

Office of
The City Attorney
City of San Diego

MEMORANDUM
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SAN DIEGO, CALIF.

DATE: December 9, 2019
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Ballot Measure – Charter Amendments Regarding Audit Committee and Selection and Term of City Auditor (**Measure D**)

The City Council has directed the City Attorney to prepare a ballot title, summary, and impartial analysis of a San Diego Charter (Charter) amendment measure titled Charter Amendments Regarding Audit Committee and Selection and Term of City Auditor. (See San Diego Resolution R-312732, adopted November 4, 2019.)

The measure seeks voter approval to amend the Charter by amending Article V, sections 39.1, Audit Committee, and 39.2, Office of City Auditor.

The City Council adopted San Diego Ordinance O-21144 on November 4, 2019, to submit the Charter amendment measure to voters on the March 3, 2020, Municipal Special Election ballot.

BALLOT TITLE

Charter Amendments Regarding Audit Committee and Selection and Term of City Auditor

BALLOT SUMMARY

This measure would amend the San Diego City Charter (Charter) by amending Article V, sections 39.1 and 39.2, relating to the City of San Diego's (City) Audit Committee and the selection and term of office of the City Auditor (Auditor). The measure requires a majority vote for approval.

The Charter presently provides that the Auditor is appointed by the City Manager (the Mayor under the Strong Mayor form of government), in consultation with the Audit Committee, and confirmed by the City Council (Council). The Auditor must be a certified public accountant or certified internal auditor, and presently serves a ten-year term.

If approved, amendments provide that the Council will appoint the Auditor from at least three candidates evaluated and recommended by the Audit Committee, based on the minimum qualifications set forth in the Charter and other criteria determined by the Audit Committee. The Audit Committee may use staff from the Office of the Independent Budget Analyst and employ expert consultants, in accordance with City contracting rules, to assist in the process of evaluating Auditor applicants.

The amendments also provide that the Auditor will be limited to serving two five-year terms. If the Auditor vacates the office for any reason before the end of a term, then the principal assistant to the Auditor will serve as interim Auditor, if the principal assistant is eligible to serve and is confirmed by the Council. If the principal assistant is not eligible to serve or is not confirmed by the Council, then the Council may adopt procedures to fill the vacancy. An interim Auditor may be appointed to serve as the Auditor.

The Charter presently provides that the three public members of the Audit Committee are appointed by the Council from a pool of at least two candidates for each vacant position, and the candidates are recommended by a screening committee. The screening committee presently includes two outside financial experts appointed by the other members of the screening committee and confirmed by the Council. The amendments provide that the outside financial experts may serve on the screening committee until replaced by the Council. The amendments also provide that the screening committee will include the Councilmember serving as the Chair

of the Audit Committee. The Independent Budget Analyst also serves on the committee. The Chief Financial Officer will be removed from the screening committee.

The measure also includes amendments that clarify language for legal purposes.

The Council proposed the measure and placed the measure on the ballot, following public hearings of the Council's Rules Committee, the Audit Committee, and the Council. If approved, the Charter amendments will take effect after they are chaptered by the California Secretary of State.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

This measure seeks to change the way that the City Auditor (Auditor) is appointed, removing the Mayor from the appointment process, and to reduce the Auditor's term of office from ten years to five years, with the possibility of one reappointment to an additional term.

The Charter presently provides that the Auditor is appointed by the City Manager (the Mayor under the Strong Mayor form of government), in consultation with the Audit Committee, and confirmed by the City Council (Council). The Auditor presently serves a ten-year term. The Charter does not address whether the Auditor may be reappointed.

Under the proposed Charter amendments, the Council must appoint the Auditor, from no fewer than three qualified candidates recommended by the Audit Committee. The Mayor will no longer be involved in the appointment process. The Audit Committee will review applicant qualifications, and may use staff from the Independent Budget Analyst's office and employ expert consultants, complying with City contracting rules, to assist.

The measure also reduces the Auditor's term of office from ten years to five years. The Council may reappoint the Auditor to a second five-year term without considering other

candidates, upon the Auditor's application and a favorable recommendation from the Audit Committee. The Auditor will be limited to serving a maximum of two five-year terms, or ten years in total.

The amendments also add provisions for an interim Auditor, which did not previously exist. If the Auditor vacates the office before the end of a term, the principal assistant to the Auditor will serve as interim Auditor, if eligible to serve and confirmed by the Council. If the principal assistant is not eligible to serve or not confirmed by the Council, then the Council may adopt procedures to fill the vacancy on an interim basis. An interim Auditor may serve as long as necessary to complete a formal recruitment and appoint a successor Auditor. The interim Auditor may apply to serve as the successor Auditor and, if appointed, may serve a full five-year term, with the opportunity to serve a second full five-year term.

The Charter presently provides that the Council appoints the three public members of the Audit Committee from a pool of at least two candidates for each vacant position, to be recommended by a screening committee. This committee includes two outside financial experts. The Charter does not specify how long these financial experts may serve on the screening committee. Amendments clarify that the financial experts may serve until replaced by the Council. Amendments remove the City's Chief Financial Officer from the screening committee, and provide that the Councilmember serving as Chair of the Audit Committee will serve on the screening committee.

The measure also includes clarifying language for legal purposes.

The amendments were considered by the Council's Rules Committee, the Audit Committee, and the Council, which placed the measure on the ballot. If approved, the Charter amendments will take effect after they are chaptered by the California Secretary of State.