



CITY OF SACRAMENTO
CALIFORNIA

January 30, 2012

Honorable Council Members
City of Sacramento
915 I Street, Fifth Floor
Sacramento, CA 95814

Dear Council Members:

Please find enclosed a new draft of the Checks and Balances Act of 2012 that reflects amendments requested by Council Members, the City Attorney's Office, and the public at the January 17, 2012 Council Meeting. Specific amendments include:

- **Election timing.** While not specified in the language, the Mayor's Office supports Council Members' preference to place the measure on the November 6, 2012 ballot instead of the June 5, 2012 ballot.
- **Term limits.** New language added to limit an individual to two full terms served consecutively as Mayor and three full terms served consecutively as a Council Member.
- **Ethics and transparency.** Scope narrowed to two items: (1) a Code of Ethics for elected officials and appointees to boards and commissions; and (2) a Sunshine Ordinance to increase government accessibility and transparency.
- **City Manager removal.** New language requiring the Mayor to notify Council in writing at least 10 days prior to removal of the City Manager.
- **Redistricting.** Language to establish an independent redistricting commission removed so Council may place this item before voters via a separate ballot measure.
- **Ninth district.** Creation of a ninth Council district, elected at-large during the trial period, to maintain a nine-member City Council once the Mayor steps down.
- **Voter reapproval timeline.** Reapproval required by November 2018, instead of November 2020, to ensure adequate time to discontinue the ninth Council seat should the reapproval measure not pass and Mayor need to return to Council in 2021.

OFFICE OF THE MAYOR

KEVIN JOHNSON
MAYOR



CITY HALL
915 I STREET, FIFTH FLOOR
SACRAMENTO, CA 95814-2672

PH 916-808-5300
FAX 916-264-7680
mayor@cityofsacramento.org

CITY OF SACRAMENTO
CALIFORNIA

- **Minor language edits.** Edits requested by Council and the City Attorney's office. (See Appendix A)

Please contact me should you have any questions. Thank you for your consideration, and I look forward to further discussion on this amended Checks and Balances plan at the February 7th Council Meeting.

Sincerely,

Kunal Merchant
Mayor's Chief of Staff

Cc:

John Shirey, City Manager
Shirley Concolino, City Clerk
Russell Fehr, City Treasurer
Eileen Teichert, City Attorney
Matthew Ruyak, Deputy City Attorney



CITY OF SACRAMENTO
CALIFORNIA

Appendix A: Summary of Changes Made Per City Attorney Report

City Attorney Recommendation:	Treatment in Amended Draft
1. § 21: Recommendation to resolve any possible concern/ambiguity regarding the creation of a ninth council seat.	Recommendation incorporated. See new language in sections 21, 22, 27, 28, 47 and 156.
2. § 24: Minor language recommendation re establishment of qualifications of independent redistricting commission members.	Recommendation incorporated. See deletion of entire § 24 for inclusion in separate measure.
3. § 25: Minor language recommendation re clarification of non-involvement of independent redistricting commission in annexations or consolidations.	Recommendation incorporated. See deletion of entire § 25 for inclusion in separate measure..
4. § 29: Suggestion to delete existing, non-operative language from the Charter section.	Recommendation incorporated. See deletion of entire § 29 (Charter section no longer being amended by the measure; subject to be covered by the Sunshine Ordinance).
5. § 36: Suggestion to streamline various ethics and sunshine provisions by placing them in single location (i.e., in section 36).	Recommendation incorporated. See revised § 36, which now consolidates the ethics and sunshine provisions, and also includes additional clarifying language. See also deletions at sections 29, 31, 33, 40 and 117 (subjects to be covered by the Sunshine Ordinance).
6. § 40: Suggestion to track any affirmative obligations of the city council in section 36.	Recommendation incorporated. See above re § 36.
7.	
8. § 45: Request to move the first (pre-existing) paragraph of § 45 to Article III.	Recommendation incorporated. See deletion of the first paragraph of § 45 and insertion in Article III, § 21.
9. § 46: Recommendation to include "recall" in the list of reasons for vacancy.	Recommendation not incorporated. Per the reasons specified in the letter to the council dated 1/17/12, and subsequent acknowledgement of those reasons by the city attorney at the city council meeting on 1/17/12, the change was not included.
10. § 47: Suggestion to streamline language regarding the scope of the mayoral veto.	Recommendation incorporated. . See revised, streamlined language at § 47.
11. § 47: Suggestions to slightly change the structure of Subsection(c) and to include clarification of the mayor's duty to deliver approval or veto to the City Clerk within the 10 day period.	Recommendation incorporated. See revised § 47(c).
12. § 60: Suggestions to harmonize language re city council's confirmation of city manager appointment and requirement for mayor to hold an open public meeting prior to appointment.	Recommendation incorporated. See revised § 60.
13. § 70: Suggestion to change "public meeting" to "open council meeting" re public vetting of Charter Officers.	Recommendation incorporated. See revised § 70.
14. § 111: Suggestion to make minor revision to language to reflect intent for the independent budget analyst to be a resource to the council during the budget process.	Recommendation incorporated. See revised § 111(b)(1).



