



**An Eye on Sacramento  
Policy Report  
On  
Measure L  
The Sacramento Checks and Balances Act of 2014**

**Presented  
at the  
The EOS Forum on Measure L**

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## EXECUTIVE SUMMARY

1. EOS believes that the Sacramento city charter should not be overhauled without a showing by proponents of good cause and strong justification for doing so. The campaign literature of the "Yes" campaign argues that the current charter is "outdated" and that while the city is not broken, Measure L "is just better." We find such justifications to be exceedingly weak.

2. The proponent's core justifications are that the measure will improve government accountability, responsiveness, efficiency, effectiveness and transparency.

3. While direct election of the city's chief executive officer is an important indicator of accountability, we believe that real accountability involves "being held to account" for performance. On that score, we find that a city manager is subject to far greater accountability than an elected executive mayor.

4. Governmental responsiveness comes in several forms: responsiveness to citizens needs, responsiveness to the policy preferences of citizens and, importantly to Sacramento, responsiveness to opportunities for economic growth. We find that Sacramento's current council-manager system is likely to be more responsive to the needs of citizens, but that there would likely be no appreciable difference in each system's responsiveness to the policy preferences of citizens. An executive mayor may be more responsive to opportunities for economic growth.

5. Research clearly demonstrates that cities that employ city managers are more efficient and effectively managed than cities run by executive mayors.

6. Components of Measure L will increase the transparency of city government, but the details - and thus the effectiveness - of such components are left largely to the future discretion of the city council.

7. Measure L would likely reduce the power and influence of councilmembers to a considerable degree. Since the influence of neighborhoods depends tremendously on the power and effectiveness of councilmembers, we conclude that Measure L will significantly reduce the influence of neighborhoods on city policy. The possible creation of a neighborhood advisory committee will likely do nothing to arrest a decline in the influence of neighborhoods under Measure L.

8. Measure L may politicize the appointment of senior city managers and result in a loss of manager professionalism and potential difficulties in management recruitment. At the same time, Measure L may open up management positions for dynamic and action-oriented managers from the private sector.

9. Measure L may weaken the bargaining position of city government in labor negotiations due to political influence of public safety unions on an executive mayor, potentially leading to higher taxpayers costs and/or reduced service levels.

10. Measure L may very well lead to an accelerated processing of development projects through the city's environmental and planning processes, and could possibly lead to a lowering of environmental and planning review standards.

11. It is highly uncertain whether a sufficient pool of qualified candidates for mayor will run for office following adoption of Measure L. If qualified candidates do not run for mayor, the city will almost certainly experience a deterioration in the quality of city management.

12. The creation of an independent redistricting commission and a strong code of ethics, as called for by Measure L, will improve the integrity and transparency of city government. However, the city council must truly commit to creating an ethics commission with the authority to enforce a code of ethics.

13. The increase in mayoral powers under Measure L will likely lead to increased political fundraising by the mayor and greater risks of corruption and "pay to play" abuses involving private interests seeking taxpayer subsidies for private projects, increasing the importance of a strong and effective ethics code and ethics commission.

14. EOS has major concerns over the steady erosion of democratic values and democratic practices in city government in recent years. We encourage voters to evaluate Measure U, in part, on whether they believe it will enhance or diminish our collective ability to democratically govern our city now and in the future.

## **II. Eye on Sacramento's Prior Position & Current Role; Scope of Review**

### **Role of EOS**

Eye on Sacramento is a California nonprofit public benefit organization with three functions: 1) to serve as a watchdog of the actions and policies of local Sacramento government and to help keep Sacramentans informed on such matters; 2) to offer pragmatic policy solutions to challenging municipal problems; and 3) to engage in community outreach.

In our work as a civic watchdog, EOS is very selective in the matters it chooses to review or investigate. Our policy is to focus our limited time and resources on those civic matters that are of public importance, but which are not receiving adequate scrutiny by media, government or concerned citizens. In short, we try to shed light on the shadows of local government, based on the wise advice of Supreme Court Justice Louis Brandeis that "sunlight is said to be the best disinfectant."

### **Nature and Scope of Review**

While Measure L has been receiving increasing coverage by local media, much of it has been of the political "horse race" variety, i.e. reporting on endorsements and campaign fundraising of the campaigns for and against the measure. We felt that Sacramento voters needed and deserved an in-depth, comprehensive and independent examination of the measure. While we have sought to be impartial, we come to this project with the experience of folks who've been working quite closely with Sacramento city government for several years, which necessarily has necessarily affected our perspectives and views, for good or ill.

This report has been prepared based on a review of academic studies and publications, policy reviews, news accounts, reviews of the 2009 Charter Review Committee's report, city staff reports and other documents, consultations with participants and observers of "form of government" debates in other cities, interviews of academicians, discussions with former and current elected and appointed municipal officials, meetings with business, labor, neighborhood and other stakeholders, spirited (and enjoyable) discussions with campaign representatives for both the "Yes" and "No" campaigns, participation in community meetings, legal research and, of course, review of the text of Measure L itself and its predecessor executive mayor proposals.

We wish to thank the dozens of people who have taken the time to confer with us on one or more aspects of our report.

### **EOS's Historic Position on Executive Mayor Proposals**

Since the announcement of the original executive mayor initiative by Mayor Johnson in January 2009 through to the present day, EOS has consistently supported the basic democratic right of Sacramento voters to decide for themselves how they should be

governed. Once county elections officials certified that more than 34,000 registered city voters had signed petitions seeking a vote on the executive mayor initiative, it became, in our view, the duty and responsibility of elected city officials to honor and respect the expressed aspirations of the voters by placing the measure on the ballot. The council majority's repeated refusals to do so over the years led to prolonged (and unnecessary) council turmoil and frustrated democracy. We are pleased to finally see Measure L placed before the voters and applaud the supporters of the effort for their perseverance.

That said, EOS's unwavering support of placing the proposal before the voters was never an endorsement of the *merits* of the proposal itself, a distinction we have gone to great lengths to make clear over the years. We have consistently reserved judgment on the question of whether the proposal merits the support of voters.

In this report, we face squarely for the first time the merits (and demerits) of Measure L. Instead of adopting a simple "support" or "oppose" position, we have done our best to fairly and impartially inform the public and the media of the likely and potential impacts of Measure L, including identification of potential benefits and risks.

Craig Powell, President  
Eye on Sacramento  
October 2, 2014

### **III. A Short Primer on the Evolution of Measure L**

To understand the contents of Measure L, it is helpful to understand how it evolved politically since its origins in 2009. In the 2008 mayoral race, Mayor Kevin Johnson openly campaigned in favor of a strong or executive mayor revamp of the city charter. He announced in January 2009, just one month into his term as mayor, his sponsorship of an executive mayor initiative and soon thereafter submitted petitions signed by over 34,000 registered city voters, a number sufficient to qualify it for a spot on the ballot as a charter amendment.

A legal challenge brought by the Sacramento Central Labor Council led to a court ruling which found that the initiative (since dubbed "Strong Mayor Initiative 1.0" or "SMI 1.0") was an unlawful attempt to broadly "revise" rather than more narrowly "amend" the city charter. Under state law, a proposal to revise a city charter can only be placed on the ballot by action of the city council or by the action of a voter-approved charter review commission, not by voter petition.

