



## **An Eye on Sacramento Report on Measure A**

### **The Sacramento Mayoral Accountability and Community Equity Act of 2020**



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**EXECUTIVE SUMMARY**  
of  
**Eye on Sacramento's Report on Measure U**

**The Mayoral Accountability and Community Equity Act of 2020**

**The Strong Mayor Issue Was Exhaustively Debated and Settled By Voters in 2014**

Most Sacramentans consider the strong mayor issue to have been exhaustively debated and fully settled in 2014 with city voters' broad rejection of Mayor Kevin Johnson's Measure L. There is simply no evidence of a sudden groundswell of public support for resurrecting the issue, particularly during what is one of the most trying times in our city's history, featuring a devastating pandemic, continued lock-downs, massive unemployment, increasing housing insecurities, extensive civil unrest, and widespread business failures. Measure A is the brainchild of one man, Mayor Darrell Steinberg, who appears to be following the cynical advice of former Chicago Mayor Rahm Emmanuel "to never let a crisis go to waste."

**The Frenzied Rush to Place Measure A on November Ballot is an Affront to Democracy**

It is impossible to imagine a more rushed effort to restructure Sacramento government than what has transpired with Measure A. From initial announcement of the proposal at a July 23<sup>rd</sup> press conference to the August 4<sup>th</sup> city council vote to place the measure on the November *took a mere 12 days* – amidst a public health emergency and unprecedented city unrest. The city council did not even have a final copy of the measure before it when it approved placing it on the ballot.

The mayor and city council abrogated its own rules and legislative processes for considering legislation by failing to refer the measure to its Law & Legislation Committee for review and public hearings, as required by the council's Rules of Procedure. In this regard, creating a Charter Review Committee process (as was done in 2014) where public hearings are held to thoroughly vet the many thorny issues raised by restructuring city government, was never on the table. It is hard to characterize this treatment as anything other than a fundamental breakdown and gross disregard of basic democratic norms.

**Most of the Signers of the Ballot Arguments in Support of Measure A Have Potential Financial Conflicts of Interests and Why That Should Matter to Voters**

Most of the authors of the ballot arguments submitted in support of Measure A have potential financial conflicts of interest in supporting the measure. They are either directly employed by, or

associated with, nonprofit organizations which have received multi-million grants or contracts from the City of Sacramento, or have pending before the mayor and city council multi-million dollar requests for funding.

Such behavior raises the unpleasant, but inescapable question: are the individuals with potential financial conflicts of interests supporting Measure A because they believe, as citizens, that its adoption would be in the best interest of the city or are they doing so because Measure A would improve their organizations' chances of receiving additional city funding or economic benefits for their organizations?

### **City Governance Should Not 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.

### **Real Accountability Means Being Held to Account for Performance**

While direct election of the city's chief executive officer - an executive mayor – would be one indicator of accountability, we believe that real accountability requires that a public official "be held to account" for his or her performance. On that score, we find that a city manager, who can be easily dismissed by the city council for subpar performance, is subject to far greater accountability for performance than an elected executive mayor, who can only be removed every four years or via a recall election.

### **Measure A Would Reduce the Influence of Councilmembers, Citizens and Neighborhoods**

Since power in a city is finite, increasing the power of the mayor by handing him control over the city budget and the city bureaucracy will inevitably diminish the power of councilmembers. Because the city council would lose its power to dismiss the city manager, councilmembers will have much less influence over the city bureaucracy. The reduction in councilmember power over the city bureaucracy which Measure A would entail would necessarily reduce the influence of individuals and neighborhoods at City Hall.

### **Measure A Would Likely Reduce the Efficiency & Effectiveness of Government Operations, But Would Have Likely Little Impact on Major City Policies**

According to an IBM study, cities with city manager forms of government are nearly 10% more efficient than cities with strong mayor forms of government. IBM's finding validates the assumption that placing executive authority in the hands of professional management that's shielded from direct political interference should yield more efficiently managed cities.

## **The Future Destiny of Measure A’s “Sweetener” Provisions**

The purpose of Measure A’s sweeteners is to entice voters, who might not otherwise vote for a strong mayor proposal, to vote for Measure A in order to obtain its sweeteners. This is a form of voter manipulation that was also used by Mayor Kevin Johnson (ultimately ineffectively) in his 2014 Measure L strong mayor proposal. Almost all of Johnson’s Measure L sweeteners would ultimately prove to be more popular with the public than his strong mayor proposal, as all of them were subsequently adopted by ordinance by the city council, in one form or another, following voter rejection of Measure L. The same destiny may await the sweeteners included in Mayor Steinberg’s Measure A.

### **Hallmark of Measure A Sweeteners: Unvetted, Vague, Illusory and/or Legally Suspect**

Because Measure A was rushed onto the ballot without adequate time for review, none of the sweeteners were vetted, most of them are extremely vague, a few are illusory and some may end up the subject of future legal challenges.

### **Measure A’s \$40 Million Annual Spending Mandate: Endless Problems**

Measure A includes a mandate that city budgets must annually spend at least \$40 million on “inclusive economic growth” and “youth services.” At least 25% of the \$40 million must be spent on “youth services.” The \$40 million annual mandate:

- (a) Will almost certainly unleash a flood of unfunded spending mandate measures (aka ballot box budgeting), which will likely range from funding set-asides for police and fire services, to city parks, libraries, the arts, etc.;
- (b) Would constitute an unfunded spending mandate, meaning the money required to fund it would have to come out of other budgeted city spending;
- (c) Would almost certainly trigger cuts to core city services, with the cuts falling most heavily on public safety spending;
- (c) Would increase pressure on city voters to *again* increase the city taxes;
- (d) Would undermine the city council’s flexibility in dealing with budget shortfalls;
- (e) Includes terms that are vague and entirely undefined;
- (f) May or may not count *existing* city spending on “inclusive economic growth” and “youth services” towards the \$40 million annual spending mandate;
- (g) Will have budgetary and public service impacts that have not been examined by city staff or publicly vetted;
- (h) May constitute an unlawful intrusion into the city council’s exclusive authority to expend city funds;
- (i) Would constitute an extreme form of ballot box budgeting, as its mandated spending could not be reduced during times of falling city revenues; and
- (j) Demonstrates mayoral hypocrisy on ballot box budgeting, as he opposed a ballot box budgeting measure to fund youth services on the March 2020 ballot (Measure G).