CITY OF SACRAMENTO
CALIFORNIA

City Attorney Recommendation:	Treatment in Amended Draft
15. § 111: Suggestion that disallowance of mayoral veto over the council's own internal budget be moved from section 47 to section 111.	Recommendation incorporated. See revised § 111(b)(2).
16. § 111: Recommendation that the 90-day timeline for approval of budget amendments, revisions and modifications be clarified.	Recommendation incorporated. See revised § 111(c).
17. "Minor/Grammatical Changes"	<p>All recommendations incorporated.</p> <ol style="list-style-type: none"> 1. Capitalization of "Section" (see §§ 32(b), 36, 40(b)(6), 46 & 111(c)) 2. Correction of Reference to Charter Subsection in § 25 (N/A; now in separate measure) 3. Insert Subsections (see § 46) 4. "Of" or "or" not necessary (to correct existing typos in on-line version of Charter) (see §§ 27 & 32(g)(3)) 5. Consistent reference to adoption of measure provisions and use of "Subsection" rather than "Section" (see §§ 36, 40(b)(3)) 6. Remove "at the pleasure of the mayor" in § 40 (see § 40(b)(8); note re recommendation re § 33: that section is no longer part of measure, as this is a subject that can be covered by the Sunshine Ordinance required by § 36) 7. Grammar changes in § 46 (see final paragraph of § 46) 8. Gender neutrality (see first paragraph of § 46 and § 40(b)(2)) 9. Harmonizing "start" of fiscal year tasks in budget process (see § 111(b)(1)) 10. Change reference from "Municipal Code" to "City Code" (see Section 5 of Act) 11. Use "Serial commas" for lists (see throughout) 12. Spell out number of 10 or less and use Arabic numerals for numbers of 11 or more (see throughout)

THE SACRAMENTO
CHECKS AND BALANCES ACT OF 2012

AMENDED DRAFT FOR PUBLIC INPUT AND DIALOGUE

January 30, 2011

ABOUT THE PLAN

The Sacramento Checks and Balances Act of 2012 is a new proposal to reform the Sacramento City Charter, our city's constitution and guiding document.

The Act aims to improve how city government works for the people of Sacramento by making city officials more directly accountable to voters, creating stronger checks and balances on the powers of key city officials, and establishing higher standards for ethical and transparent behavior.

The Act is the culmination of three years of civic debate and discussion on how best to reform and modernize our city charter. Concepts are drawn from several sources, including prior charter reform proposals, the work of a Charter Review Committee, the Citizen's Redistricting Committee, and feedback drawn from City Council Meetings, community town halls, public comments, and media.

Supporters are currently seeking City Council and public support to place the measure before voters on the November 6, 2012 ballot and take effect upon the start of the new terms of the Mayor and Council in late 2012.

THE NEED FOR CHANGE

At the core of the Checks and Balances Act is a belief that the City of Sacramento has the potential to become known as one of the most accountable, ethical, transparent, and citizen-friendly governments in the state.

To reach Sacramento's full potential, our City Charter must be updated and improved for the 21st century. The city's current governance structure was first established over 90 years ago for a far smaller, less diverse and less complex city.

Since that time, city leaders have periodically updated the Charter at key moments when the evolving needs and realities of the city demanded fundamental change.

Today is one of those moments. We are the capital city of the 10th largest economy of the world, the hub of a region of over two million residents, and one of the most diverse communities in the country. And yet, on a variety of issues, from our city budget to public safety, job creation to the livability of our neighborhoods, the limitations of our current system leave problems unsolved, and potential unrealized.

We need a new model of city government that truly reflects to the will of the people: one that holds leaders directly accountable to residents, provides clear checks and balances, empowers citizens to play an active role in their democracy, and assures them that the leaders they entrust always act in an ethical and transparent manner.

PLAN COMPONENTS

The Act centers around five components:

EXECUTIVE MAYOR

- Elected Mayor is chief executive, rather than unelected City Manager
- Proposes budget
- Nominates/removes City Manager
- No appointment/removal of other charter officers or city employees
- Limited veto authority
- Convenes State of the City and minimum four public town halls each year

INDEPENDENT COUNCIL

- Council President presides over Council Meetings (*Mayor steps down*)
- Amends and approves budget with support of Independent Budget Analyst
- Confirms Mayor's nomination of City Manager
- Appoints/removes Clerk, Attorney, Treasurer, Auditor and Budget Analyst
- Overrides Mayoral vetoes
- Convenes minimum two Council Meetings in community per year
- Ninth member elected at-large (city-wide) replaces Mayor on Council

ETHICS AND TRANSPARENCY

- Sunshine Ordinance to promote open and transparent government
- Code of Ethics for city officials

TERM LIMITS

- Maximum two consecutive full terms as Mayor
- Maximum three consecutive full terms as a Council Member

VOTER RE-APPROVAL

- Effective with start of new Mayor and Council terms in November 2012
- Citizens must vote to re-approve by November 3, 2018
- If not re-approved, sunsets on December 31, 2020

ADVANTAGES OVER THE CURRENT CHARTER

The Sacramento Checks and Balances Act of 2012 offers the city of Sacramento and its residents four main advantages over the current governance structure.