Strong Mayor Initiative 1.0 (or SMI 1.0) was drafted by the mayor's private attorney and had received no public vetting prior to the circulation of initiative petitions. It proposed to grant the mayor extremely broad executive powers, including the power to directly hire and fire several hundred senior level city managers and staff. It also contained no mayoral term limits and none of the ethics-enhancing features (or "sweeteners") included in today's Measure L.

A year or so after SMI 1.0 was sidetracked by the courts, the mayor returned to the city council with a retooled proposal, dubbed SMI 2.0. It dramatically reduced the number of city managers and staff directly under mayoral control. After a number of council hearings and extensive debate, the council turned down the mayor's request to place the measure on the ballot, leading to a very public mayoral rant against his council colleagues that became legendary.

In 2012, a group aligned with the mayor emerged to publicly propose yet another strong mayor proposal, dubbed SMI 3.0. This effort involved much more community outreach than previous versions and the proposal itself included several modifications that addressed some of the concerns of the opponents of SMI 2.0, including the addition of term limits, a provision calling for an independent redistricting commission, an independent budget analyst, an ethics code and other ethics-enhancing measures. In a bit of council sleight of hand, a council majority dodged the tough political issue of placing SMI 3.0 on the ballot by placing, instead, on the November 2012 ballot a measure asking voters if they wished to create a formal charter review commission which would itself have the power to place charter revision proposals on the city ballot.

The maneuver allowed the then council majority to wash their hands of the strong mayor issue by claiming that it was now up to the voters to decide whether they wanted to create a charter review commission to consider major revamps to the charter, including a strong mayor proposal. As there was very little popular support at the time for creating



a charter review commission and no real campaign to support it, the commission proposal was trounced at the polls, leaving the strong mayor issue in limbo once again.

The November 2012 elections, however, changed the make-up of the city council, with strong mayor opponents Sandy Sheedy and Rob Fong leaving the council and the Allen Warren and Steven Hansen joining it. When the group backing the strong mayor proposals, Sacramento Tomorrow, reintroduced strong mayor in October of 2013 (in a version now dubbed SMI 4.0), it received a much more receptive council reception. The three carryover supporters of the strong mayor concept (the mayor himself, Angelique Ashby and Jay Schenirer) were joined by strong mayor supporter Allen Warren. When Steve Cohn shifted his position on the strong mayor issue from opposition to tentative support, SMI 4.0 was poised to land a spot on the ballot.

### The City Council Insists on Some Tweaks

First, however, the council insisted on some changes. Terms limits for council members were dropped completely while the term limit for mayor was reduced from three terms to two (not counting Johnson's first two terms, this enabling him to serve an FDR-esque 16 years in office), the requirement of voter approval for council and mayor pay raises that exceed 5 percent per year was dropped, a provision was added that provides that the city council "may" create an ethics commission and a neighborhood advisory committee, and the current charter requirement that the city council meet weekly was changed to require only two council meetings per month, reducing the number of required council meetings by more than half (but with no corresponding reduction, of course, in councilmember pay).

At a final council hearing on SMI 4.0 on November 5, 2013, however, councilmember Angelique Ashby pressed the council to increase the term limit for mayor back up to three terms from two, which would allow Johnson to serve a total of 20 years as mayor Sacramento, eight years as a "weak" mayor and 12 years as a "strong mayor," four years longer than FDR. Ashby's shaky justification for such a long limit was that ***it would be difficult for the mayor of Sacramento to go through the ranks of national and statewide offices and reach the top position of such organizations in just two terms.*** Ironically, it was only six months later that Kevin Johnson was elected President of the U.S. Conference of Mayors, two years into his second term as the "weak" mayor of Sacramento.

In short, the tribute exacted by the city council for placing SMI 4.0 - Measure L - on the November 2014 ballot was:

- (1) eliminating any voter controls over their own pay,
- (2) cutting the number of required council meetings by more than 50 percent,
- (3) dodging term limits on themselves, and
- (4) adding that they "may" create an ethics commission to monitor their ethics.

It was certainly not the council's finest hour. But it did finally liberate the strong mayor issue from its status as a city council-held hostage and paved the way for voters to decide for themselves how they wished to be governed.

#### **IV. What Does Measure L Actually Entail?**

##### **Summary of the Sacramento Checks and Balances Act of 2014**

The changes that Measure L would make to the city charter break down into four structural components (based on summaries provided by the city attorney's office):

##### **Executive Mayor**

- The mayor would be the city's chief executive officer.
- The city manager would be the city's chief administration officer and report directly to the mayor.
- The city manager would be appointed by the mayor, subject to council confirmation, and may be fired by the mayor with 10-days prior notice to the council.
- The mayor, through the city manager, would propose the budget at least 90 days before the beginning of the fiscal year.
- The mayor would have veto power, including line-item budget veto.
- No person could serve as mayor for more than three full terms, not counting terms started prior to Measure L's approval.

##### **City Council**

- Eight-member council (now without mayor)
- No mechanism for breaking 4-4 tie votes (which could create no end of difficulties)
- The council would select its own council president and vice-president
- The council must deal directly through the mayor except that councilmembers may deal with department directors
- The council would approve budget on a majority vote, subject to a mayoral veto, which can be overridden by vote of six members (3/4ths supermajority of an eight-member council)
- The council would appoint the head of newly-created Office of Independent Budget Analyst
- The council would continue to appoint and dismiss city attorney, city treasurer and city clerk.

##### **Redistricting**

- Establishes a nine-member independent redistricting commission.
- The council must pass ordinance establishing member qualifications and method of selection; mayor and council, however, may not be involved in their selection.

- The council must pass an ordinance that reflects, without alteration, boundaries adopted by the redistricting commission.
- Creation of redistricting commission is not subject to "sunset" provision and is, thus, permanent.

### **Ethics and Government Processes**

- The council would be required to pass by ordinance a Code of Ethics and Conduct for elected officials and appointed members of boards, commissions and committees with provisions for the removal from office of any elected official who "substantially violates" the Code.
- The council "may" [or may not] create an Ethics Commission for the "purpose of reviewing and monitoring the Code of Ethics ordinance," but with no authority to enforce it.
- The council "may" [or may not] establish by ordinance a Neighborhood Advisory Committee for the purpose of considering the interests of the city's neighborhoods.
- The council must pass a "Sunshine Ordinance" which shall "liberally" provide for public access to city meetings and records.
- The council must hold at least two meetings per year outside of its chambers.
- The mayor must hold at least two town hall meetings per year.
- The mayor must hold a public meeting for the public to question the qualifications of city manager candidates.
- The council must hold a public meeting for the public to question the qualifications of city attorney, city clerk and city treasurer candidates.
- The council must hold at least two public hearings on the mayor's proposed budget.
- A balanced budget must be adopted by June 30th.

### **Sunset Provision**

- All provisions of Measure L, other than the redistricting commission, will sunset in six years, on December 31, 2020, unless the voters approve a permanency vote no later than November 2, 2020.

## **V. Have Proponents Made the Case for Overhauling City Governance?**

### **City Governance Shouldn't Be Overhauled Without Good Cause**

A city charter, like a constitution, should not be amended lightly or without demonstrable good cause. A broad revamping of the city charter which reallocates power among the city's key components should be considered with even greater circumspection and require greater justification. As Edmund Burke put it, "circumspection and prudence are part of wisdom." A major revamping of city government will be disruptive in potentially unknown and unknowable ways. Managers may leave, risking the loss of talent and institutional memory. Any substantial reallocation of political power inevitably results in some gain of power by some actors and the loss of power by others, power being understood to be a finite quantity.