### **Measure A's Ambiguous "Reauthorization" Provision**

While local media has reported that the city council added a 10-year "sunset" provision before placing Measure A on the ballot, in fact it does not have a "sunset" provision. Measure A instead has an very unusual and ambiguous "reauthorization" provision, which would create a major legal uncertainty over whether Sacramento voters will ever have the right to vote to end or continue Measure A's strong mayor provisions, a right that was clearly set forth in Johnson's Measure L, which would have unambiguously expired on a date certain unless affirmatively extended by city voters.

### **Study: Corruption Convictions Strongly Correlated with Executive Mayor Form of Governance**

A recent academic study has found that the executive mayor form of government correlates with greater municipal corruption than council-manager governments. The study found that cities with executive mayor form of government are 57% more likely to experience corruption convictions than cities using the council-manager form of government.

## MESSAGE FROM EYE ON SACRAMENTO'S PRESIDENT

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 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 we believe 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 of disinfectants."

While Measure A - Darrell Steinberg's "Sacramento Mayoral Accountability and Community Equity Act of 2020" - is receiving some coverage by local media, we believe that Sacramento voters badly need and deserve a 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 closely with Sacramento city government for several years, which has necessarily affected our perspectives and views, for good or ill.

In 2014, EOS presented its policy report "Measure L, the Sacramento Checks and Balances Act of 2014" at a well-attended public forum on Measure L held on October 2, 2014 at the Clunie Clubhouse in McKinley Park. (A copy of that report is available on EOS's website at [eyeonsacramento.org](http://eyeonsacramento.org).) Regrettably, the Covid-19 pandemic has made a reprise of such a forum on Measure A an impossibility. Our hope is that this report, coupled with what we hope to be one or more televised forums on Measure A, will help voters make an informed judgment on the proposal.

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

A guide to the terms we use in this report: Measure A proposes that the form of government in Sacramento be changed from its current council-manager form of government, in which the city council is empowered to hire and fire the city manager, to an "executive mayor" or "mayor-council" form of government, in which the mayor would serve as the city's chief executive. The city manager would be a subordinate of the mayor and would report directly to him or her.

Craig Powell, President  
Eye on Sacramento  
September 3, 2020



## SUMMARY OF MEASURE A

The changes that Measure A would make to the city charter break down into the following structural components (The full text of Measure A can be viewed [here](#), while a summary of Measure A, prepared by the city attorney's office, appears [here](#)):

### 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 or without cause. If the mayor fires the city manager without cause, the council could override the firing with a six-vote override.
- The mayor, through the city manager, would propose the budget at least 90 days before the beginning of the fiscal year (up from the current 60 days), and the council must hold at least two public hearings on the budget (up from the current requirement of one public hearing).
- The mayor would have veto power over ordinances passed by the council, subject to a six-vote council override
- No person could serve as mayor for more than two full terms.

### City Council

- Eight-member council until 2022, when a ninth member would be elected following council redistricting in 2021. The mayor would no longer serve as a member of the council.
- The council would select its own council president and vice-president.
- The council would approve the city budget on a majority vote, subject to a mayoral veto, which could be overridden by the vote of six members. Line item spending vetoes by the mayor could be similarly overridden with a six-vote override.
- The council would continue to appoint and dismiss the city attorney, city treasurer, city auditor and city clerk.
- The mayor would not have veto power over ordinances adopted by the council in its role as the city's Housing Authority, or over the council's land use decisions, although he would have veto power over ordinances related to land use matters.

### **Participatory Budgeting**

- The city budget must include “one or more” line items for expenditures “consistent with the recommendations” resulting from a citywide “participatory budgeting process.” (Please see “*Adoption of “Participatory Budgeting” – The ‘Single Penny’ Problem*” at page 29 for an analysis of this provision.)

### **Mandated \$40 Million Annual Expenditure**

- City budgets must annually include spending of at least \$40 million from the general fund, adjusted annually based on economic growth, on “inclusive economic growth” and “youth services.” At least 25% of the \$40 million must be for “youth services,” with a priority on youth impacted by poverty and trauma. (Please see “*Mandate to Spend \$40 Million Annually on ‘Inclusive Economic Growth’ & ‘Youth Services’*” at page 27 for an analysis of this provision.)

### **Ethics Commission, Sunshine Ordinance, Fair Housing & Human Rights Commission**

- The city currently has an ethics commission created by ordinance, as well as an existing Code of Ethics and Conduct Ordinance and an existing Sunshine Ordinance. The city charter would mandate that such ordinances be kept in place and could not be eliminated by future council action. (Please see “*Ethics & Transparency Matters – Locking in the Status Quo*” at page 29 for an analysis.)
- The city would be required to provide the ethics commission with at least one staffer who would report solely to the commission.
- The council would be required to adopt an ordinance that provides for the removal from office of any elected official (but not an appointed official) who “substantially violates the Code of Ethics and Conduct.” (Please see “*New Authority to Remove Elected Officials for Substantial Ethics Violations*” at page 29 for an analysis.)
- The council would be required to adopt an ordinance creating a Fair Housing & Human Rights Commission with unspecified powers and duties. (Please see “*Fair Housing and Human Rights Commission*” at page 31 below for a discussion.)

### **Social Equity & Small Business Analysis; Responsiveness to Constituents**

- The council would be required to take action, by either resolution or ordinance, to analyze the “social equity impacts” of the city budget and “major policy decisions.” Additionally, the council would be required to create either a commission or a standing committee of the council to “evaluate council decisions for their effects on residents who are most negatively and disproportionately impacted by socio-economic, environmental and historical factors, including taking into account racial, ethnic, gender, sexual-

orientation, and sexual-identity equity.” (Please see “*Social Equity & Small Business Impact Analysis*” at pg. 29 for an analysis.)