DIRECT ACCOUNTABILITY TO VOTERS

- Voters elect the Chief Executive of the city
- Voters elect all Council Members, ensuring policies reflect voter priorities
- Mayor and Council meet regularly in community to ensure voters direct access
- Public input required in hiring of all major city officials

CLEAR SEPARATION OF POWERS

- Clear lines of accountability for key executive and legislative functions
- Mayor oversees executive branch, including city management and implementation of laws and policy
- Council acts as legislative branch, responsible for providing oversight and passing laws and policies governing the city
- Mirrors structure in major California cities, and state and federal governments

STRONG CHECKS AND BALANCES

- Limits power, authority and tenure of top city officials
- Mayor proposes the budget, but Council amends and approves it
- Mayor nominates City Manager, but Council must confirm appointment
- Council appoints/removes other city officers, but must seek public input
- Mayor may veto Council actions, but Council may override

ROBUST ETHICS AND TRANSPARENCY REFORMS

- Explicitly holds city officials accountable for high ethical standards
- Improves public's access to critical records on fiscal and policy matters

COMPARISON OF CHARTER PROPOSALS

	CURRENT CHARTER	2008 “STRONG MAYOR INITIATIVE”	2012 CHECKS AND BALANCES ACT
Executive duties			
Chief Executive selected by	CITY COUNCIL	CITIZENS OF SACRAMENTO	CITIZENS OF SACRAMENTO
Chief Executive Officer	City Manager	Mayor	Mayor
Chief Administrative Officer	N/A	City Manager	City Manager
Contracting Authority	Council; City Manager per ordinance	Council; City Manager per ordinance	Council; City Manager per ordinance
State of the City required?	No	Yes	Yes
Public town halls required?	No	No	Minimum four per year
Maximum number of terms as Mayor	None	None	Two full terms in succession
Council duties			
City Council composition	Mayor elected at-large 8 Council Members elected by district	9 Council Members elected by district	1 Council Member elected at-large ¹ 8 Council Members elected by district
Presiding officer at council meetings	Mayor	Council President	Council President ²
Assumes role of Mayor in case of absence or vacancy	Vice Mayor	Council President	Council President with limited authority ³
Mayor’s role in open session	Participate ⁴ and vote	Pre-9 th district: Participate and vote Post 9 th district: May not participate or vote.	May not participate or vote.
Mayor’s role in closed session	Participate and vote	Pre-9 th district: Participate and vote Post 9 th district: May not participate or vote.	May participate, no vote
City Manager’s role at Council Meeting	Participate, no vote	Participate, no vote	Participate, no vote
Council Meetings in community required?	No	No	Minimum two per year
Minimum votes needed to pass Council item	5 votes	5 votes	5 votes
Maximum number of terms as Council Member	None	None	Three full terms in succession
Residual Powers	Council	Not specified	Council
Appointment Responsibilities			
City Manager	Appoint: Council (5 votes) Remove: Council (6 votes)	Appoint: Mayor w/Council concurrence (5 votes) Remove: Mayor	Appoint: Mayor w/Council concurrence ⁵ (5 votes) Remove: Mayor w/10-day Council notification
Assistant City Managers and Department Heads	Appointed/removed by City Manager	Appoint: Mayor w/Council concurrence (5 votes) Remove: Mayor	Appointed/removed by City Manager
Other city employees (unrepresented and represented)	Appointed/removed by appointing authority ⁶	Appointed/removed by Mayor	Appointed/removed by appointing authority
Boards & Commissions	Appoint: Mayor w/Council concurrence (5 votes) Remove: Council (5 votes)	Appoint: Mayor w/Council concurrence (5 votes) Remove: Council (5 votes)	Appoint: Mayor w/Council concurrence (5 votes) Remove: Council (5 votes)
Other Charter and City Officers (Clerk, Treasurer, Attorney, Auditor, Budget Analyst)	Appointed/removed by Council (5 votes)	Appoint: Mayor w/Council concurrence (5 votes) Remove: Mayor	Appointed/removed by Council (5 votes)
Mandatory public input in Charter Officer hiring?	No	No	Yes. Minimum one hearing during hiring process

¹ Ninth member will be appointed by Council following effective date, then be elected in June 2014 (two year term) and June 2016 (four year term). If measure is re-approved, ninth seat can be converted to district at 2021 redistricting. If measure not re-approved, ninth seat vacated and Mayor would return to Council January 1, 2021.