Our current city manager, John Shirey, previously expressed unwillingness to serve under an executive mayor form of government. Although he's extended his employment contract with the city until June 2015 and has adopted a more "wait and see" attitude towards serving under an executive mayor, can we realistically expect Shirey, who has served as a chief executive officer in each position he's served in for the past quarter century, to accept the role of working as a chief administrative officer under the day-to-day control of Kevin Johnson as the city's chief executive officer? If he did accept such a role, how long could he be expected to last?

Shirey has brought considerable stability to a city that employed four different city managers in the two-year period preceding his appointment as city manager. City employee morale is considerably stronger now than in the previous years of managerial tumult. He has instituted reforms that have reined in galloping employee health care costs and required employees to pay their full "employee's share" of their pensions, something no previous manager has done. With the city headed towards a major "fiscal cliff" in 2018, with budget deficits of \$40 million or more, the departure of Shirey as city manager would be a major setback for the city.

### **Proponents' Justifications for Measure L**

The City Charter is Outdated. If the proponents' campaign literature is to be believed, one of their primary justifications for Measure L is that the city charter is old, outdated and hasn't been materially revised in over 90 years. We find this to be the weakest of justifications, bordering on speciousness. In fact, its enduring age shows that it has stood the test of time. And if it has stood the test of time and is working, why overhaul it? No one would seriously suggest overhauling the U.S. Constitution because it is "outdated" at 225 years old. (Incidentally, the city charter was materially "updated" in 1970 when the city shifted from a system of electing councilmembers by district to electing them at-large (ending the practice of Land Park being the home to five councilmembers). At the same time, the charter was modified to elect our mayors via city-wide vote instead of tapping the top vote-getter in council elections as the city's mayor.

Abandoned Justification: The City is Broken; . At a panel discussion on SMI 2.0 in 2011, CSUS Communications Professor Barbara O'Conner, a co-chair of Sacramento Tomorrow, made the statement that SMI was needed because city government was "**broken**," a sentiment shared by Sacramento Bee columnist Dan Walters at the time, who in the same year characterized Sacramento as "***the worst run city of its size in California.***" And there was ample justification for such a conclusion at the time: city services were plummeting, the city was struggling with massive and recurring deficits, the city council was riven with conflict, unemployment was sky high, the real estate market had crashed, foreclosures were endemic and the city manager post had become a revolving door.

Latest Justification: Measure L is Just Better. The city's condition has improved significantly since Professor O'Conner's "broken" city comment, to the point where the "Yes" campaign has abandoned its "broken city" justification and shifted to another: "***The current system isn't broken, Measure L is just better.***" (from a "Yes" on Measure L advertisement, Inside Publications, Inc., October, 2014). That's not terribly helpful to voters looking for tangible justification for overhauling the city charter.

The Legitimate, Core Arguments in Favor of Measure L. Looking beyond the shaky campaign rhetoric crafted by the "Yes" campaign's political consultants, the supporters of Measure L claim that it will make city government more ***accountable, responsive, transparent, ethical and better at meeting the growing and increasingly complex needs*** of Sacramento. These are all legitimate claims with some real basis in fact and we will examine each in turn in the following section, entitled "Likely & Potential Impacts on Core Elements of City Governance."

A local critic of Measure L, former assistant state treasurer Mark Paul, asserts that the "Yes" campaign has deployed such good government terms as "accountability," "responsiveness," "transparency" and the like as mere "talismans," seizing upon them so as to preempt their use by the opponents of Measure L. (Mark Paul, "Strong Mayor, Why?," [www.thecaliforniafix.com](http://www.thecaliforniafix.com), September 17, 2014). While such loaded terms have been extremely overused (and often misused) by politicians and political consultants to the point of becoming useless clichés, they are not mere clichés in the debate over Measure L. The claims merit serious review.

## **VI. Likely & Potential Impacts on Core Elements of City Governance**

### **A. Accountability of City Government to Citizens**

The single most effective argument put forth by the supporters of Measure L is that the most powerful official in city government, currently the city manager, should be directly accountable to voters by being elected by voters. It is an argument that is difficult to refute. It is broadly appealing to those who value the fundamental, democratic right of voters to select and control those who rule them. It is an argument that goes to the heart of democratic self-governance.

It also has close parallels to federal and state government structures with which voters are far more familiar. The common - and erroneous - understanding of most voters is that mayors serve as the chief executive officers of their cities, much as the president is the chief executive of the federal government and governors are chief executives of state government. In fact, however, 60 percent of cities in the U.S. use a council-manager model of governance, where a city council selects a professional city manager to run the day-to-day affairs of city government and to carry out the policies set by a city council. Mayors in such systems are typically members of the city council who serve as the ceremonial and facilitative leaders of their cities.

Mayor Johnson frequently shares anecdotes of conversations with voters who are astonished to discover that he lacks the direct power to order potholes to be filled. Shifting to a mayor-council or executive mayor form of government would, certainly, elevate the mayor's power in city government to the level at which most voters think it already exists, reducing the public's widespread present misunderstanding of how Sacramento city government operates.

City managers function more like prime ministers in a parliamentary system. While voters in such systems directly elect members of parliament, the political party achieving a parliamentary majority selects the prime minister who will wield executive power over government, subject to keeping a parliamentary majority happy with their performance. A vote of "no confidence" by a majority of parliament can lead to the removal and substitution of the prime minister, much as six members of the current nine-member Sacramento city council could decide at any Tuesday evening council meeting to fire the city manager.

Is a directly elected chief executive more "accountable" to voters than a chief executive selected by a parliamentary majority (or a majority of the members of a city council)? Certainly there is a much more direct link between the voters and the chief executive in a mayor-council form of government: the voters do the hiring instead of a majority of councilmembers who are a step removed from voters.

But accountability implies much more than just initial, direct selection by voters. It most critically means being "held to account" for poor performance. Only if consequences are meted out for poor performance can a chief executive be fairly

considered to be "accountable." But meted out how and by whom? In a council-mayor system, a council super-majority can quickly remove a city manager. The Sacramento city council essentially exercised such power to change city managers twice in the two years preceding Shirey's appointment as city manager.

But in a strong mayor system, voters have only two means of meting our consequences to a poorly performing mayor: they can turn him out of office by election on the fourth year anniversary of his initial hiring or they can pursue the extreme remedy of removing him from office via a recall election.

San Diego faced a real constitutional crisis last year when then mayor Bob Filner, who wielded executive mayor powers approved by San Diego voters in 2005, became the subject of an avalanche of sexual harassment complaints and accusations of shaking down developers for contributions to charities favored by Filner. Protracted negotiations led to a deal in which the City of San Diego essentially paid for him to resign from office, picking up his legal costs and limiting his civil liability.

Tossing a mayor out of office by election is also no easy task and one that will likely become more difficult if Measure L is adopted. Greater mayor power is likely to result in more robust mayoral fundraising, as contributors tend to give more to those officials who wield greater power than those with less power, particularly contributors who have dealings with the city such as city unions and subsidy-seeking developers. While removing mayors from office via election can and does happen (witness Kevin Johnson's defeat of incumbent Heather Fargo), it will likely become somewhat more difficult in a post-Measure L environment.

It seems clear that a city manager, subject to termination on any given Tuesday night, is subject to greater accountability for his or her performance than an executive mayor who is securely ensconced in a four-year term of office. Nevertheless, the council's exercise of oversight authority over a city manager is one step removed from oversight by voters themselves. In a strong mayor system, executive oversight, though greatly diminished, is left to the voters themselves.

