

June 30th, 2022

Oakland City Council
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Dear Council President Fortunato Bas and Councilmembers,

We write to express our concern regarding the proposed Good Government Charter Amendment Ballot Measure (Item 12). While we support many of the items included in this measure, we are deeply concerned that the measure contains provisions that have the potential to exacerbate confusion in the lines of authority within the City that will make it harder to manage the activities of government.

In November of 2021, SPUR published a report entitled “[Making Government Work: 10 Ways City Governance Can Adapt to Meet the Needs of Oaklanders.](#)” This work was the result of several years of research, involved convening a task force and interviewing over 50 past and current members of Oakland City government including City Councilmembers (current and former), Council staff, Mayors (current and former), Mayor’s office representatives, City Administrators (four former City Administrators as well as the current one), City Attorneys (current and former), City Auditors (current and former) individuals within the City Administration and representatives of non-profit organizations that have worked with Oakland’s government over a long period of time. We also took care to look at other comparable jurisdictions for best practices.

The overriding lesson we learned from this research is that Oakland has a hybrid system of governance that does not serve Oaklanders well. This hybrid, a result of the passage of Measure X in 1998, creates a system that is neither a “Council-Manager” form of government (where the City Council hires and fires the City Manager and where the title of Mayor rotates amongst Councilmembers) nor a “Strong Mayor” form of governance (where the Mayor is elected to that office and does not sit on council, hires and fires the City Administrator and department heads, and has veto authority). This hybrid system diffuses authority needed to run the city, making it impossible for the public to know who to hold accountable for managing the government. As Oakland grows and becomes increasingly complex, having a hybrid form of government enables neither the Council nor the Mayor and City Administrator to effectively manage the city. We are particularly concerned about the portion of this measure that enables the Council to fire the City Administrator for cause, because it will only exacerbate the confusion created by this hybrid system.

Our second concern is related to process. We are concerned that the current process to place this measure on the ballot is too rushed, and the results have been arrived at with too little public input. Changes to the City Charter should be arrived at judiciously, with time to consider unintended consequences. The people of Oakland will be living with these changes for a long time to come and it is important to get them right.

Our substantive comments on the measure may be found below:

Items of concern:

1. The provision in Section 501 to allow the City Council to fire the City Administrator for cause should be removed.

As mentioned earlier, we find this provision to be the most problematic in this measure and urge you to strike it. Allowing Council to fire the City Administrator for cause muddies Oakland's already complicated hybrid form of governance which is neither truly a Council-Manager nor a Strong Mayor system. We believe that the Mayor and City Administrator should be responsible for the executive functioning of the city and the City Council should be responsible for the legislative function. To enable the Council to fire the City Administrator further complicates lines of authority - and therefore accountability - within city government. Moreover, it does not solve the problem of ensuring that the Administration is responsive to Council directives.

2. The additional qualification provisions to narrow who can run for City Auditor in Section 403(1) should be removed.

Compared to other cities which elect their City Auditor, Oakland already has enhanced requirements to qualify for this office. Most cities only have the requirement that such persons be a Certified Public Accountant (CPA) with at least 5 years worth of CPA experience. Oakland not only requires a candidate for Auditor to be a CPA, but also requires them to be certified by the Institute of Internal Auditors as a Certified Internal Auditor. Any further qualifications would strip the citizens' ability to decide their own requirements for a person to serve as Auditor.

3. It is unclear what problem is being solved by the provision in Section 601(b) enabling Councilmembers to nominate members to boards and commissions.

While we appreciate the intention of this provision, which is to enable Council to nominate members to the Mayor for consideration for certain boards and committees, we are unsure of what this provision actually accomplishes. The current proposal seems to tilt the balance of power between Council and the Mayor to nominate persons to serve on boards and commissions, which could further complicate Oakland's system of government.

Items we support:

1. We support the term limits for Councilmembers outlined in Section 204.

In our "Making Government Work" report, we called for term limits for council members of three four-year terms with the ability to return after sitting out a term. We believe that long-standing councilmembers are key because they develop deep relationships with their constituencies. On the other hand, the power of incumbency can often be too difficult for new politicians to overcome. In order to balance these interests, we recommended three four-year terms. We like the provision in this measure that allows for a district CM to serve in an at-large seat for an additional three four-year terms, after which that person must step aside for a term.

2. While we would prefer a provision to allow the Mayor to veto legislation, subject to an override by a supermajority of Council, we support the provision of Section 305(i) to allow the Mayor to fulfill the Mayor's tie-breaking role.

In “Making Government Work”, we describe how in most Strong Mayor cities, the Mayor has the power to veto legislation. This power is important because of how legislation can impact the functioning of the city. We also recommended that the Mayor’s veto be able to be overridden by a supermajority of Council.

While we would have preferred a veto power for the Mayor in this Charter Amendment, we support the proposed change to fulfill the Mayor’s tie-breaking role, which has in the past been misused to deny the Mayor the ability to break ties.

3. We support the provision in Section 221 to require hearings for measures proposed by Council to go on the ballot, although we would recommend extending those provisions to all measures going to the ballot.

While this provision was not included in our report, we feel that this provision helps provide more transparency and will help ensure that unintended consequences can come to light before being placed on the ballot.

4. We support the prohibitions on endorsements, campaigns and campaign contributions for the City Attorney and City Auditor as described in Sections 401(7) and 403(4) of this measure.

This provision will help ensure that both City Attorney and City Auditor are able to preserve political independence, which is essential to effectively serving in both of these roles.

5. We support the provisions for minimum staffing for the City Auditor in Section 403(4) of the measure.

In our report, we called for a budget set aside for the City Auditor to help insulate this office from political interference. This provision of the measure will help achieve that same aim.

While we submit our recommendations to Council for its consideration, we believe an open dialogue with residents is necessary before contemplating any changes to the City’s charter. We highly recommend the Council establish a Citizen’s Charter Review Committee to review these and other proposals. Understanding the urgency given upcoming statutory ballot deadlines, we believe that it would be most prudent for the City Council to table this discussion until such a committee can complete its work.

Thank you for your consideration of our comments. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Sarah Karlinsky
Senior Advisor