² Council President will be elected by Council, similar to how the Vice Mayor is currently selected. The Council President may be re-elected to successive terms.

³ Excludes exercise of veto power or any other discretionary privilege.

⁴ Participate in this sense means to speak alongside the Council from the dais. The Mayor, as with any other member of the public, will always be able to attend and speak as a citizen.

⁵ Appointment automatically confirmed in 30 days if no Council action taken.

⁶ Currently, the Mayor, Council, City Clerk, City Treasurer, City Attorney, City Auditor and Independent Budget Analyst have appointing authority over their respective staffs.

COMPARISON OF CHARTER PROPOSALS (CONTINUED)

	CURRENT CHARTER	2008 "STRONG MAYOR INITIATIVE"	2012 CHECKS AND BALANCES ACT
Budget			
Propose and present preliminary budget	City Manager	Mayor with City Manager support	Mayor with City Manager support
Deadline to present budget	May 1	April 1	April 1
Amend and adopt budget	Mayor and Council	Council (5 votes)	Council (5 votes)
Required number of public hearings	One hearing	Two hearings	Two hearings - first within 15 days of proposal
Council deadline to return modified budget to Mayor	N/A	N/A	June 1
Contingency if budget not adopted on time	Prior budget effective until new budget passed	Mayor's proposed budget deemed approved	Prior budget effective until new budget passed
Budget amendments and modifications	Same process as for adoption	Same process as for adoption	Same process as for adoption
Veto			
Scope of veto	N/A	Budget (line item) and Ordinances only	Budget (line item) and Ordinances only
Mayoral veto timeline	N/A	Veto within 15 days or automatically approved	Veto within 10 days or automatically approved
Council override timeline	N/A	Budget: Override (6 votes) within 5 days Ordinances: Override (6 votes) within 15 days	Budget: Override (6 votes) within 10 days Ordinances: Override (6 votes) within 30 days
Ethics and Transparency Reforms			
Code of Ethics for elected officials and appointees	N/A	N/A	Established per ordinance within 180 days
Sunshine Ordinance	N/A	N/A	Established per ordinance within 180 days
Voter Re-approval			
Effective Date	N/A	Within 30 days of voter approval	November 27, 2012 (start of new term of office)
Timeframe to place re-approval measure on ballot	N/A	N/A	No later than November 6, 2018
Sunset Date if not re-approved	N/A	N/A	December 31, 2020

DRAFT: CHECKS AND BALANCES ACT - AMENDED

The proposed language below was prepared by the law firm of Nielsen Merksamer Parrinello Gross & Leoni LLP, whose specialties include government, political and initiative law, civil and constitutional rights, and voting rights and redistricting.

Please note the following conventions while reviewing:

- Current charter language in regular typeface
- Language changes proposed in the original December 21, 2011 draft are in *italics*
- Languages changes to reflect feedback from Council Members, the City Attorney, and public following the January 17, 2012 Council Meeting are **highlighted and bolded**

The Mayor's Office and City Attorney's Office will make presentations regarding this amended draft at the February 7, 2012 City Council Meeting. This draft is intended to serve as the basis for the proposed charter amendment intended for voter consideration on the November 6, 2012 ballot.

The Sacramento Checks and Balances Act of 2012 - AMENDED

Section 1. Title.

This charter amendment is titled and may be cited as the "Sacramento Checks and Balances Act of 2012" (hereinafter, the "Act").

Section 2. Findings and Purpose.

A. Findings.

1. Voter distrust and dissatisfaction with government is at historic levels.
2. Voters consistently express a desire for more accountability and transparent checks and balances in city government.
3. Currently, voters have a limited ability to hold key decision-makers clearly, directly, and consistently accountable for how they spend taxpayer dollars, make major decisions of city management, and administer city programs and services.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

[Note: deleted former finding No. 4 regarding “concentration of powers”]

4. Voters expect and deserve higher standards for ethical behavior, transparency, and citizen engagement in all aspects of city government, including but not limited to the oversight of city officials and the determination of boundaries for city council districts.
5. The City’s current governance system was established nearly 100 years ago for a far smaller, less diverse and less complex city.
6. Modernizing the City Charter is an essential step in the City’s evolution to meet the challenges and opportunities of the 21st Century.
7. Voters will demonstrate greater trust and support for a city government that ensures the mayor, city council and city departments are held accountable to the will of the voters through reforms that establish clear lines of accountability and adequate checks and balances between executive and legislative functions, including strong provisions for ethical and transparent behavior.
8. This Act, therefore, amends the City Charter to include a series of reforms to create more accountability and transparent checks and balances, on a trial basis, so that the people of Sacramento may assess the Act’s effectiveness and affirmatively vote to make the amendments permanent, if they so desire.