### **Who To Blame When the City Performs Poorly? The Problem of Diffused Responsibility**

There is one area in which Measure L will help clarify and increase accountability in city government. Currently when something goes very wrong, members of the city council will often blame the city manager (or one another), the city manager will obliquely blame council members, others will blame the city attorney's office, while still others will blame line managers in the departments involved in the scandal. It is very difficult in such circumstances for the public and the media to determine who should bear ultimate responsibility for the city's failure.

An example of such finger pointing occurred three years ago when Eye on Sacramento revealed the terms of a prime garbage contract that were extremely onerous

to the city and its ratepayers, and which has led to hikes in city garbage rates. The city approved a 20-year extension - on a no-bid basis - of a contract with BLT Enterprises, Inc. that locked in sky high rates for the disposal of garbage collected by city garbage trucks. (The contract has since been transferred to Waste Connections)

Was the debacle the fault of the managers and staff of the city's utilities department who were snookered in the contract negotiations? Was it the fault of the then city manager who failed to monitor the contract and assure that competent staff were handling the negotiations? Was it the fault of the then city attorney or his deputy city attorney for mishandling the deal? Should blame be placed on the city council for hearing the matter late at night and allowing virtually no opportunity for public input? All of the above?

Had the matter come to light under an executive mayor system, the answer would have been clearer: the mayor, in sole charge of the city bureaucracy (except for the city attorney), would have borne primary responsibility for the harm to city ratepayers from such a botched city contract (although he might also have blamed the lawyers). By concentrating power and authority in the mayor, Measure L would help reduce, to some extent, the finger pointing that is a product of diffused responsibility in current city government. But even if a strong mayor could have been held responsible for such a debacle, what effective means would voters have had to hold a strong mayor accountable for such unforced major errors short of initiating a recall or waiting until he next stands for reelection?

In terms of meaningful accountability, the nimbleness with which a city council can act to remove a poorly performing city manager trumps the obstacle laden path voters face in holding an incumbent strong mayor responsible for poor performance.

## **B. Responsiveness**

The "responsiveness" of a city government can be evaluated in three respects: (1) the case-by-case responsiveness of city government to particular concerns and complaints of private citizens; (2) the overall responsiveness of the governance system to the policy preferences of its citizens; and (3) responsiveness to opportunities for economic growth.

### **Responsiveness to Individual Citizens**

We have found no studies that have examined whether city responsiveness to individual citizen's concerns is better under one form of government or the other. Based on our experience and familiarity with the workings of city government, we believe it is likely that constituent service would be superior under the current council-manager model than it would be under an executive mayor system.

Under the current system, a citizen has three potential points of access to the city bureaucracy for help in resolving problems:



- the mayor's office,
- the citizen's councilmember's office, or
- direct contact with the bureaucracy.

Direct contact with the bureaucracy is complicated by the fact that many callers have little to no knowledge of which city official to contact for help in addressing their particular issue. (The city refuses to post on the city's website its internal phone directory of managers, job titles and contact information that would help citizens identify and directly reach the city official they need to contact; the city directory is available, however, on EOS's website at [www.eyensacramento.org](http://www.eyensacramento.org)). Calls to the city's understaffed 311 information line are often subject to wait times of 10-15 minutes.

Calls to the mayor's office for assistance come from all parts of the city, forcing receptionists to direct calls quickly either to 311 or to city departments while providing little to no direct help or advice to callers.

Calls to individual councilmember's offices, however, are treated quite differently. Councilmembers and their staffs are uniformly sensitive to calls for assistance from constituents, each of whom is a potential future voter for (or against) the councilmember. Council staff learn how to navigate the city bureaucracy on behalf of constituents and are quite skillful and motivated to find the right person to help the caller with their problem. Very often, staff members call the relevant city office or bureaucrat directly on behalf of the constituent.

In our experience, city employees place the highest priority on addressing calls for assistance they receive from councilmembers or members of their staff. Why? Because, in a council-manager form of government, the city manager's focus is keeping the members of the city council - his bosses - happy with his job performance. City employees know that if a councilmember ever lodges a complaint with the city manager about a city employee who has been neglectful of a councilmember's requests for help, that employee will be in serious hot water with the city manager, which is never a good career strategy.

In an executive mayor system, the city manager works at the pleasure of the mayor, not the members of the city council. Consequently, his focus and priority will be on keeping the mayor continuously happy, not responding to requests for help from councilmembers. That shift of the city manager's focus from serving the council to serving the mayor will likely be quickly internalized by city employees up and the down the city hierarchy. Consequently, the alacrity with which city employees currently work to solve constituent problems passed along to them from councilmember's offices will likely diminish, reducing the city's responsiveness to the concerns of individual citizens.

Constituent service may also decline for constituents of councilmembers who end up "on the outs" with an executive mayor for, say, failing to support the mayor's legislative agenda. In a strong mayor system, councilmembers who "cross" a strong mayor politically can pay a very heavy price. A city bureaucracy that was once

cooperative with the councilmember can turn chilly and uncooperative. Access to vital information, all of which is controlled by the mayor in an executive mayor system, can be denied. Former and current elected officials from a number of cities have uniformly expressed concern to us with being denied access to information in strong mayor-run cities. And in politics and government, information is power.

This is not merely a hypothetical risk. In a recent column, Sacramento Bee columnist Marcos Breton made the point that councilmember Steve Hansen, a leader of the campaign against Measure L, will have committed "*political suicide*" if Measure L passes. As Breton put it, "*if 'strong mayor' passes, it almost certainly would mean Hansen would be buried so deep in the City Council chambers they would have to pipe light down to him.*" Breton expressed his assessment of the future working relationship between the mayor and Hansen: "*And the idea of being able to work with Johnson once you've crossed him like this? K.J. don't play that game.*" (Marcos Breton, "Hansen Takes a Risk in Opposing Johnson on Strong Mayor," Sacramento Bee, August 19, 2014).

While an executive mayor could try to build a constituent service operation in his office to make up for the likely reduced effectiveness of councilmember constituent services, it is unlikely that mayoral staffers will share the same motivation and devotion to effective constituent service as council staff. Why would they? The negative impact on the mayor of a disappointed constituent is much more diffused and attenuated (being one of 90,000 voters) than the negative impact on a councilmember of a disappointed constituent, who may be one of just 5,000 regular voters in some districts.

There will also be a reduction of mayoral awareness and familiarity with constituent problems under Measure L. Under Measure L, the mayor would no longer serve as a member of the city council or regularly attend its meetings. He would no longer come face-to-face on a weekly basis with constituents who take the trouble to come down to City Hall and summon the courage to address the mayor and council on individual problems they have in dealing with the city. Mayor Johnson has often been moved to offer staff support to help to constituents who feel defeated by their dealings with the bureaucracy. Insulating the mayor from such experiences will likely reduce his engagement in such matters.

### **Responsiveness to the Policy Preferences of Citizens**

Does a council-manager or an executive system do a better job of assuring that the policies of city government reflect the policy preferences of its citizens? That was the question poised by a large-scale study by political scientists Chris Tausanovitch of UCLA and Christopher Warshaw of MIT issued earlier this year (Tausanovitch and Warshaw, "Representation in Municipal Government," March 2014, Cambridge University Press). The authors aggregated a collection of nationwide survey results to determine the political leanings of 1,600 U.S. cities and towns. They then examined the types of government structures used in each of those municipal governments. Finally, they

gauged the social, political and environmental policies enacted by each of those governments.