- The city auditor would be required to: (a) audit the city’s progress in addressing social inequities, including city and departmental policies and actions; and (b) present a “social equity analysis” as part of the annual budget. (Please see “*Proposed Role of City Auditor in Auditing for Social Inequities*” at page 31 for an analysis.)
- The city would also be required to analyze the impacts on small business of the city’s budget and “major policy decisions.”
- Finally, the city council would be required to “develop a means to ensure efficient and effective response to constituent concerns.” (Please see “*Commitment to Respond to Constituent Concerns*” at page 31 for an analysis.)

### **Measure A’s Ambiguous Reauthorization Provision**

- Under Kevin Johnson’s 2014 strong mayor ballot measure (Measure L), all or its provisions, other than the creation of an independent redistricting commission, were set to sunset six years later, i.e. December 31, 2020, unless the voters approved a measure to make the strong mayor provisions permanent no later than November 2, 2020. If they didn’t vote to make strong mayor permanent, the city would revert to the status quo ante - a council-manager form of government
- Under Darrell Steinberg’s 10-year “reauthorization” provision, it’s not at all clear what happens at the end of 10 years. Measure A merely requires that the city council place a charter amendment before city voters “at an election no later than” November 2030 ballot, which could include one or more of three options: (a) “returns the City to the council-manager form of government;” (b) “re-approves the changes effectuated” by Measure A; or (c) “some alternative government structure.” (Please see “*Measure A’s Ambiguous Reauthorization Provision*” at page 32 for a discussion.)

### **WHY REVISIT STRONG MAYOR AFTER CITY VOTERS REJECTED IT IN 2014?**

Darrell Steinberg’s Measure A is strikingly similar to Kevin Johnson’s 2014 Measure L strong mayor proposal. Sacramento voters broadly rejected Measure L by a vote of 56% to 44% following more than five years of extensive public debate on the issue, including a one-year detailed study and extensive community hearings conducted by the Sacramento’s Charter Review Committee, chaired by former Sacramento city manager Bill Edgar, [which recommended against strong mayor](#), as well as city council consideration of three different versions of strong mayor proposed by Kevin Johnson between 2009 thru 2014.

Why should Sacramento voters now, in the middle of devastating pandemic, extensive civil unrest and deep economic recession, reconsider what many consider to be an exhaustively debated and long settled issue? Isn’t such a ballot measure at a time such as this a major distraction from the serious major issues facing Sacramento, its struggling residents and its

threatened businesses? Is the mayor following the adage of former Chicago mayor Rahm Emmanuel to “never let a crisis go to waste?”

Is there some sudden groundswell of public support for an idea that was thoroughly considered and soundly rejected by voters just six years ago? An August 5<sup>th</sup> article in the Sacramento News & Review quotes the mayor as saying that “recent polling shows that it [Measure A] has a good chance in 2020.” If that’s true, one would expect him to eagerly disclose the polling data indicating such support. He has not done so.

Anecdotal indicators of public reaction to his strong mayor proposal, as gleaned from recent discussions on social media platforms like Next Door and Facebook, as well as public comments posted on media stories on the proposal, show an overwhelmingly negative public reaction to the idea, with postings typically running 98% against vs. 2% undecided on the issue. In the run up to the city council’s August 4<sup>th</sup> meeting at which Measure A was placed on the November ballot, the council received a total of [59 e-mailed comments](#) (known as “e-comments”) on Measure A. *Not one of the 59 e-comments the council received expressed support for placing Measure A on the ballot.*

## **THE RUSH TO PLACE STRONG MAYOR ON THE NOVEMBER 2020 BALLOT**

It is hard to imagine a more rushed effort to fundamentally restructure Sacramento government than what the mayor pulled off in rushing Measure A through the council and onto the November ballot. From initial announcement of the idea at a [City Hall press conference](#) on July 23<sup>rd</sup> to [council’s placement](#) of the measure on the ballot on August 4<sup>th</sup> *took just 12 days*. The city council didn’t even have a final copy of the measure when it approved placing it on the ballot. A final copy of the measure wasn’t publicly available until three days after the council approved its placement on the ballot.

The mayor and city council abrogated its own rules and legislative processes for considering legislation by failing to refer the measure to its Law & Legislation Committee, as mandated by the city council’s own [Rules of Procedure](#). Even the most minor and insignificant proposed ordinances are considered and debated in public hearings before the Law & Legislation Committee, yet a complex proposal that involves the most far reaching restructuring of city government in nearly 100 years doesn’t even merit a single hearing before the council’s Law & Legislation Committee? It is hard to characterize this treatment as anything other than a fundamental breakdown and gross disregard of basic democratic norms.

The [rumors](#) that the mayor was considering a strong mayor proposal had been circulating since 2019, yet he strategically waited until the final few weeks before the statutory deadline for submitting measures to the November ballot to reveal his strong measure proposal – a classic sandbagging maneuver designed to deprive opponents of the time necessary to fully analyze, critique, educate the public and rally opposition to it before the council acted.

Further, the mayor engineered his legislative sandbag at a time when Sacramento is reeling from grave pandemic fears, economic shutdowns, amid record unemployment, fears over losing housing, collapsing businesses and unprecedented civil unrest. He used his majority

control over the council to push the measure to the ballot at a time when the public could not even be present in the council chambers to express their opposition to the measure in person, relegated instead to sending e-mails to council members and calling into phoning council meetings at which even council members were absent from the council chambers.

*If the mayor's heavy-handed, anti-democratic maneuvering of Measure A onto the November ballot is any indication of how he would exercise expanded mayoral powers under Measure A, the voters of Sacramento should be very hesitant to provide him greater powers than he already wields.*

### **San Jose Mayor Pulls His Strong Mayor Bid Off the November Ballot**

At the same time as Mayor Steinberg was rushing Measure A to the ballot, the mayor of San Jose, Sam Liccardo, was also seeking to place a strong mayor proposal before San Jose voters in November. But in the face of public outcry over the rushed process, Liccardo agreed to withdraw his proposal and proposed instead to create a charter review commission to consider charter changes. "Given what has become a highly contentious political environment surrounding these efforts – they're right. We need to slow this down, to enable more outreach and community engagement," said Liccardo to an [NBC TV reporter](#).