B. Purpose.

The purpose of this measure is to establish greater accountability and stronger checks and balances, including more robust ethics and transparency provisions, on a trial basis, to better ensure that the agenda, budget, leadership and day to day management of the City of Sacramento are directly informed by and aligned with the will of the voters, and effectively communicated to the residents of Sacramento by their elected representatives.

Section 3. City of Sacramento Charter Amendment.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

The Sacramento City Charter is amended as follows (deletions shown in ~~strikethrough~~ and new text shown in *italics*; sections of the Charter not being amended by the Act are not duplicated below):

Article III. The City Council

§ 21 Composition.

(a) 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 eight members nominated and elected by the electors of the district in which such person resides as provided in Article X, and a ninth member nominated and elected by the qualified electors of the city at large as provided in Article X.

(b) At the first city council meeting in January of each year, the city council shall elect one of its members to serve as council president during the ensuing calendar year.

§ 22 Districts.

The city is hereby divided into eight council districts, designed First through Eighth Districts, respectively. Council districts in existence upon the effective date of this Charter 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 council member elected at large shall bear the number accorded the district of such member.*

[Note: Changes to Sections 24 & 25 (Redistricting) removed from this measure; independent redistricting commission to be created via separate measure.]

§ 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. *No person elected or appointed as a member of the city council shall serve more than three full terms in succession regardless of council district or seat. Any term that commenced prior to the effective date of this section shall not count towards the term limit. Terms as mayor shall not count towards the term limit as a member of the city council. Any person appointed to the office of city council to complete in excess of two years of a four-year term shall be deemed, for the purpose of this section, to have served one full term. A partial term is equal to or less than two years. A partial term shall not be counted as a full term*

DRAFT: CHECKS AND BALANCES ACT - AMENDED

for purposes of the term limit. There shall be no limit on the non-successive terms that a person may serve.

§ 27 Qualifications of members.

Each member of the council or candidate therefore, other than ~~for the office of mayor~~ *council member elected at large*, 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 member of the council elected at large or candidates for the office of council member elected at large, at the date of candidacy and election or appointment, shall be an elector and a resident of the city 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 the city during the term of office.* 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 of candidacy.

§ 28 Vacancies.

Except as provided in Section 156 for the inaugural term of the council member elected at large, 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.

[Note: Changes to Section 29 "Compensation" removed.]

§ 31 Meetings.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

(a) The city council shall hold regular meetings at such times and places as may be fixed by resolution, except that the council shall meet after 5 p.m. not less than one evening each week; provided, however, that the city council may, in its discretion, designate up to four weeks per year during which a regular council meeting need not be held. *In order to improve citizen involvement and accessibility to meetings, the city council shall hold at least two **open city council** meetings per year outside of its chambers, but within the city limits and at locations with a maximum capacity that meets or exceeds that of council chambers.*

(b) All meetings of the city council and its committees shall be, **at minimum**, called and conducted in the manner prescribed by State laws regarding matters of statewide concern which are in effect at the time of the meeting, **as well as in the manner as may be prescribed by the Sunshine Ordinance adopted by the city council pursuant to Section 36 of this Charter.**

§ 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) *Subject to **Section 47 of this Charter**, and ~~E~~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.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

(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 or at any later date specified therein.

(g) The following ordinances shall take effect immediately upon adoption or at such later dates, of less than thirty (30) days after adoption, as may be specified in the ordinances:

- (1) An ordinance calling for or otherwise relating to an election;
- (2) An ordinance adopted as and declared by the city council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six members of the council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility, other than one operated by the city, may be so enacted; and
- (3) An ordinance adopted pursuant to a state law by virtue of which such ordinance shall be effective immediately.

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

[Note: changes to Section 33 “Ordinances” removed; subject to be covered by Sunshine Ordinance.]

§ 35 Limitation on future employment.

No member of the council *or the mayor* during the term for which such person shall have been elected or appointed or for one year after such person ceases to hold office, shall be eligible for any appointive office or position in the city, carrying compensation, and created by this Charter, by ordinance or by resolution. An elective office which has been filled by appointment by reason of a vacancy in that office shall not be considered an appointive office under this section.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

§ 36 Ethics and Sunshine Ordinances.

To assure public confidence in the integrity of elected and appointed city officials and to provide greater transparency in local city government, the city council shall no later than 180 days after the operative date of this Section: (1) by ordinance, adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees; and (2) adopt a Sunshine (open government) Ordinance, which shall liberally provide for the public’s access to city government meetings, documents and records.

Article IV. Mayor

§ 40 Mayor—Functions.

(a) The ~~presiding~~ chief executive officer of the city shall be the mayor, who shall have the executive authorities, powers and responsibilities of the city as provided herein, including but not limited to the power and duty to execute and enforce all laws, ordinances and policies of the city.

