If the mayor vetoes an ordinance, the mayor shall state the reasons for such veto which shall be transmitted to the city council by the City Clerk within 48 hours. The city council shall have 15 days from the date of transmittal by the City Clerk to reconsider the ordinance. If after such reconsideration, at least six council members vote in favor of passage of the ordinance, that ordinance shall become effective notwithstanding the mayor's veto. If the vetoed ordinance does not receive six affirmative votes after reconsideration, the ordinance shall not be approved or enacted and shall have no legal effect.
(g) The following ordinances shall take effect immediately upon adoption by the city council without approval by the mayor, or at such later dates, of less than thirty (30) days after adoption, as may be specified in the ordinances:
(1) An ordinance calling for or otherwise relating to an election;
(2) An ordinance adopted as and declared by the city council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six members of the council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility, other than one operated by the city, may be so enacted; and
(3) An ordinance adopted pursuant to a state law by virtue or which such ordinance shall be effective immediately.
(h) Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required.

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

department, office, agency, officer or employee thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails to obey a lawful order issued in the exercise of these powers by the city council or a committee of the council shall be guilty of a misdemeanor and punishable by fine or imprisonment, or both, in such amount and for such time as prescribed by state law for misdemeanors.

§ 36 Mayoral Appointments
The city council shall give its advice and consent to appointments made by the mayor pursuant to Section 70 and may make recommendations of candidates for such positions in the council's discretion. If the city council fails to take action on an appointment within 30 days of such appointment, the appointment shall be deemed confirmed.

§ 37 Council Appointments
The city council shall appoint such members of the council's staff, exempt from the civil service system, as may be provided by resolution. The compensation paid to such staff members shall be fixed by resolution of the city council and may not be vetoed by the mayor pursuant to this Charter. The council's staff shall serve at the pleasure of the council.

Article IV Mayor

§ 40 Mayor—Functions.
(a) The ~~presiding~~ chief executive officer of the city shall be the mayor.
(b) The mayor:
(1) Shall be recognized as the official head of the city for the performance of all duties lawfully delegated to the mayor by this Charter, by action of the council or by other laws.
(2) Shall provide leadership within the community in the sense that the mayor shall have the ~~primary, but not exclusive,~~ responsibility of interpreting the policies, programs and needs of city government to the people, and shall annually address the people as to the state of the City ~~as the occasion requires, may inform the people of any change in policy or program~~;
(3) Shall have the right ~~but not the exclusive~~ and power to make recommendations to the city council on matters of policy and program that require council decisions;
(4) ~~Shall be a member of the city council and shall be entitled to make and second motions on matters before the city council and vote on city council actions, but shall possess no veto power over actions of the city council~~ Shall have veto power over all ordinances passed by the council except as provided for in section 32(g). The mayor shall have no veto power over matters that are the exclusive purview of the council such as selection of the Council President and rules and procedures for the conduct of council meetings; matters where the council has acted as a quasi-judicial body and where a public hearing was required by law implicating the due process rights of individuals affected by the decision and where the council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; or salary ordinances for the city council or mayor;
(5) Shall exercise the authority, power, and duties formerly conferred upon the City Manager as that term is ~~be included within the terms "council" and "city council"~~ used in this Charter unless otherwise expressly provided;
(6) May propose ordinances and resolutions which shall be considered by the city council;

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

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

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

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

Article V City Manager

§ 60 City Manager—Appointment, qualifications and removal.
There shall be a city manager who shall be appointed by the mayor subject to the concurrence of a majority of the city council. The city manager shall be selected solely on the basis of executive and administrative qualifications. The city manager shall ~~be appointed by and shall~~ serve at the pleasure of the mayor ~~city council~~.

§ 61 Functions.
The city manager shall be the ~~chief executive~~ administrative officer of the city and shall be responsible for the effective administration of the city government. The city manager shall have the power and it shall be the city manager's duty:
(a) To assist the mayor to insure ~~see~~ that all laws and ordinances are enforced;
(b) To administer and exercise supervision and control over all offices, departments and services of the city government under the jurisdiction and control of the mayor ~~city manager~~;
(c) To act in an advisory capacity to the city council with respect to officials not under the jurisdiction and control of the mayor ~~city manager~~;
(d) To assist the mayor in the appointment and supervision of ~~Except as otherwise provided in this Charter, to appoint~~ all heads or directors of departments of the city and all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the mayor ~~city manager~~ who are exempt from the rules and regulations of the civil service board pursuant to Charter Section 83 may be suspended or removed at the pleasure of the mayor ~~city manager~~.
(e) To make such recommendations to the mayor and city council as the city manager shall deem appropriate concerning the operation, affairs and future needs of the city;
(f) To attend all regular and special public meetings of the city council with the right to participate in the discussion of matters pending before the council but without the right to vote on such matters;
(g) To see that all terms or conditions imposed in favor of the city or the people of the city in any contract franchise, lease or permit are faithfully kept and performed; and upon knowledge of any violation thereof to notify the city council of such violation;
(h) When authorized to do so by the mayor, provisions of this Charter or by ordinance or resolution, to execute, on behalf of the city all contracts, franchises, lease or permits or any other document requiring the execution of which is required by an officer of the city;
(i) To keep the mayor and city council fully advised as to the operations, financial conditions and needs of the city;
(j) To assist the mayor to prepare the annual budget in accordance with Charter Section 111.
(k) To perform such other duties consistent with this Charter as may be prescribed by the mayor ~~city council~~.