By contrast, Mayor Steinberg, secure in his firm grip on a council majority, just kept barreling his strong mayor proposal onto the November ballot, the critics be damned. The mayor clearly intends to use his sizeable campaign war chest and immense fundraising advantage to win what is essentially a snap election against an opposition that's just now organizing and will be at a distinct fundraising disadvantage.

### **WHY THE POTENTIAL CONFLICTS OF INTEREST OF SUPPORTERS AND OPPONENTS OF MEASURE A SHOULD MATTER TO VOTERS?**

Whoever controls the city budget is in a position to steer significant grants, contracts and other economic benefits to numerous local nonprofit, labor and business organizations, including the organizations identified the section below ("Which of the Signers of Ballot Arguments Have Potential Conflicts of Interest").

In recent years, EOS has observed a troubling trend: the leaders of such organizations often align themselves with, and throw their political support behind, politicians who are in a position to influence or control the flow of funds or other economic benefits to their organizations or members.

*Such behavior raises the unpleasant, but inescapable question: are the individuals with potential financial conflicts of interests supporting Measure A because they believe, as citizens, that its adoption would be in the best interest of the city and its residents or are they doing so because Measure A would hand Darrell Steinberg dominant control over the city budget and improve their organizations' chances of receiving additional city funding or economic benefits for their organizations?*

*Are some of them also looking to leverage their relationships with the mayor to receive further city funding from Measure A's mandate that the city spend \$40 million annually on "inclusive economic growth" and "youth services." A large portion of the city's spending to date on "inclusive economic growth" has been in the form of grants to, and contracts with, local nonprofit organizations.*

*Voters should carefully consider these questions in assessing the importance they should attach to high-profile Measure A supporters, as well as to the risk that concentrating budget power in the mayor could lead to implicit exchanges of taxpayer money for political support. We believe that such practices could be fairly characterized as a form of "crony socialism."*

### **Supporters/Opponents of Measure A: Ballot Argument Signers**

The Sacramento city council voted 6-3 on August 4, 2020, to place Measure A on the November ballot. Councilmembers Jay Schenirer, Rick Jennings, Eric Guerra, Angelique Ashby, Steven Hansen and Mayor Steinberg voted in favor, while councilmembers Jeff Harris, Larry Carr and Allen Warren voted against. Councilmember Steve Hansen was quoted by the [Sacramento Bee](#) as stating that he *"does not support the strong mayor policy, but is keeping an open mind about voting to place it before the voters."*

Councilmember-elect Katie Valenzuela, who assumes Hansen's District 4 council seat this December and who has emerged as one of the leaders of the campaign opposing Measure A, has [stated](#), *"Not only are the equity proposals not new, these are ideas the council can and should act on without a charter revision. Instead these longstanding community requests have been hastily added to a really poorly-written ballot measure and are being leveraged to obtain a centralization of power that none of us are asking for."*

The ballot arguments in favor of Measure A (which may be viewed [here](#) and [here](#)) were signed by councilmembers Angelique Ashby and Rick Jennings, Cody Bik, Executive Board Member, Sacramento Sierra Building Trades Council, Yvonne Walker, President, SEIU 1000, Cassandra Jennings, President & CEO, Greater Sacramento Urban League, Jim Gonzalez, Chair, Latino Economic Council of Sacramento, Chet Hewitt, Co-Founder, Build.Black, and President, Sierra Health Foundation, Devin Lavelle, Youth, Parks & Community Enrichment Commissioner District 7, and Kevin Fat, CEO, Fat Family Restaurant Group.

The ballot arguments against Measure A (viewable [here](#) and [here](#)) were signed by councilmembers Jeff Harris, Larry Carr and Allen Warren, councilmember-elect Katie Valenzuela, former Sacramento mayor Heather Fargo, Terry Schanze, Chair, Democratic Party of Sacramento County, Suzi Baker, President, Sacramento League of Women Voters, Chris Andrews, President, Sacramento Area Firefighters Local 533, and Flojaune Cofer, Chair, Measure U Advisory Committee.



## **Which of the Signers of Ballot Arguments Have Potential Conflicts of Interest?**

### **- Supporters of Measure U with Potential Conflicts of Interest:**

Councilmember Rick Jennings and his wife, Cassandra Jennings, have a potential conflict of interest in that the Greater Sacramento Urban League, of which Cassandra serves as President & CEO, was the recipient of a [\\$1 million grant](#) last year from the city under the city's cannabis equity program. Devon Lavelle was appointed to the city Youth, Parks & Community Enrichment Commission by Rick Jennings to represent District 7, but has no known potential personal conflict of interest.

Cody Bik's Sacramento Sierra Building and Construction Trades Council is the local unit of the California Building and Construction Trades Council, which contributed a total of \$200,000, in two \$100,000 installments, to Mayor Steinberg's "Yes on Measure U" Committee in 2018, which are believed to be the largest political contributions made to an elected city official, or to a political committee under an elected city official's sole control, in the history of the City of Sacramento.

Between the first and second \$100,000 contribution, the mayor and city council approved a landmark, city-wide [project labor agreement ordinance](#) which effectively requires the city to use only union contractors on all future city projects of over \$1 million, which EOS estimates is increasing the taxpayer costs of the \$300 million Sacramento Convention Center renovation and expansion project by approximately \$50 million. Sacramento city treasurer John Coville recently [advised](#) the city council that the city is expected to default on the payment of the bonds it issued to finance the Convention Center project (which is not yet complete) within the next six months, unless the bonds, funded by declining hotel tax revenues, are refinanced or otherwise bailed out.

Chet Hewitt heads the Sierra Health Foundation which received a [\\$1.25 million grant](#) from the City of Sacramento in August 2020 and received a [further \\$1.3 million grant just yesterday](#), September 7<sup>th</sup>, both approved by the mayor and city council.