(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 as the occasion requires, may inform the people of any change in policy or program, and (a) shall appear before the public to deliver a general address on the State of the City, and to recommend the adoption of such measures as the mayor may deem expedient and proper; and (b) shall also conduct four additional open public town hall meetings during the year to solicit and respond to comments, concerns, or questions from the public, which meetings shall be noticed to the public not less than two weeks in advance, and shall be scheduled approximately three months apart;

(3) Shall have the right but not the exclusive power to make recommendations to the city council on matters of policy and programs that require council decisions;

(4) Shall have the right, but not the obligation, to attend and be heard, subject to the city council’s adopted rules of procedure, at any regular or special open session

DRAFT: CHECKS AND BALANCES ACT - AMENDED

~~or closed session meeting of the city council, but not the right to vote at such meetings 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;~~

~~(5) Shall be included within the terms “council” and “city council” used in this Charter unless otherwise expressly provided;~~

[Note: removed former, proposed Subsection 40(b)(5); subject covered by Section 36.]

(56) May propose ordinances and resolutions which shall be considered by the city council;

(6) Shall propose a budget to the city council not later than 90 days prior to the commencement of each fiscal year, and shall have the power to veto the budget resolution adopted by the city council pursuant to Section 111 of this Charter;

(7) May approve or veto ordinances passed by the city council pursuant to Section 47 of this Charter;

(8) Shall appoint the city manager subject to confirmation by a majority vote of the city council, and may remove the city manager pursuant to Section 60 of this Charter;

(79) 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;

(810) Shall have and exercise such other powers and duties as delegated to the mayor by the city council and as provided in this Charter, the laws of the state, and ordinances and resolutions of the city.

§ 43 Mayor—Term.

The term of office of mayor shall be four years, and until a successor qualifies. No person shall serve more than two full terms in succession. Any term that commenced prior to the effective date of this section shall not count towards the term limit. Terms as a member of the city council shall not be counted towards the term limit as mayor. A partial term is equal to or less than two years. A partial

DRAFT: CHECKS AND BALANCES ACT - AMENDED

term shall not be counted as a full term for purposes of the term limit. There shall be no limit on the non-successive terms that a person may serve.

§ 45 Vice-Acting 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.~~ **[Note: this provision moved to Section 21(b) per City Attorney's Office recommendation.]**

~~During any absence of the mayor from the city or a meeting of the city council, the vice mayor council president shall be the acting mayor until the mayor returns. In addition, 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 vice mayor council president shall become the acting mayor.~~

~~In the event of the absence, vacancy in office or inability of both the mayor and vice mayor council president 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. Any person serving as acting mayor under this section shall be vested with the authority to supervise the staff remaining employed in the office of the mayor, to direct and exercise control over the city manager in managing the affairs of the city under the purview of the mayor and to exercise other power and authority vested in the office of the mayor when the exercise of such power and authority is required by law. This limited authority includes circumstances where the expeditious action is necessary to meet a legal requirement imposed by a court or another governmental agency. Such limited authority does not include the exercise of the power of any veto or any other discretionary privilege that is enjoyed by a person appointed or elected to the office of mayor.~~

§ 46 Mayor—Vacancy.

(a) *The office of mayor shall be declared vacant by the city council when the person elected or appointed thereto fails to qualify within ten days after his or her term is to begin, dies, resigns, ceases to be a resident of the city or is continuously absent*

DRAFT: CHECKS AND BALANCES ACT - AMENDED

from the city for a period of more than 30 days without permission from the city council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of the office of mayor, forfeits the office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the city council after considering competent medical evidence bearing on the physical or mental capability of the mayor.

(b) 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 appointment by a majority of the members or the city council then in office. A person elected or appointed to fill a vacancy in the office of mayor shall hold office for the unexpired term of the former incumbent.

(c) During the period of time when an appointment or election is pending to fill a vacancy in the office of mayor, the provisions in Section 45 herein shall control.

§ 47 Mayor—Approval or Veto of Council Ordinances.

(a) The mayor shall have veto power over all ordinances passed by the city council except ordinances as provided for in Section 32(g), ordinances required by state law, ordinances required by Section 25, or ordinances that, pursuant to this Charter, are wholly within the exclusive purview of the city council.

(b) Except as otherwise provided in this Charter, each ordinance adopted by the city council shall become effective at the expiration of thirty 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.

(c) Except as otherwise provided in this Charter:

(1) 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 ten days from the date of transmittal by the City Clerk to approve or veto the ordinance and inform the City Clerk in writing of the action taken. If the mayor fails to act within such period, the ordinance shall be deemed approved.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

*(3) If the mayor vetoes the ordinance, the mayor shall state the reasons for such veto **in writing**, which shall be transmitted to the city council by the City Clerk within 48 hours. The city council shall have thirty 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 the affirmative votes of **at least six council members** after reconsideration, the ordinance shall not be approved or enacted and shall have no legal effect.*

Article V. City Manager

§ 60 City Manager—Appointment, qualifications and removal.