The authors' conclusion: that all municipal governments, irrespective of structure, tend to implement policies that align with the political ideology of their constituents. As Sam Surgis of City Labs put it, they found that "***all local governments are more or less equally good as listening to their voters.***" (Sam Surgis, City Labs, July 31, 2014). "***These results ... cast doubt on the hypothesis that simple institutional reforms enhance responsiveness in municipal governments,***" Tausanovitch and Warshaw observe. They define "responsiveness" as the tendency of governments to adjust "to changes in citizens' views by moving policy in the direction of those views."

Surgis writes that "***these results do suggest Sacramento voters ought to be skeptical of the idea that the overall policy direction of the city will change dramatically if they grant the mayor more executive power. As these political scientists put it, they could get rid of the mayor altogether and it probably wouldn't make much of a difference, policy-wise***" (Surgis, supra).

On the one hand, the study should ease the concerns of those worried that Measure L will lead to a major shift in the policies of city government. On the other hand, the study may disappoint those who may be counting on Measure L to lead to a major change in the direction of city policy. One conclusion seems fairly clear: Measure L will likely have little effect on the policy direction of the city as current policy is likely already reflective of, and responsive, to the policy preferences of Sacramento residents in most cases.

### **Responsiveness to Opportunities for Economic Growth**

A recurring theme of Mayor Johnson as expressed in his comments in support of Measure L is that the city has not been sufficiently engaged, energetic and organized to seize upon opportunities for economic growth, particularly opportunities for recruiting new businesses and retaining existing businesses.

He recounts the story of Waste Connections, a major firm that had been based in Folsom, but not long ago decided, like so many California companies, to move its headquarters to lower-tax and more lightly regulated Texas. The mayor says that the CEO of Waste Connections called him to give him a heads-up that the company was seriously considering a move to Texas. Even though the company was not technically headquartered in the City of Sacramento, the mayor understood the implications to the city of a major company moving out of the region. When the mayor tried to organize a concerted city effort to keep Waste Connections in the region, he ran up against resistance. The city manager didn't know if there was support on the city council to take steps to help keep a company headquartered in a nearby city from leaving the area.

The mayor's natural instinct for action was met with the reality of government-by-consensus Sacramento. The mayor sees a need for Sacramento to have a single leader

who can, first, define a vision and then act upon it. Mayor Greg Ballard of Indianapolis put it this way in remarks quoted in a Bee article this week:

***"It is important that somebody, in collaboration with others, sets the vision for the city and has the mechanisms to drive it forward. If people don't like (what they do), vote them out."*** (Sacramento Bee, "Mayors Conference Wraps up in Sacramento, September 30, 2014).

The mayor sees Measure L as "the mechanism to drive it [his vision] forward."

But he hasn't done too badly in his deployment of the current mechanisms of city government on matters of importance to him. He was able to recruit the council support he needed to keep the Kings in Sacramento and provide hundreds of millions of dollars of public subsidies to build a new entertainment and sports center in Downtown Sacramento. He worked seamlessly and very quickly with the city manager and his staff to bring the intricate deal to a speedy conclusion.

Has he really been constrained by an insufficiently responsive city government under the current system? While the development of policy consensus on, say, business recruitment, does take time in our current council-manager system, once policy is set there is no reason why city government can't be as rapid in responding to recruitment opportunities as it was in deploying to keep the Kings in Sacramento and to build a taxpayer subsidized Downtown arena. There is nothing restraining the city from organizing "tiger teams" comprised of reps from each key city department to rapidly seize upon such opportunities, in tandem with partners in the business community.

We think that there is a valid argument for how a single individual could be very effective in both setting a vision and executing on that vision. Currently, the mayor neither unilaterally sets policy or unilaterally implements policy. But even with executive mayor powers, the mayor will be compelled to seek buy-in from the city council on most major matters. Real estate projects require land use entitlements which will remain within the purview of the city council even after adoption of Measure L. Financing of mayoral initiatives that require spending or borrowing authority will remain within the authority of the city council.

However, an executive mayor would have many more tools at his disposal to pressure the council into approving his agenda, tools such as the line-item veto, control over councilmember access to information and control over projects in councilmembers' districts. An executive mayor can make the life of a councilmember pretty miserable if he chooses to do so (See Rahm Emmanuel, Mayor of Chicago). But it begs the question of whether he really needs such heavy-handed leverage to secure council consensus on policy initiatives. If the city were to sink back into the kind of fractious dysfunction that it was mired in five years ago, a much stronger case could be made for the need for strong, almost coercive mayoral power over the development of city policy. But that's not where the city is today.

### **C. Efficiency and Effectiveness of Government Operations**

Proponents claim that Measure L will bring greater efficiency to the operations of city government. The available research comes to exactly the opposite finding. A recent study by IBM ("Smarter, Faster, Cheaper: An Operations Benchmarking Study of 100 Cities," May 2011) found that:

***Cities with city manager forms of government are nearly 10% more efficient than cities with strong mayor forms of government. This finding appears to validate the assumption underlying city manager forms of government, notably that investing executive authority in professional management shielded from direct political interference should yield more efficiently managed cities.***

Older studies found that "***there is no apparent difference in the efficiency levels of the two municipal government structures.***" (Kathy Hayes and Semoon Change, "The Relative Efficiency of City Manager and Mayor-Council Forms of Government." Southern Economic Journal, Vol. 57, Issue 1, pg. 167) and that "***there is no impact on the level of taxes or spending***" between the two structures. (David R. Morgant and John P. Pelissero, "Urban Policy: Does Political Structure Matter," The American Political Science Review, Dec. 1980, Vol. 74, No. 1, pp 99-106).

In rankings of cities by levels of efficiency (Reason Public Policy Institute, "Competitive Cities: A Report Card on America's Largest Cities," 2001) and best management practices (Governing Magazine, 2000), the top two rated cities in both categories were Phoenix (at #1) and El Paso (at #2), both of which operate under the council-manager form of government. Authors of the Reason survey found that "***cities with city managers are almost 50% more likely to be efficient than those***" with executive mayors. "***Perhaps city managers without the political pressure of running for office can more readily focus on efficient operations of city services***" the authors noted.

### **D. Transparency**

Proponents claim that the package of reforms included in Measure L would increase the transparency of city government. That is almost certainly true. But we also observe that every one of the transparency enhancing features of Measure L could have been adopted at any time by the city council over the years (and still can be) or could have been submitted (and still can be) by the council to the voters as stand-alone charter amendments without being tethered to the more controversial core purpose of Measure L: expansion of mayoral powers.

### **Independent Redistricting Commission**

Some of these reform proposals have been percolating up through the political process for years. Three years ago, in the aftermath of the city council's redistricting fiasco which led to record protests at city hall, EOS teamed up with minority leaders in the area to launch "Empower Sacramento," a citizens reform group led by Efren

Gutierrez and initially focused on adoption of a city charter amendment creating an independent redistricting commission. The goal was to persuade the city council to place the proposal on the city ballot. EOS did the leg work of researching and evaluating independent redistricting efforts in other California cities and crafting a charter amendment. After receiving the support of the mayor's office for our proposal, EOS and Empower Sacramento was surprised to find that our proposal had been bolted onto the latest version of the mayor's strong mayor proposal, which effectively took the political wind out of the sails of our effort to place a stand-alone independent redistricting commission proposal on the ballot.