Jim Gonzalez' Latino Economic Council of Sacramento (LECS) is currently lobbying the mayor and city council to secure from the city a total of \$9,783,900, drawn from the \$89 million the city received under the federal CARES Act, to fund various programs it supports, according to [LECS's May 29, 2020 letter](#) to the mayor and council.

### **- Opponent of Measure U with Potential Conflict of Interest:**

Chris Andrews' Sacramento Area Firefighters Local 522 is a labor bargaining unit of the City of Sacramento.

## 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 in closed systems.

### Proponents' Justifications for Measure A

-The City Charter is Outdated. One of the proponents' primary justifications for Measure A is that the city charter is old, outdated and hasn't been materially revised in nearly a century. We find this to be the weakest of justifications. 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 231 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.

-Mayor: City Managers Care About City Government, Not So Much the Welfare of City as a Whole. Recently the mayor has been making statements to the media that Sacramento needs an executive mayor because city managers care primarily about the well-being of city government, not the well-being of the city as a whole. As the [mayor put it](#) at a recent council meeting, "*Here is the fundamental reality of our city governance today — that is its primary responsibility is to assure the health of the city organization. Its primary responsibility is not to invest its resources into the neighborhoods and the community, especially the neighborhoods and community that have been long left behind.*"

If that's indeed the case – a highly questionable supposition at best – then the solution to the problem is quite simple: the mayor and council should simply dismiss the "narrow-minded" city manager and hire a city manager who cares more about the city as a whole. The very structure of city government need not be upended for the council to hire a city manager who will do what the council wants him or her to do.

What makes the mayor's claim highly questionable is that the mayor has also recently taken to saying that the city manager, Howard Chan, is doing such an outstanding job that he'd sign him to a life-time contract if he could.



The mayor's problem is not with the city manager having insufficient focus on the well-being of the city as a whole. The mayor's problem is that Mr. Chan answers to the full city council, not just the mayor, and the mayor this year wanted to spend greater sums of taxpayer money, at a more torrid pace, on the programs and policies he favors than did most of the city council. In particular, Mr. Steinberg wanted to spend this year's revenues from the 1 percent Measure U sales tax hike on "inclusive economic growth" programs. But the rest of the council – after being informed by city staff that the Covid-19 pandemic and resulting lock-down was blowing a projected \$90 million hole in the city's pre-pandemic revenue forecasts – saw the essential need to use this year's Measure U revenues to fill the deep, pandemic-driven budget hole to avoid deep cuts in core public services.

The mayor's problem was that he *couldn't persuade* the rest of the council to spend Measure U revenues as he wanted them spent, not with Mr. Chan's supposed lack of focus on the well-being of the city as a whole. That's precisely the way a collaborative council-manager form of government is supposed to work, with the city manager "facilitating the connection between what is '*politically acceptable*' in the community and what is '*operationally sustainable*,'" in the words of John Nalbandian, retired faculty member of the University of Kansas School of Public Affairs and Administration (infra, at pg. 22).

-The Legitimate, Core Arguments in Favor of Measure A. Supporters of Measure A also 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 them in the following sections.

A local critic of Kevin Johnson's 2014 strong mayor proposal (Measure L), former assistant state treasurer Mark Paul, asserted that the "Yes" campaign 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 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 A. The claims merit serious review.

## **WHAT ARE THE LIKELY IMPACTS OF MEASURE A ON CITY GOVERNANCE?**

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

The single most effective argument put forth by the supporters of Measure A 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 Steinberg, like Mayor Johnson before him, frequently shares anecdotes of conversations with voters who are surprised to discover that he lacks the direct power to order city employees to fix problems, such as fixing potholes. Shifting to an 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, in Sacramento's case, 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 an executive mayor form of government: the voters do the direct 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-manager 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 past decade.

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 in 2013 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 A is adopted. Greater mayoral 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 2012 defeat of incumbent Heather Fargo), it will likely become more difficult in a post-Measure A 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 is to Blame When the City Performs Poorly? The Problem of Diffused Responsibility**

There is one area in which Measure A 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), or the city manager will obliquely blame council members, 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. This is the problem of diffused responsibility.

An example of such finger pointing occurred nine 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 led to subsequent major 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 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, 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 A would help reduce, to a considerable extent, the finger pointing that is a product of diffused responsibility in current Sacramento 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.

## **RESPONSIVENESS**

The responsiveness of a city government can be evaluated in two respects: (1) the case-by-case responsiveness of city government to particular concerns and complaints of private citizens and neighborhoods; and (2) the overall responsiveness of a city to the policy preferences of its citizens.

### **Responsiveness to Individual Citizens**

We have found no studies that examined whether city responsiveness to individual citizens is better under one form of government or the other. However, 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 or neighborhood 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 of Sacramento refuses to post on its website the internal phone directory of managers, job titles and contact information that would help citizens identify and directly reach the city officials they need to contact). Calls to the city's 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, in our experience, uniformly sensitive to calls for assistance from constituents, who are potential future voters 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 policy 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.

While an executive mayor could try to build a constituent service operation in his or her 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 100,000 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 and neighborhood problems under Measure A. Under Measure A, 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 and neighborhood representatives who take the trouble to come down to City Hall and summon the courage to address the mayor and council on problems they're having in dealing with the city. Mayor Steinberg, like Mayor Johnson before him, has often been moved to offer staff support to help constituents who feel defeated by their

dealings with the bureaucracy. Insulating mayors from such experiences will likely reduce their engagement on such matters.

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

Does a council-manager or an executive mayor system do a better job of assuring that the policies of city government reflect the policy preferences of its citizens? That was the question posed by a large-scale study by political scientists Chris Tausanovitch of UCLA and Christopher Warshaw of MIT (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.

The authors' conclusion: that all municipal governments, irrespective of structure, tend to implement policies that align with the political ideology of their constituents.

On the one hand, the study should ease the concerns of those worried that Measure A 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 A to lead to a major change in the direction of city policy. One conclusion seems fairly clear: Measure A 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.