There shall be a city manager who shall be appointed by the ~~city council~~ mayor subject to confirmation by a majority vote of the city council. The mayor shall reinstate the appointment process if, within 30 days of the appointment being made, a majority of the **city** council votes to **reject** confirmation of the appointment. If the city council fails to confirm or reject an appointment within 30 days of the appointment being made by the mayor, the appointment of the city manager shall be deemed approved by the city council. The city manager shall be selected solely on the basis of executive and administrative qualifications. **Prior to making an appointment of the city manager for confirmation by a majority vote of the city council as described in this Section,** the mayor shall hold **an open** public meeting where members of the public may propose questions regarding the executive and administrative qualifications of the candidate(s) for city manager. The city manager shall be appointed by and shall serve at the pleasure of the ~~city council~~ mayor and can be removed from office by the mayor at will, with or without cause. The mayor shall advise the city council **in writing at least ten days** before removing the city manager.

§ 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 in seeing that all laws and ordinances are enforced;

DRAFT: CHECKS AND BALANCES ACT - AMENDED

(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 ~~city manager~~ *mayor*;

(c) *To the extent requested by the city council, t*~~To~~ act in an advisory capacity to the city council with respect to officials not under the jurisdiction and control of the city manager *or mayor*;

(d) 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 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 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 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 the city council* fully advised as to the operations, financial conditions and needs of the city;

(j) *To assist the mayor in prepareing* the annual budget in accordance with Charter Section 111.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

(k) To perform such other duties consistent with this Charter as may be prescribed by the ~~city council~~ *mayor*.

§ 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 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 the* city manager with respect to the part of city government under the direction and supervision of the 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 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

DRAFT: CHECKS AND BALANCES ACT - AMENDED

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

- (a) City Clerk;
- (b) City Attorney;
- (c) City Treasurer; and
- (d) Such other officers and employees of its own body as it deems necessary.

*The City Clerk, City Attorney, and City Treasurer shall be appointed only after at least one **open city council meeting** where members of the public may propose questions regarding the qualifications of the candidate(s) for each appointive office.*

[Note: the above, proposed provision was moved from the beginning of Section 70 to the end per City Attorney's Office recommendation.]

§ 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 city council *and the mayor* 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.

§ 76 Duty to inform council *and mayor*.

Each appointive officer specified in Section 70 shall have the duty to promptly and fully inform the city council *and the mayor* of any act of misfeasance or malfeasance known 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 IX Fiscal Administration

§ 111 Budget.

DRAFT: CHECKS AND BALANCES ACT - AMENDED

(a) The Office of Independent Budget Analyst shall hereby exist as a city department whose designated function is to assist and advise the city council in conducting budgetary inquiries and in making budgetary decisions. The independent budget analyst is the administrative head of the department and shall be appointed by a majority vote of the city council. The city council may remove the independent budget analyst from office by a majority vote of the members of the city council at any time, with or without cause. The qualifications and duties of the independent budget analyst shall be established by the city council by ordinance.

(b) All budgets shall be adopted pursuant to the following process:

- (1) 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 city manager to assist the mayor 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 6090 days prior to the commencement of each fiscal year or such greater period as the council may prescribe, the mayor, with the assistance of the 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, which recommendations must also be posted to the city’s website within 72 hours of being provided to the city council. The city council shall hold a minimum of two public hearings on the proposed budget, the first of which shall occur no later than 15 days after the mayor’s budget recommendations are presented to the city council. No later than 30 days prior to the commencement of the fiscal year and 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, and shall cause the proposed budget to be posted to the city’s website within 72 hours of adoption. Upon the request of the city council, the independent budget analyst shall provide to the city council an independent analysis of the proposed budget.*
- (2) The City Clerk shall immediately and within 24 hours transmit the budget resolution to the mayor. The mayor shall within ten days of receipt of the proposed budget, either approve the budget as proposed*

DRAFT: CHECKS AND BALANCES ACT - AMENDED

by the city council, veto the entire proposed budget or veto any part of the proposed budget by reducing or eliminating any line item while approving other portions of the proposed budget; provided, however, that the mayor cannot exercise the line item veto on the specific portion of the proposed budget relating directly to the city council's own internal expenditures. The mayor shall append to the proposed budget a statement identifying any items reduced or eliminated and the reasons for the action. Any and all portions of the proposed budget approved by the mayor shall become effective immediately. If the mayor vetoes all or any line item within such proposed budget, those portions shall not be effective, and the City Clerk shall transmit the vetoed proposed budget, together with the veto statement from the mayor, to the city council immediately and within 24 hours. The city council shall thereafter and within ten days of such transmittal reconsider the proposed budget and mayor's vetoes. If the mayor vetoes the entire proposed budget, and at least six council members vote to override the mayor's veto, the proposed budget as approved by the city council shall become effective immediately. Line items reduced or eliminated by the mayor shall be separately reconsidered and, if at least six council members vote to override the mayor's veto of that line item, the line item as proposed by the city council shall become effective immediately, notwithstanding the mayor's veto. If at least six council members do not vote to override the mayor's veto of a line item after reconsideration, the line item as modified by the mayor shall become effective immediately.

