



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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IBA Report Number: 15-38

Charter Review Committee Meeting Date: November 4, 2015

Item Number: 3a

Comparative Information on the Authority to Reorganize Departments in other City Charters

OVERVIEW

On February 5, 2015, the Charter Review Committee heard the City Attorney's February 5, 2014 Report to Council, *San Diego Charter Legal Review*. One of the issues raised in the Report was whether the City Council's role in reorganizing departments should be clarified in Charter section 26 *Administrative Code*. As a result of the Committee's discussion, the Office of the Independent Budget Analyst (IBA) was asked to review the authority the Council and/or the Mayor have to reorganize departments in other large Strong Mayor-Strong Council cities. This report responds to this request, which is docketed to be heard at the Charter Review Committee on November 4, 2015.

FISCAL/POLICY DISCUSSION

Charter section 26 provides the Council with the authority to "change, abolish, combine, and rearrange the departments, divisions and boards of the City Government" provided for in the administrative code. However, in order to enact any of these changes, the Council is required to adopt an ordinance with a two-thirds vote to reflect it in the City's Administrative Code.

The Council's Charter section 26 authority was recently demonstrated in the reorganization proposed by the Mayor's Office in 2013. On October 28, 2013, the Assistant Chief Operating Officer presented a proposal to the City Council for improvements to the City's governmental operations. The proposal included the reestablishment of the Department of Planning, Neighborhoods and Economic Development (and the creation of a centralized Department of Communications and a special projects department to be implemented in a later phase). As our office noted in IBA Report 13-48, to "reestablish the department, an ordinance providing for its powers and duties must be adopted by the City Council as required by Charter Section 26." The

resolution that accompanied this proposal “directed the COO to work with the City Attorney to prepare such an ordinance.” Since the adoption of the resolution and the reorganization plan, all required ordinances have been adopted by the Council in accordance with Charter section 26. The Council also approved the requested amendment to the budget needed to carry out the reorganization.

The City Attorney’s February 5, 2014 Report raised the question of whether Charter section 26 should be clarified in light of the change to Strong Mayor-Strong Council form of government. Specifically, the City Attorney’s Report presented the following options for Council consideration: “Amend to clarify whether reorganization of departments, including detailed duties is authority Council can delegate to Mayor or City Manager and review whether to keep the two thirds vote requirement.”

In response to the Committee’s request, we researched the Charters of Los Angeles, San Francisco, Oakland, and Fresno, and found the following regarding the Mayor’s and Council’s authorities to reorganize departments:

Los Angeles

In Los Angeles, the power to reorganize departments is a joint power of the City Council and the Mayor. Charter section 214 gives the City Council the power to, by ordinance, “create additional departments, offices and boards,” and “prescribe the duties of those officers, provided that those duties shall not include any of the duties of any officer designated in the Charter.” Further, the Council authorizes the deputies, assistants and employees, and provides the “necessary funds for carrying on the work of the departments and offices” (§246). The Mayor’s powers include exercising “management authority over all departments, agencies and appointed offices of the City,” and appointing and removing staff as needed to perform the duties of the Mayor’s office (§231), although the Civil Service System does limit the Mayor’s freedom in this area. Structural reorganizations are facilitated by ordinance, which require both Council and Mayoral approval. Additionally, because reorganizations involve the budgetary process, both the Mayor (who proposes and submits the proposed annual budget to the Council) and Council (which has the authority to approve or modify the proposed budget) are involved.

San Francisco

In San Francisco, Charter section 4.132 *Executive Branch Reorganization* allows the Mayor to reorganize executive branch departments, with the condition that the Mayor issues a notice of the reorganization to the Board of Supervisors. The reorganization is effective 30 days after the issuance of the notice, “unless disapproved by the Board of Supervisors during that time.” Additionally, San Francisco’s Charter section 4.126 allows executive branch department heads to “reorganize their respective departments,” with the approval of the City Administrator (who is appointed by the Mayor and confirmed by the Board of Supervisors).

Oakland

In Oakland, the power to reorganize departments is largely held by the Council, but the Mayor (through the City Administrator) retains important administrative powers over the departments under his or her jurisdiction. Charter section 600 gives the Council the power to “by ordinance provide the form of organization through which the functions of the City under the jurisdiction of

the City Administrator are to be administered.” The Council can authorize the duties, powers, and functions of departments through that ordinance, and the departments and administrative agencies created by that ordinance “shall be administered by the City Administrator or by a department head or other officer appointed by and responsible to him/her.” However, Charter section 207 states that the City Council “shall have no administrative powers,” and Charter section 218 prohibits the Council from interfering with the administrative affairs that the City Administrator, Mayor, and other appointed and elected officers are responsible for.

Oakland’s City Administrator, who is appointed by the Mayor and confirmed by the City Council, is the chief administrative officer of the City, and per Charter section 503, has the “power to appoint, assign, reassign, discipline and remove all directors or heads of departments and all employees under his jurisdiction.” According to a Legal Opinion dated February 6, 2003 from Oakland City Attorney’s Office, all employees of the City are under the jurisdiction of the City Administrator “except the employees of the Mayor and other appointed or elected officers of the City, such as the City Attorney, and City Council.” With the exception of the offices of the Mayor and other appointed or elected officers of the City, the City Administrator has authority over staffing decisions as outlined in section 503 of the Charter.

Fresno

The power to reorganize departments in Fresno is shared between the Council and the Mayor. Fresno’s Charter section 400 gives the Mayor the sole authority to appoint and remove the Chief Administrative Officer, and to exercise control over that Officer. Charter section 705 gives that Chief Administrative Officer various powers related to the reorganization of departments, including the power to:

- Exercise control over all departments, offices and agencies under his or her jurisdiction; and
- Advise the Mayor concerning the creation, organization, conduct, operation, alteration, or abolition of the various departments, offices and agencies of the city government.

The City Council also has powers related to the reorganization of departments, which are outlined in Fresno City Charter section 801. The Council can, by resolution, provide “for the creation of departments, divisions, offices and agencies, and for their consolidation, alteration or abolition” as long as it is not inconsistent with the Charter. Additionally, the Council “by resolution, may assign additional functions or duties to offices, departments or agencies.” However, this Charter section restricts the consolidation of certain offices. Specifically, offices created by the Charter that the Chief Administrative Officer has the power of appointment over cannot be consolidated with offices whose appointments are filled by the City Council.

CONCLUSION

In response to Charter Review Committee direction, the IBA reviewed the Charters of other large cities in California with Strong Mayor-Strong Council governments to identify the authority granted to the Mayor and/or Council to reorganize departments. For this report, we looked at Los Angeles, San Francisco, Oakland, and Fresno, and highlight the following:

- In Los Angeles and Fresno, the authority to reorganize departments is shared by the Mayor and Council.
- In Oakland, the authority to reorganize departments is largely held by the Council, but the Mayor (through the City Administrator) retains important administrative powers over the departments under his or her jurisdiction.
- In San Francisco, the Mayor can reorganize executive branch departments, with the condition that the Mayor must issue a notice of the reorganization to the Board of Supervisors (which can disapprove of the action, but does not have to act for the reorganization to go into effect).

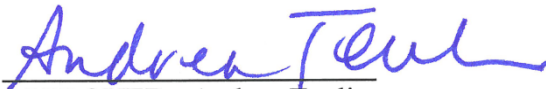
It is also important to note that if the Committee intends to modify the Council's authority to reorganize departments in Charter section 26, it would likely require corresponding changes in other parts of the City Charter (including but not limited to sections 28, 29, and 265) as well as other City documents (e.g., Municipal Code and Council Policies) to ensure consistency.



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