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

Some proponents claim that Measure A will bring greater efficiency to the operations of city government. The available research comes to exactly the opposite finding. A 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.

John Nalbandian, a retired faculty member with the University of Kansas School of Public Affairs and Administration and a former mayor and councilmember of Lawrence, Kansas, recently published an article ("[Revisiting Forms of Government](#)," International City Managers Association on-line magazine, May 31, 2019) that noted some metrics that auger in favor of the council-manager form of government:

- Two-thirds of Moody's Aaa-bond-rated communities operate under the council-manager form
- The majority of All-America City Award recipients for the past five years have been council-manager.

Nalbandian states:

*[I] can, with confidence, tell you that residents of council-manager communities can expect to see a professionally qualified staff led by an appointed manager who is ethically compelled to tell the governing body what they need to know rather what they might want to hear. Residents can expect to see an appointed manager and senior staff that find themselves responsibly at the intersection of political and administrative arenas, facilitating the connection between what is "politically acceptable" in the community and what is "operationally sustainable." These two basic elements of effective governance could occur under any form of government, but I deeply believe that they are embedded with the council-manager structure.*

Nalbandian concludes:

*"Heroic" mayors capture our attention. But I would rather focus on a system that dependably provides access to democratic values; that promotes professionalism; that facilitates the connection between politics and administration; that gives exceptional leaders a chance to make a difference. I strongly believe that these are the characteristics of the council-manager structure, not the mayor-council form.*

## **WHAT ARE THE LIKELY IMPACTS OF MEASURE A ON VARIOUS PARTIES?**

### **Impacts on Councilmembers**

Measure A will almost certainly lead to a 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 or she 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 A'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 A, 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 A to veto a budget not to his liking and the extraordinarily high 2/3rds majority council vote (6 out of 9 members) required to override a mayoral veto of the budget, the mayor need corral only four council votes to defeat an override of his veto of the budget.

Little media attention has been paid to Measure A'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 2/3rds majority to override each individual line item veto. As a practical matter, under Measure A 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 A 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 A will likely lead to a significant reduction in councilmember power and influence over city government, and a corresponding expansion of mayoral power.

One aspect of city government that could somewhat mitigate the loss of councilmember power is the existence of the city's Office of Independent Budget Analyst (IBA) under the control of the city council. In March 2018, however, the council decided to [move the IBA's responsibilities](#) into the city auditor's office. The city auditor, with the apparent acquiescence of the council, has since chosen not to staff the IBA position. The IBA could serve as something of a check on an executive mayor's broad control of the city's budget process and could help offset, to some extent at least, the likely reduction in councilmembers' full and easy access to city financial information under an executive mayor system. But under Measure A, the mayor will be writing the budget for the city auditor's office. And the mayor may not be inclined to fund an



IBA who would, by the very nature of their job description, be expected monitor and potentially challenge the mayor's budget proposals.

### **Impacts on Neighborhoods**

As noted above, Measure A 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.

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 most attuned to the concerns and aspirations of voters in their 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 powerful 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, by and large, 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 almost certainly lead to a decline in neighborhood influence on city government and an increase in the influence of interests concerned with city-wide and Downtown matters.

Supporters of Measure A argue 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 the mayor, presently a largely ceremonial post, is the only member of the council elected in a city-wide vote. Sacramento has also had councilmembers who haven't disguised their almost monomaniacal focus on district

matters and have evinced much less concern with city-wide issues. One such former 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 seen 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, 11 members and having the additional two "at-large" councilmembers elected in a city-wide vote rather than by district voters.

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.

### **Impacts on City Staff**

City staff 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 A, 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 required to dismiss a city manager). His multiple-boss challenge makes him more cautious and consensus-oriented in developing and implementing city policies and budgets.

Under Measure A, such policy ambiguity and caution will become largely a thing of the past. An executive mayor will likely have relatively freer rein in summoning the bureaucracy to act upon his or her policy directions. This could become a particularly valuable tool in responding quickly and effectively to opportunities to recruit new businesses or to respond rapidly to 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 A. The mayor will be free to hire whomever he or she wants to fill these positions.

Will senior city managers feel that their positions have become less secure if Measure A 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, and less cautious than many current city managers. We could see the hiring of more managers from the corporate world, bringing a new perspective and approach to city management.

### **ANALYSIS OF THE ANCILLARY PROVISIONS OF MEASURE A: THE MAYOR'S "SWEETENERS"**

The purpose of Measure A's "sweeteners" is to entice voters, who might not otherwise vote for a strong mayor proposal, to vote for Measure A in order to get the "sweeteners." This is a form of voter manipulation that was also used by Mayor Johnson (ultimately ineffectively) in his 2014 Measure L strong mayor proposal, although Johnson's list of sweeteners focused on ethics, transparency, fiscal accountability and redistricting reform measures. Almost all of Johnson's Measure L sweeteners would prove to be more popular with the public than his strong mayor proposal, as all of them were subsequently adopted by ordinance by the city council, in one form or another, following voter rejection of Measure L.

The same destiny may await the sweeteners included in Mayor Steinberg's Measure A: voter rejection of Measure A may very well be followed by city council adoption of some or all of the sweeteners that he has bolted onto Measure A – a point already being made by opponents of Measure A.

Last month councilmember Allen Warren made a motion at council to split Measure A into two ballot measures, one for the strong mayor powers that Mayor Steinberg wanted and second one that would include all of his sweeteners. That way would have given voters a clean choice: do we or don't we want to have a strong mayor in Sacramento? Warren's motion to split the measure into two was defeated.

#### **Measure A's Mandate to Spend \$40 Million Annually on "Inclusive Economic Growth" & "Youth Services"**

Measure A includes a mandate that every city budget must annually include spending of at least \$40 million, adjusted annually based on economic growth, on "inclusive economic growth" and "youth services." At least 25% of the \$40 million must be for "youth services," with a priority on youth impacted by poverty, violence and trauma.