- (3) *If a budget is not approved prior to the start of the fiscal year, 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.*

(c) *The budget may be amended, revised, or modified during the fiscal year in accordance with the procedure established by the council pursuant to the process set forth above in Subsection (b) on a timeline not to exceed 90 days, which timeline shall start on the date the mayor, either after a request by the city council to do so or on the mayor's own initiative, transmits the proposed budget amendment, revision, or modification to the city council.*

DRAFT: CHECKS AND BALANCES ACT - AMENDED

[Note: removed changes to Section 117 “Annual audit” from measure; subject to be covered by Sunshine Ordinance.]

Article X Elections

§ 156 Election of At-Large Council Member

The office of the council member elected at large (the “council member-at-large”) shall be filled as follows:

(a) The inaugural term of the council member-at-large shall expire in 2016 at the same time as the terms of office for council member districts two, four, six, and eight expire pursuant to this Charter;

(b) Upon the effective date of this Section, and as soon as legally possible to do so, the eight members of the city council elected by the electors of the district in which each member resides shall, by a majority vote, temporarily fill the office of council member-at-large by appointment, until an election can be held pursuant to Subsection (c), below;

(c) At the primary election in 2014, or at an earlier special election called by the city council, there shall be chosen by the voters of the entire city, two candidates for the remaining term of office of the council member-at-large. Notwithstanding any other provision in this Charter to the contrary, in the event that any candidate for nomination to the office of council member-at-large shall receive a majority of the votes cast for all the candidates for nomination for such office at such primary election, the candidate so receiving such majority of all votes shall be deemed to be, and declared by the city council to be, elected to such office for the remainder of the term. At the general election, the voters of the entire city shall select from among the two candidates chosen at the primary election, one candidate to succeed to the office of council member-at-large for the remainder of the term; and

(d) Thereafter, at the primary election beginning with the primary election in 2016, when the term of office of the council member-at-large is to expire at the end of or during the same year as the election, there shall be chosen by the voters of the entire city two candidates for the office of council member-at-large. Notwithstanding any other provision in this Charter to the contrary, in the event that any candidate for nomination to the office of council member-at-large shall receive a majority of the votes cast for all the candidates for nomination for such office at such primary election, the candidate so receiving such majority of all votes

DRAFT: CHECKS AND BALANCES ACT - AMENDED

shall be deemed to be, and declared by the city council to be, elected to such office. At the general election, the voters of the entire city shall select from among the two candidates chosen at the primary election, one candidate to succeed to the office of council member-at-large.]

Section 4. Operative Date; Trial Period and Reauthorization by Voters.

A. If this Act is approved by a majority of the voters voting on the issue, the Act shall become operative on the same date that the city officials elected in 2012 take office pursuant to Section 153 of this Charter or on December 15, 2012, whichever date is earlier.

B. In order to assess their effectiveness, the provisions of the Act shall remain in effect until December 31, 2020, at which time the Act shall be automatically repealed and removed from the Charter. To ensure the people have an opportunity to consider the permanency of this Act before it is automatically repealed, the city council shall place a measure on the ballot at an election no later than November 6, 2018 to consider amendments to the Charter to make this Act permanent effective January 1, 2021, which may include but not be limited to an amendment to provide for the election of the ninth city council seat by district. However, the city council and the people reserve the right to propose changes to the Charter at the November 6, 2018 election or sooner to extend, make permanent, shorten or repeal the effective period of this Act.

C. If the voters do not make the provisions of this Act permanent on or before December 31, 2018, or shorten the operative period or repeal this Act prior to December 31, 2018, such that this Act ceases to be operative, the mayor shall become a member of the council, serving as an at-large member, effective January 1, 2021.

Section 5. Implementation.

Upon the effective date of this Act, the City shall proceed as expeditiously as possible to implement this Act, including but not limited to promptly updating the Sacramento City Code, Ordinances and Resolutions to conform to the Charter amendment set forth in Section 3 herein.

Section 6. Severability.

If any portion, section, subsection, paragraph, subparagraph, sentence, clause or application of this Act is held invalid or inapplicable by a final judgment of a

DRAFT: CHECKS AND BALANCES ACT - AMENDED

court of competent jurisdiction, such decision shall not affect the validity or applicability of any other part of this Act. Consistent with that, the provisions and applications of this Act shall be deemed severable, and each portion, section, subsection, paragraph, subparagraph, sentence, clause or application of this Act would have been enacted irrespective of the fact that one or more other parts or applications is found to be invalid or inapplicable.