The strategy, of course, of the proponents of Measure L has been to package as many appealing good government features as possible with the core strong mayor proposal. While the strategy may be transparently opportunistic, particularly since such reforms could, as noted above, be separately adopted by council ordinance or charter amendment, the good government features are all positive, albeit woefully incomplete, steps towards producing more transparent and democratic governance in Sacramento.

The redistricting proposal will open up the process of drawing council district boundaries, by taking it out of the back rooms and putting it squarely in public view. The key challenge of such a measure is to craft a mechanism for the appointment of independent members of the redistricting commission who will be free from influence by incumbent elected officials. Measure L does require that such commissioners be entirely free from influence by the mayor and council, but leaves to future council ordinance to figure out the actual method of selecting commissioners. EOS and Empower Sacramento found that the fairest way of assuring commissioner independence was to rely on either incumbent or retired Superior Court judges to manage the process of selecting commissioners.

If Measure L passes, the city council will have just 90 days to pass an implementing ordinance fleshing out how the redistricting commission will operate. If Measure L fails to pass, we urge the city council to hold hearings on the issue and refer place a stand-alone charter amendment to create such a commission on the next municipal election ballot

### **"Sunshine" Ordinance**

This is truly a blank slate mandate requiring the city council to adopt within 90 days an ordinance "liberally" providing for greater public access to city meetings and records. Almost three years ago EOS asked the city council to adopt 10 transparency reforms that we had developed (winnowed down from a list of 50 some reforms options we initially considered). The city council adopted only one of the 10, but it was the most important one. It is today commonly known as the Sunshine Rule and it requires that the city publicly release the terms of all major proposed city contracts at least 10 days prior to the council approving such contracts.

This feature would force the council, for the first time, to seriously address issues of city government transparency with a deadline. The resulting ordinance would have to meet Measure L's mandate of "liberally" providing for greater city transparency. There is no way a stand-alone measure could ever replicate the pressure to improve city transparency that Measure L provides.

### **Mandated Public Meetings**

Measure L includes a slew of mandates for additional public hearings, each of which address a recognized city short-coming in assuring open government. For example, the mandate that the mayor produce a proposed budget 90 days before the beginning of a new fiscal year would require release of the proposed budget by April 2nd, a month earlier than the current mandated release date of the draft budget. Measure L also mandates that there be two public hearings on the budget. Hopefully, such meetings would be in the nature of town hall meetings where citizens will have broad input into the setting of city budget priorities.

The measure also requires that the mayor hold a public meeting where the public can examine the qualifications of candidates for city manager, addressing the problem of the city council hiring a city manager behind closed doors with zero public input. The council would be required to hold similar public meetings to vet the qualifications of candidates for city attorney, city treasurer and city clerk.

A more symbolic provision requires that the mayor hold two public town hall meetings each year and that the council hold two council meetings away from city halls each year.

## **VII. Likely and Potential Impacts of Measure L on Various Parties**

### **Impacts on Councilmembers**

Measure L will almost certainly lead to a considerable loss of power for councilmembers. First, the city manager will no longer work for, report to or be accountable to councilmembers as the council will lose the power to dismiss the city manager. Instead, the city manager will work for, report to and be accountable to the executive mayor. Much of councilmembers' current power lies in their ultimate authority to remove the city manager if he does not perform to their satisfaction. With the loss of dismissal power over the city manager, councilmembers will have significantly less influence over the city bureaucracy.

Measure L's shift of broad budgetary power from the city manager to the mayor will also diminish councilmember power. Now, the city manager takes significant time during the course of each year (more than six months) to methodically gauge the budget priorities of council members, which leads to the release of a draft budget that the city manager already knows will be favorably received by a council majority. Under Measure L, the city manager will be preparing the budget proposal for a constituency of one: his

boss, the executive mayor. Consequently, councilmember influence on the development of the budget will drop dramatically.

Given the mayor's power under Measure L to veto a budget not to his liking and the extraordinarily high 3/4ths majority council vote (6 out of 8 members) required to override a mayoral veto of the budget, the mayor need corral only three council votes to defeat an override of his veto of the budget.

Little media attention has been paid to Measure L's grant of line-item veto power to the mayor. Under a line-item veto, the mayor can zero out any one or more of the thousands of line items in the city's massive annual budget. The council would have to muster a 3/4ths majority to override each individual line item veto. As a practical matter, under Measure L not a penny is likely to be spent by the city without the approval of the executive mayor. From a raw power perspective, the ability of a mayor under Measure L to zero out spending and projects that benefit a single council district will provide him with tremendous coercive power over a recalcitrant councilmember. Even the threat of such action will often be enough to bring councilmembers into line.

Not every councilmember's power will diminish under Measure L. Those councilmembers who become uniformly loyal to the executive mayor and never waver in that support will likely see little to no change in their power and influence. But their freedom and flexibility to represent the interests and views of their constituents will likely be compromised and subordinated to their primary loyalty to the mayor and his agenda.

In short, Measure L will likely lead to a significant reduction in councilmember power and influence over city government. Perhaps the council's decision to put a provision in Measure L reducing the number of required council meetings from once weekly to just twice monthly was a recognition that they wouldn't have as much to do after passage of Measure L.

One aspect of Measure L which will mitigate the likely loss of councilmember power is a provision requiring the creation of an Office of Independent Budget Analyst under the direct control of the city council. The city budget analyst will be a check on an executive mayor's broad control of the city's budget process and should help offset, to some extent at least, councilmembers' likely reduction in full and easy access to city financial information under an executive mayor system.

### **Impacts on Neighborhoods**

As noted above, Measure L will likely reduce the power and influence of individual councilmembers. This reduction in the power of councilmembers will likely lead to a corresponding fall in the influence of neighborhoods and neighborhood organizations at city hall. Why? Because councilmembers are dependent on the support of residential voters for their reelection.



While councilmembers are assuredly influenced by those who contribute to their campaigns, it is a councilmember's constituents and their preferences that have by far the greatest influence on the positions adopted by councilmembers. City council elections are exercises in retail politics. EOS studies have shown that, while a candidate must receive a certain threshold level of funding to be competitive in a race for council, once that threshold level of funding is reached, then the amount raised by candidates above that threshold bears virtually no relationship to the outcome of council races. Instead, our experience is that those candidates who are most effective in connecting with voters at their front doors are the ones who consistently prevail in council races.

By the end of a council race, the prevailing candidate is the one person in that council district who is best attuned to the views, concerns and aspirations of voters in the district. It is those voters who will decide whether a councilmember is returned to office for a second term. As a result, the views of residents have the most dominant influence on their councilmember's positions.

By contrast, mayors are typically less connected on an individual or retail basis with their city-wide constituents. They spend more time than councilmembers with representative of various city-wide interest groups and less time than councilmembers with representatives of neighborhood groups. Mayors also tend to be more reliant on campaign fundraising for their political continuity than councilmembers. Running city-wide campaigns are an expensive proposition while council district races are far less expensive and are less dependent on prodigious fundraising.

As a result of these different influences, councilmembers tend to be highly sensitive to, and focused on, neighborhood concerns, while mayors, as a general rule, tend to focus more on city-wide issues of concern to a mayor's interest group donors and issues relating to the Downtown core where many of his contributors have economic interests. Consequently, any reduction in the power or influence of councilmembers will lead to a decline in neighborhood influence on city government and an increase in the influence of interests concerned with Downtown interests.