It's not at all clear whether the \$40 million spending mandate would require new annual spending, or whether the city's *existing* city spending on "inclusive economic growth" and "youth services" (i.e. spending on parks and recreation programs) would count towards to the \$40 million annual mandate. Further, the terms "inclusive economic growth" and "youth services" are vague and not defined in either the measure or in law. *The absence of clarity on*

*these issues could lead to major political and legal disputes if Measure A is approved by the voters.*

The Impartial Analysis of Measure A, prepared by the city attorney, fails to point out that the Measure A's \$40 million annual spending obligation *would be an unfunded spending mandate*, meaning that the city would almost certainly be compelled to cut \$40 million in spending on other city priorities in order to meet this spending mandate, absent a major increase in city revenues or tax increases. *With nearly 80% of the city's general fund currently used to fund public safety services (police, fire, ambulances), the city spending cuts that would be forced by the \$40 million spending mandate of Measure A would necessarily fall mostly on public safety spending.*

The immense pressures that the mandate would impose on city budgets and spending would almost certainly increase pressure on city voters to *once again* increase the city's sales tax rate.

Such "ballot box budgeting" would dramatically undermine the city council's discretion in how it spends general fund dollars and could lead to severe cutbacks in core public services, particularly whenever city revenues fall short of budget projections.

Astonishingly, the impacts that Measure A's \$40 million spending mandate would have on city budgets, future city operations and the city's financial condition have not been examined by the city's fiscal staff. Revealingly, the mayor has not bothered to ask city staff to evaluate the mandate's likely impacts.

Ironically and hypocritically, the mayor urged voters this past March to [vote against](#) Measure G. [Measure G](#) would have required the city to spend at least 2.5% of its general fund each year on youth services. What was his stated reason for opposing it? Because it represented ballot box budgeting that would have undermined the city council's discretion in spending general fund dollars, particularly during times of budget shortfalls.

Sacramento Area Firefighters Local 522, the firefighters union, recently announced its [strong opposition](#) to Measure A because it represents a threat to future city funding of fire protection, ambulance services and other emergency services.

### **[Is the Spending Mandate an Unlawful Infringement on Council's Fiscal Powers?](#)**

In the case of Totten v. Board of Supervisors (2006) 139 [Cal.App.4th](#) 826, an ordinance enacted by the voters that dedicated a minimum amount of a county's on-going budget for public safety agencies was invalidated by a California appellate court for violating the County Budget Act. As indicated by the appellate court, the County Budget Act delegates authority over the County budget to the board which "cannot be reasonably interpreted to include the electorate." (Totten v. Board of Supervisors, *supra*, 139 [Cal.App.4th](#) at 835.)

The court ruling in the Totten case raises an interesting and highly relevant question: are city governments similarly constrained by California law from infringing on what has

traditionally been the exclusive power and authority of city councils to expend public funds? Or can city voters lawfully impose a spending mandate by charter amendment on a city government without the acquiescence of a city council? Would Sacramento's status as a charter city immunize the mandate from a successful legal challenge? These issues may become a future flashpoint of litigation should Measure A be approved by city voters.

### **Adoption of “Participatory Budgeting” – The “Single Penny” Problem**

Under this change, every city budget would have to include “one or more” line items for expenditures “consistent with the recommendations” resulting from a citywide “participatory budgeting process.” “Participatory budgeting” is a term used to describe organized efforts of community groups to propose ways in which a municipality should spend its resources. This year, several progressive groups in Sacramento are proposing that local governments adopt what they refer to as the “[People’s Budget](#),” which focuses on cutting police spending and increasing spending on social services.

In response to the advent of the “People’s Budget,” the mayor included a provision in Measure A that supposedly assures that city budgets will include some spending proposed by a citizen-driven “participatory budget process.” The problem is that the mandate is worded in such a way that it could be satisfied by the mayor and council approving the spending of a single penny on a single line item of a budget proposed via a participatory budgeting process. In short, the mandate is effectively illusory.

### **Ethics & Transparency Matters – Locking in the Status Quo**

The city currently has an [ethics commission](#) created by ordinance, as well as an existing [Ethics Code](#) and an existing [Sunshine Ordinance](#). Under Measure A, the city charter would mandate that the ethics commission and the ordinances be kept in place and could not be eliminated by future council action.

Measure A would require the city to provide the ethics commission with at least one staffer who would report solely to the commission. But since the ethics commission already has one staffer working for it, this provision would effectuate no change in staffing.

### **New Authority to Remove Elected Officials for Substantial Ethics Violations**

The council would be required to adopt an ordinance that provides for the removal from office of any elected official (but not an appointed official) who “substantially violates the Code of Ethics and Conduct.” It’s uncertain whether the power to remove an elected official under such circumstances would rest with the ethics commission, the city council, the mayor or the courts. Measure A is silent on the issue.

### **Social Equity & Small Business Impact Analysis**

Measure A would require the council to take action, by either resolution or ordinance, to analyze the “social equity impacts” of the city budget and “major policy decisions.” The city

would also be required to assess the impacts of budget and major decisions on small businesses. Additionally, the council would be required to create either a commission or a standing committee of the council to “evaluate council decisions for their effects on residents who are most negatively and disproportionately impacted by socio-economic, environmental and historical factors, including taking into account racial, ethnic, gender, sexual-orientation, and sexual-identity equity.”

In a very real sense, we elect our council to, at least implicitly, evaluate and weigh the social equity impacts of every decision it makes. They are, after all, our elected representatives chosen to represent our best interests, and are held accountable for doing so every four years. Would the addition of a new level of formal “social equity impact” analysis appreciable improve the quality and fairness of council decision-making? Or would it create a costly new bureaucracy and cottage industry of analysts akin to the legions of consultants currently retained to prepare environment impact statements (EIS’s) for proposed development projects?

If a social equity impact statement prepared by staff or city consultants is considered inadequate or incomplete, or the council fails to take steps to mitigate identified negative equity impacts, would aggrieved parties have standing to sue the city for violations of the mandate, as they would for incomplete or inadequate EIS’s or council failures to mitigate environmental impacts?