§ 62 Non-interference with City Manager.
No member of the city council shall directly or indirectly coerce or attempt to coerce the city manager relative to the appointment or removal of any city officer or employee which is made by the mayor ~~city manager, but prior to the making of any appointment or removal of any head or director of any department or division of the city, the city manager shall endeavor to advise the city council of his intention to do so~~.
The city council and its members shall deal solely and directly through the mayor or city manager, if so designated by the mayor, with respect to the part of city government under the direction and supervision of the mayor ~~city manager~~; provided, that nothing herein shall limit the power of the city council, or members thereof, to do the following:
(a) to conduct investigations as provided in Section 34 of this Charter, or
(b) to contact officers and employees of the city for the purpose of inquiry or obtaining information that is a public record, or

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

~~§ 63 Removal of City Manager~~
~~The city manager cannot be removed from office except by a vote of six members of the city council. The city manager shall not be subject to removal from office within twelve months of the date that the city manager first assumes the duties of office except for incompetence, malfeasance, misfeasance or neglect of duty. If the removal is proposed within the first twelve months, the city manager may demand written charges and a public hearing before the city council prior to the date upon which his removal becomes effective; but the decision of the city council shall be final, conclusive and binding upon the city manager, and pending such hearing the council may suspend the city manager from duty without loss of normal compensation.~~

Article VI Other Appointive Officers

§ 70 Appointive officers.
The following other city officers shall be appointed by the mayor subject to the concurrence of a majority of the city council:
(a) City Clerk;
(b) City Attorney;
(c) City Treasurer; and
(d) Such other officers and employees pursuant to Section 40(b)(9) of this Charter ~~its own body as it deems necessary~~.

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

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

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

keep the mayor and city council fully advised as to the deposit and investment of funds subject to his control. The city council shall prescribe the qualifications, additional duties, and compensation of the city treasurer. The city treasurer shall appoint, subject to the civil service provisions of this Charter, such deputies and employees as the council may by resolution prescribe.

§ 74 Mayor's staff.
The mayor shall appoint such members of the mayor's staff, exempt from the civil service system, as may be provided by the annual budget resolution. The compensation paid to such staff members shall be fixed by the annual budget resolution ~~of the council~~. The mayor's staff shall serve at the pleasure of the mayor.

§ 75 Method of suspension and removal of appointive officers and employees.
Every appointive officer appointed by the mayor ~~city council~~ as provided in Section 70 of this article may be suspended or removed at the pleasure of the mayor ~~city council~~.

§ 76 Duty to inform council.
Each appointive officer specified in Section 70 shall have the duty to promptly and fully inform the city council and mayor of any act of misfeasance or malfeasance know to said appointive officer to have been committed by any officer or employee of the city if such act might significantly and adversely affect the finances or operations of the city. The city council, by ordinance or resolution, may further define the procedures and provisions determined to be necessary to implement and operate under this section.

Article VII Civil Service

§ 81 Secretary.
The ~~city manager shall appoint a~~ director of personnel ~~who~~ shall serve as secretary of the civil service board. The director of personnel shall act as chief examiner and supervise all examinations, subject to the direction of the board. The director of personnel shall also perform such other duties as are prescribed by this Charter, by the mayor ~~city manager~~, by the civil service board or by ordinance or resolution of the city council.

Article IX Fiscal Administration

§ 111 Budget.
(a) Each department, office and agency of the city shall provide in the form and at the time directed by the city manager all information required by the mayor ~~city manager~~ to develop a budget conforming to modern budget practices and procedures as well as specific information which may be prescribed by the council. Not later than 90 ~~60~~ days prior to the commencement of each fiscal year or such greater period as the council may prescribe, the mayor ~~city manager~~ shall prepare and present to the city council, in such form and manner as it may prescribe, budget recommendations for the next succeeding fiscal year. Following at least two public budget hearings, the city council shall adopt by resolution a budget of proposed expenditures and appropriations necessary therefore for the ensuing year, pursuant to subdivision (b). ~~failing which the appropriations for current operations of the last fiscal year shall be deemed effective~~

~~until the new budget and appropriation measures are adopted. The budget may be amended during the fiscal year in accordance with the procedure established by the council.~~
(b) If the council approves the budget resolution as proposed by the mayor, the budget shall become effective immediately. If the council modifies all or part of the budget proposed by the mayor, the budget resolution shall be transmitted to the mayor within 48 hours by the City Clerk. The mayor shall thereafter and within five business days of such transmittal either approve the budget as modified by council, veto, or modify any line item with such budget as modified by the council. If the mayor approves the budget as modified by council, the budget shall become effective immediately. If the mayor vetoes or modifies all or any line item within such budget modified by the council, the City Clerk shall transmit the vetoed budget to the council within 48 hours. The council shall thereafter and within five business days of such transmittal reconsider the mayor's vetoed or modified budget. If after such reconsideration, at least six council members vote to override any of the mayor's vetoed or modified budget, the budget shall become effective immediately notwithstanding the mayor's veto or modification. If after reconsideration, the council does not vote to override the mayor's veto or modification, the budget as modified by the mayor shall become effective immediately.
(c) If the city council fails to approve the budget as proposed by the mayor prior to the start of the fiscal year, the budget as proposed by the mayor shall be deemed to be approved as presented.
(d) The budget may be amended during the fiscal year upon the request of the mayor and the approval of a majority of the city council.

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

NOTICE OF INTENT TO CIRCULATE PETITION

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

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

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

management and affairs of the city. If city services are inadequate, citizens should be able to hold their elected representatives responsible for such failures.

Thomas W. Hiltachk