Supporters of Measure L make the case that the current structure of city government leads to an excessive focus on parochial neighborhood interests and an insufficient focus on city-wide issues. There is some merit to that argument, particularly since only the mayor, presently a largely ceremonial post, is the only member of the council elected in a city-wide vote. We have also had councilmembers who haven't disguised their almost monomaniacal focus on matters concerning their district and evincing far less concern with city-wide issues. One such member's most memorable and revealing standing line was, "What's in it for my district."

Most councilmembers, however, are quite conscientious about their dual responsibility to represent both their district and the city as a whole. District parochialism may have been a concern some years ago, but we've see little evidence of it in recent years. If it is seen again as a major concern, it could perhaps be more easily

addressed by increasing the size of the city council from nine to, say, 13 members and having the four additional councilmembers elected via a city-wide vote.

An additional observation: if a councilmember happens to be on the "outs" with an executive mayor, that councilmember and his neighborhood constituents will likely see their influence at City Hall drop much more precipitously.

The city council threw a bone to those concerned about the waning influence of Sacramento's neighborhoods under Measure L by adding a last-minute a provision to the measure that provides that the city council "may" establish by ordinance a Neighborhood Advisory Committee for the purpose of considering the interests of the city's neighborhoods. That's it. Not a single further word flushing out the composition, staffing, budget, scope or brief of such a committee. The use of the word "advisory" sends the clear message that the committee will have no authority whatsoever, virtually guaranteeing that its influence will be the same as all other city advisory committees, which is zero. The addition of the provision was a transparent effort to mislead voters into believing that neighborhood views will actually count for something as a consequence of the creation of such of a committee

It is particularly galling - and revealing - that the council couldn't even muster the will to actually commit to creating such a powerless, superfluous committee. By providing that the council "**may**" create such a committee, they signal a lack of seriousness, commitment and credibility. The council "may" create a neighborhood advisory committee on any given Tuesday night. To add such meaningless fluff in a charter amendment is a civic embarrassment. That a recent Sacramento Bee editorial supporting Measure L cited this provision as a beacon of hope that neighborhood concerns will receive a fair hearing at city hall - even though the influence of their council representatives will be diminished by the measure - is either naïveté or disingenuousness.

### **Impacts on City Employees**

City employees take their cues from their boss, the city manager. With the city manager currently 100% accountable to the city council, city employees are today highly solicitous of the concerns of councilmembers. Under Measure L, the city manager will be answerable solely to the executive mayor. Consequently, city staff will reorient their focus to serving the wishes of the mayor and will likely provide a lower level of service to councilmembers.

In terms of policy, the mayor will have a much greater ability to direct city staff to implement his vision and his priorities, even greater than that of the city manager under the current system. Currently, the city manager must always be conscious of the need to keep his nine "bosses" satisfied (or, more accurately: to upset not more than five of them at any one time, as six votes are what's required to dismiss a city manager). His multiple-boss challenge makes him more cautious in developing and implementing policy.

Under Measure L, such policy ambiguity or caution will become largely a thing of the past. An executive mayor will likely have relatively free rein in summoning the bureaucracy to act upon his policy directions. This could become a particularly valuable tool in responding quickly and effectively to opportunities to recruit new businesses or to respond to rapidly developing crises.

### **Impact on Senior City Managers**

One of the major concerns with a change from a council-manager to an executive mayor is whether it will lead to political and crony appointments to management positions in city government. The city manager controls the hiring and firing of hundreds of senior city managers and staff. Under the city's current personnel policies and practices, we have a senior city staff that is highly professionalized, well-trained and largely free from political influence. The city manager currently serves as an effective buffer between senior city staff and the rough and tumble world of city council and mayoral politics. That insulation will likely end with the passage of Measure L. The mayor will be free to appoint whomever he wants to these positions.

Will senior city managers feel that their positions have become less secure if Measure L passes? Will we see a departure of managers leaving to accept more secure, apolitical positions with other cities? We're not sure. Corporate cultures take a long time to develop and a long time to change. Over time, however, we may see a change in the type of managers the city employs. Some may be political, but some may also be more dynamic and action-oriented, less cautious than many current city managers. We could see the hiring of more managers from the corporate world, bringing an entirely new perspective and approach to city management.

### **Impacts on City Unions**

The city's police and firefighters unions have been strong supporters and campaigners for Measure L. Will they receive more favorable treatment in contract negotiations under an executive mayor than they've received under the city manager? In recent contract negotiations, the city manager has been firm in insisting that all bargaining groups agree to provisions requiring their members to fully fund the "employee's share" of their pension obligations. In the case of the police union contract, an impasse in negotiations led to a referral of the matter to mandatory binding arbitration. Will an executive mayor, the recipient of major contributions and other support from police and fire unions, be as firm as the city manager has been in vital union contract negotiations? Many have their doubts. If an executive mayor is less firm in contract negotiations than the city manager, city taxpayers would ultimately bear the cost of higher salary levels and pension costs.

### **Impact on Development Interests & Project Reviews**

Many in the environmental community have expressed concern that an executive mayor, who will likely be the recipient of significant campaign contributions from

development interests and firms in the construction industry, will use his power to reduce the current level of staff, planning commission and council scrutiny of development proposals as they move through the city's environmental review and planning process. It is very possible that an executive mayor would use his powers to expedite reviews and reduce the time projects spend in the review process.

In our view, that would not be an unhealthy development. There is an old (and true) adage in the development business: "time kills all projects." Developers tie up considerable capital, incur substantial debt and expose themselves to major risks in bringing projects to market (as evidenced by the large number of local developers who failed in the Great Recession). Delays add to project costs, increase uncertainty and reduce the tempo of beneficial development and economic growth.

Whether an executive mayor will reduce *standards* used by city staff in conducting environmental and planning reviews is another question. Most standards are imposed by ordinance and cannot be unilaterally bypassed by an executive mayor. Finally, most significant projects require entitlements, such as zoning changes and conditional use permits, the granting of which will remain in the sole domain of the city council (although an executive mayor will have many tools at his disposal to pressure council members to fall into line with his agenda).

### **VIII. Will We Have An Adequate Pool of Qualified Executive Candidates?**

One of the great uncertainties raised by passage of Measure L is what impact it would have on the pool of available, willing and qualified candidates for mayor in an executive mayor system. If Measure L is adopted, all future Sacramento mayors will, upon being sworn into office, become the chief executive officer of a billion-dollar municipal corporation that employs over 4,500 employees and is responsible for protecting our personal safety, providing us with safe and reliable water, sewer service, garbage collection, park maintenance, development services, building code enforcement and so on. It is not a position for those needing training wheels or amateurs who lack the experience, training, management and leadership skills, character, demeanor or judgment needed to lead and effectively and efficiently manage an increasingly complex enterprise.

Under the city's current council-manager form of governance, city managers selected to run our city government have typically been promoted over the course of decades to positions of ever increasing responsibility. They've undergone extensive professional training and education. They've been vetted in positions that have required them to manage and balance budgets, to lead and oversee thousands of employees working in a vast array of functions and services, and they've had to plan, execute, monitor and adapt countless programs and initiatives. They've built up broad networks of professional colleagues and advisors who can assist them in the discharge of their responsibilities. They've had their talents, character and mettle tested in multiple positions over the course of decades.