Would the process require the creation of a new department of Social Equity Impact Review and the hiring of additional city staff and/or outside consultants? Presumable additional city staff would be required to staff the new social equity impact commission or a new standing city council committee required under the mandate. Has anyone made the effort to analyze and estimate the cost to city taxpayers of the additional bureaucracy and staffing that would be required to comply with the mandate? Is it a price city taxpayers are willing to pay?

Ordinarily, city staff and the council’s Law & Legislation Committee would devote six months to a year or more methodically evaluating such a proposal, assessing its pros and cons, taking testimony and written submittals from the public and community groups at public meetings, estimating its expected costs, and preparing, reviewing and revising draft protocols and procedures before making a fully formed decision on whether to advance the proposal to the full city council for consideration. A more fulsome public review would then take place before the city council. Supporters and opponents would lobby councilmembers, rally citizens, and publish op/eds in local news publications publicly make the case for or against the proposal.

That’s how new laws and new major new programs and initiatives are thoughtfully developed, debated and considered in democratic Sacramento - not just bolted onto a strong mayor proposal with just a few scant lines of text with zero opportunity for public input, studied evaluation by staff or thoughtful deliberation by elected officials.

Is this really how we want our laws and programs to be created? Do we want to encourage such a substance-free approach to lawmaking and program creation?

This is the type of proposal that fairly cries out for a post-election evaluation by the city council and city staff, much in the way staff and the council carefully evaluated and ultimately



implemented the “sweeteners” included in Kevin Johnson’s Measure L following its defeat at the polls. It took more almost two years to bring fully developed proposals to a vote of the council on the “sweeteners,” but the final product was far better for it.

### **Proposed Role of City Auditor in Auditing for Social Inequities**

Measure A would also require the city auditor to audit the city’s progress in addressing social inequities, including city and departmental policies and actions, and present a “social equity analysis” as part of the annual budget. The irony of such a mandate is that the city auditor would be required to conduct a social equity analysis of the city budget, but he is not currently required to conduct a *financial analysis* of the annual city budget. This is so despite the fact that the city council a few years ago transferred to the city auditor’s office the responsibilities of a council-created Independent Budget Analyst (IBA) position. But because the council hasn’t provided any budget for the IBA position, the city auditor is not providing annual analyses of city budgets.

So, if Measure A is approved, the city auditor – a highly respected fiscal expert – will be analyzing city budgets for its social equity impacts but not for its financial impacts. In what kind of world does that make sense?

### **Commitment to Respond to Constituent Concerns**

Finally, the city council would be required to “develop a means to ensure efficient and effective response to constituent concerns.” Obviously, the city doesn’t need a prompt from the city charter to focus on improving its responses to constituent concerns. It’s such a generic mandate that it’s akin to mandating that “the city council will develop the means to ensure that its passes good and just laws.” This should be considered by voters to be little more than political window-dressing and virtue-signaling.

### **Fair Housing and Human Rights Commission**

Measure A mandates that a Fair Housing and Human Rights Commission be created. The city was once a partner with Sacramento county government and the county’s smaller cities in a joint power authority called the “Regional Human Rights/Fair Housing Commission” which was in operation for 51 years, starting in 1961. But the [city withdrew](#) its funding from it in 2013, when it concluded it wasn’t serving residents. The county government shut it down completely a year later. Its work on behalf of tenants dealing with landlord/tenant problems was outsourced to nonprofits which we understand continue to perform such work today.

What justification is there for recreating such a commission today that the city chose to withdraw from in 2013 for poor performance? No public case has been made for its resurrection. No estimates have been provided of its likely costs, nor how it would be funded. Like so much of Measure A, this provision has not been thoughtfully evaluated for either cost or likely effectiveness.

## Measure A's Ambiguous "Reauthorization" Provision

Measure A's 10-year "reauthorization" provision, it's not at all clear what happens at the end of 10 years. Measure A merely requires that the city council place a charter amendment before city voters "at an election no later than" November 2030 ballot, which could include one or more of three options: (a) "returns the City to the council-manager form of government;" (b) "re-approves the changes effectuated" by Measure A; or (c) "some alternative government structure."

What happens if the council only places on the 2030 ballot a measure proposing an "alternative government structure" which is then rejected by the voters? Presumably Measure A's strong mayor provisions would remain in place. Is this feature of Measure A merely the result of abysmal legal drafting *or* is it designed to assure that Measure A's strong mayor provisions remain in place indefinitely unless the council in 2030 agrees, apparently in its sole discretion, to place a measure on the 2030 ballot to terminate them?

We note that Measure A's "reauthorization" provision is not characterized in either Measure A itself or in the city attorney's "Impartial Analysis of Measure A" as a *sunset provision*, in contrast to Johnson's 2014's [Measure L](#) which included an unambiguously labeled and worded "sunset provision."

*Measure A's "reauthorization" provision creates a major legal uncertainty over whether Sacramento voters will ever have the right to vote to end or continue Measure A's strong mayor provisions, a right that was clearly provided in Johnson's Measure L, which unambiguously expired on a date certain unless affirmatively extended by city voters.*

## CORRUPTION & CRONYISM RISKS

### Risks 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 nearly 100 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 lead 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's 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.



## **Recent Study: Corruption Convictions Strongly Correlated with Executive Mayor Form of Governance**

A recent academic study offers empirical evidence that the executive mayor form of government correlates with greater municipal corruption than council-manager governments. The April 2019 study by Kimberly Nelson and Whitney Alfonso, professors in the School of Government at the University of North Carolina, reports that *cities with a council-manager form of government are 57% less likely to experience corruption convictions than cities using the executive mayor form of government* (“Ethics by Design: The Impact of Form of Government on Municipal Corruption,” Public Administration Review, Vol. 79, Issue 4, April 9, 2019).

Their findings are consistent with the key reason the council-manager form was created in the early 1900’s: to act as an antidote to the corruption prevalent in big-city machine politics of the era. While the study establishes a strong correlation between municipal corruption and forms of government, it does not prove causation. The study examined corruption convictions in municipalities nation-wide between 1990 and 2010.