If we were to assess honestly all the mayors who have served Sacramento over the past 40 years (Marriott, Isenberg, Rudin, Miller, Serna, Yee, Fargo and Johnson), could we honestly conclude that any one of them came into office with the requisite qualifications needed to assume immediate full executive leadership of city government? We don't think that we could.

So if we conclude that none of the individuals on the roster of past Sacramento mayors had the qualifications to serve effectively as chief executive mayors of Sacramento, what assurances do voters have that we will see an adequate pool of future mayoral candidates surface who will have the qualifications needed to assume such responsibilities? The fact is there are no assurances that candidates of such caliber will seek the office.

Proponents of Measure L assert that there are directors of major departments of state government and other governmental units who would be encouraged by the passage of Measure L and the resulting enlargement of mayoral authority to run for mayor. Or that there are civic-minded CEO's of larger corporations with the requisite skills who would seek the office following adoption of Measure L. Perhaps. The business community largely abandoned its previous activist role in city government several decades ago with the shift away from at-large to district election of councilmembers. Meanwhile, the increasingly combative nature of electoral politics dampens the ambitions of possible candidates from the business world.

Proponents claim that smart mayoral candidates will hire competent and experienced city managers to serve under them and who will carry out the day-to-day responsibilities of running the city. That may help make up for some, but certainly not all, of the shortcomings of mayoral candidates who personally lack the requisite qualifications to serve as the city's CEO. It is also uncertain whether Sacramento could attract a high quality pool of candidates to fill a position that will be, at most, a subordinate chief administrative position or, perhaps more likely, a de facto chief of staff position. While not widely reported at the time, Sacramento had a very difficult time in attracting qualified applicants for city manager three years ago when council turmoil and high turnover in the city manager position made the city a pretty unattractive place to work. Recruitment could be even tougher for a position with down-graded authority.

## **IX. Ethics Provisions; Corruption & Cronyism Risks**

### **Ethical Reforms in Measure L**

Measure L would require the city council to adopt by ordinance a Code of Ethics and Conduct that would govern both elected officials and those appointed to city boards, commission and committees. Significantly, the Ethics Code must include provisions for the removal from office of an elected official (i.e. a mayor or councilmember) who "substantially violates" the Code. This assures that the Code will have some real teeth to it. However, the fact that the council included a mere promise to adopt such a Code instead of exerting the effort of actually writing it and enshrining into the city charter

shows a certain lack of seriousness of purpose. The implicit message is that votes have to agree to make the mayor stronger before we'll take steps to make city government more ethical.

The council included a related section in Measure L which provides that they "*may*" create an ethics commission. There are multiple problems with this provision. First, by using the weasel word "may," the council lacked the fortitude to fully commit to creating an Ethics Commission. Without a solid council commitment to create an Ethics Commission, the provision is illusory and misleading to votes. If the council refuses to follow through and create the commission, the voters will have been effectively hoodwinked.

Secondly, Measure L provides that the ethics commission will have the "*purpose of reviewing and monitoring the Code of Ethics ordinance.*" Noticeably absent from its stated purpose is the power of the commission to *enforce* the Code of Ethics. Without enforcement power, an ethics commission would be toothless and ineffective at assuring ethical conduct by city officials.

### **The Risk of Corruption and Cronyism**

Lord Acton's famous admonition also has the virtue of being true: "*Power corrupts and absolute power corrupts absolutely.*" For the 90+ years the City of Sacramento has operated under a council-manager form of government, it has been largely free of the corruption scandals that have bedeviled a number of cities with an executive mayor form of government. Diffused government power provides fewer opportunities for corruption, while the concentration of government power invites corruption.

We know by experience that campaign money follows political power. So the enhancement of mayoral powers will likely led to a potentially significant increase in the mayor's political fundraising, which will, in turn, further increase his political power and influence over the city council and council candidates. Is Sacramento ready for the potential creation of a political machine and its attendant deleterious effects? It is to be hoped that our current system of robust retail politics by which council members are currently elected will continue to advance candidates to the council who will be focused, first and foremost, on the interests of residents rather than the agendas of politically powerful executive mayors.

One area of major concern to EOS is the city's use of the city treasury and taxpayer money to subsidize private development projects - a form of "crony capitalism" that has been proven in study after study to be not only monumentally wasteful, but corrosive of the public trust, particularly when the recipients of such taxpayer largesse give campaign contributions to the officials with the power to grant such largesse. We noticed, for example, that Mark Friedman, the investor in the Kings ownership responsible for overseeing development of the new Downtown arena, has been a major contributor to the Measure L campaign. The owners of the Kings, including Mr.

Friedman, are the beneficiaries of hundreds of millions of dollars of taxpayer subsidies. That Mr. Friedman is now contributing over \$10,000 to the Measure L campaign appears very much like a return favor for the subsidy that he received from city taxpayers.

If Measure L passes, it will be imperative for the city council to take seriously the job of crafting a Code of Ethics to eliminate not only classic quid pro quo exchanges, but to eliminate the appearance of "pay to play" corruption and favor trading, particularly as mayoral political fundraising increases and the city continues to engage in ill-conceived and wasteful subsidies of private development projects.

## **X. Measure L and Waning Democratic Values in City Government**

Measure L has not arrived on the political scene in a vacuum. Over the past few years, EOS has grown increasingly concerned with a steady erosion of democratic values and democratic practices in city government.

In recent years we have seen backroom city hall deals that have created gerrymandered council districts that have disregarded traditional neighborhood boundaries and suppressed the legitimate political power and aspirations of Sacramento's Hispanic voters to the very cusp of illegality under federal and state voting rights laws. We have seen the city council degrade citizen input at council meetings by cutting the time allotted for individual public comment by 33%, making Sacramento an outlier for its stinginess in the amount of time it allows for citizens to speak to their elected officials.

We've seen the frequency and duration of council meetings cut by half. As part of Measure L, the city council is seeking to reduce the number of required meetings it must hold by more than half. We've seen elected and appointed city officials mishandle city ballot materials and ballot arguments for illegitimate political purposes, resulting in a grand jury investigation and critical report. We've seen the city use every device at its disposal to deprive city voters of the opportunity to decide for themselves whether its city should run up hundreds of millions of dollars of city debt to pay for taxpayer subsidies for a private arena development.

Voters have before them a measure that was kept off the ballot for years by situational democrats on our city council who strongly support the principle of voter democracy only when they personally support the measure to be voted upon, but stridently oppose voter democracy when they personally oppose the matter to be voted upon.

We urge voters to weigh Measure L carefully. We suggest that, in addition to other criteria you use to evaluate the measure, you include a further one: will the measure advance or diminish our collective ability to democratically govern our city now and in the future. We at EOS trust in the judgment and prudence of an informed Sacramento electorate.

**Broadcast Note: This EOS Report on Measure L is being presented at an EOS Public Forum on Measure L held on October 2, 2014 at the Clunie Clubhouse in McKinley Park. The entire Forum is being recorded by Access Sacramento for later broadcast on its cable television channels. For information on broadcasting times, please contact Anna Robertson, EOS Executive Assistant, at [anna@eyeonsacramento.org](mailto:anna@eyeonsacramento.org) or by phone at (916) 403-0592. Video of the Forum will also be posted on EOS's website at [www.eyeonsacramento.org](http://www.eyeonsacramento.org) as soon as it becomes available to us. You can become a member of EOS by visiting our website.**