

CITY OF OAKLAND

PROPOSED CHARTER AMENDMENT AND
PROPOSED ADVISORY MEASURE

TO BE VOTED ON AT THE
MUNICIPAL NOMINATING ELECTION CONSOLIDATED
WITH THE STATEWIDE PRIMARY ELECTION
TO BE HELD IN THE CITY OF OAKLAND
ON TUESDAY, MARCH 7, 2000

THE TEXT OF THE PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF OAKLAND AND THE PROPOSED ADVISORY MEASURE TOGETHER WITH LEGAL ANALYSES OF EACH MEASURE PREPARED BY THE CITY ATTORNEY AND FINANCIAL ANALYSES OF EACH MEASURE PREPARED BY THE CITY AUDITOR. ARGUMENTS IN SUPPORT OF ADOPTION AND ARGUMENTS IN OPPOSITION OF ADOPTION AND REBUTTALS TO ARGUMENTS IN SUPPORT OF ADOPTION AND REBUTTALS TO ARGUMENTS IN OPPOSITION OF ADOPTION ARE THE OPINIONS OF THE AUTHORS.

The Council of the City of Oakland does hereby submit on its own motion, at the request of the Mayor, a proposed charter amendment to be voted on by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Primary Election to be held in the City of Oakland on Tuesday, March 7, 2000

PROPOSED CHARTER AMENDMENT

MEASURE PROVIDING FOR THE ADDITION OF
THREE APPOINTED MEMBERS TO THE CITY OF OAKLAND
BOARD OF EDUCATION

CITY OF OAKLAND MEASURE D		
D	MEASURE D: Shall Section 404(a) and (b) of the Charter of the City of Oakland be amended to add to the Board of Education three District School Directors who shall be appointed by the Mayor during the period of May 1, 2000 to May 1, 2004?	
	YES	NO

FULL TEXT OF MEASURE D

WHEREAS, the performance of the Oakland Public Schools has fallen dramatically below the level of excellence that the young people of our community deserve; and

WHEREAS, without structural change, significant improvement in our schools is unlikely; and

WHEREAS, the addition of three new members appointed by the Mayor to the Board of Education during the period of May 1, 2000 to May 1, 2004 would increase the likelihood that the Oakland schools would measure up to their true potential; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland hereby authorizes and directs the City Clerk, at least 88 days prior to the March 7, 2000 election to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the text of the proposed charter amendment shall be as follows:

Article IV of the Charter of the City of Oakland is amended at section 404(a) and (b) to read:

(a) The Board of Education shall consist of ~~seven~~ ten District School Directors. Seven District School Directors shall be nominated and elected by the qualified electors of their respective districts for a term of four years. The elected District School Directors shall be elected at the times and in the manner in this Charter provided for members of the Council and shall be required to have the same qualifications. The elected School Directors' Districts shall have the same boundaries as the seven Council Districts. Three School District Directors shall be appointed by the Mayor for two-year terms commencing on May 1, 2000. The appointed Directors shall be residents of the City of Oakland and shall have the same powers and duties as elected Directors.

Effective May 1, 2004 (1) the office of appointed Director shall be abolished, (2) the Board of Education shall consist of seven District School Directors, elected in accordance with the provisions of this section 404, and (3) the provisions of this section pertaining to Mayoral appointment of Directors shall be null and void.

The provisions of the Education Code of the State of California shall apply as to matters not provided for in this Charter.

(b) Notwithstanding any other provisions of this section, the respective terms of office of the elected Directors of the Board of Education shall be as follows:

(1) Directors elected or appointed to serve terms beginning in 1985 shall serve in office until 11:00 a.m. on the Monday following January 1, in 1991.

(2) Directors elected or appointed to serve terms beginning in 1987 shall serve in office until 11:00 a.m. on the Monday following January 1, in 1993.

- (3) At the 1990 General Municipal Election, District School Director seats in Districts 2, 4, and 6 shall be filled for 4-year terms.
- (4) At the 1992 General Municipal Election, District School Director seats in Districts 1, 3, 5, and 7 shall be filled for 4-year terms thereafter.

Notwithstanding any other provisions of the Education or Elections Code or any other law:

- (1) the three appointed Directors' qualifications shall be determined by the Mayor and may include, but shall not be limited to the following: (i) a Director who is an educator; (ii) a Director who is skilled in financial matters; and (iii) a Director who is a student or a recent graduate of the Oakland Unified School District; and
- (2) appointed Directors shall serve at the pleasure of the Mayor, and be it

FURTHER RESOLVED: That the City Charter amendments contained in this resolution are made pursuant to: (1) Article IX, section 16, paragraph (a) of the California Constitution which authorizes chartered cities to provide for "the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards"; and (2) Education Code section 5222 which recognizes the power of chartered cities, granted by the California Constitution, to provide in their charters for the matters specified in California Constitution Article IX, section 16, paragraph (a); and be it

FURTHER RESOLVED: That the City Charter amendments contained in this resolution also are made pursuant to (1) rulings of the California Supreme Court, California Court of Appeal and California Attorney General that recognize the constitutional authorization for chartered cities to provide by charter for the appointment of members of Boards of Education and confirm that the selection of members of Boards of Education is a municipal affair and may be covered by charter provisions (*Esberg v. Badaracco*, 202 Cal. 110 (1927); *People v. Smith*, 16 Cal.App.2d 333 (1936); 1 Ops.Cal.Atty.Gen. 335 (1943); and (2) Article XI of the California Constitution, which grants to chartered cities home rule as to municipal affairs, thereby giving them the right and power to make and enforce all laws and regulations in respect to municipal affairs; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed charter amendment, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed charter amendment in the manner

provided for by law; and be it

FURTHER RESOLVED: That the City Clerk and City Manager are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the March 7, 2000 election and appropriate all monies necessary for the City Manager and City Clerk to prepare and conduct the March 7, 2000 election, consistent with law.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE D

Oakland's current charter provides for a Board of Education consisting of seven members who are elected for four-year terms from the seven City Council Districts. The Board of Education governs and sets policy for the Oakland public schools.

This measure would add three members to the Oakland Board of Education who would be appointed by the Mayor to serve two-year terms during the period of May 1, 2000 to May 1, 2004. On May 1, 2004, the office of appointed Director would be abolished and the Board of Education would consist of seven elected Directors, as provided in the current charter.

Appointed Directors would serve at the pleasure of the Mayor and therefore could be removed by the Mayor at any time. The appointed Directors would be Oakland residents and the Mayor would determine their qualifications.

Chartered cities, like the City of Oakland, have legal authority to provide in their charters for the matters addressed by this proposed charter amendment. The California Constitution ("Constitution") expressly grants chartered cities authority to provide for the selection of school district board members by appointment or election, for the number of directors and for their terms, qualifications and removal. Article IX (16)(a) of the Constitution authorizes chartered cities to provide for "the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards."

The California Education Code ("Education Code"), a comprehensive statutory scheme governing the operations of public schools, specifically recognizes a chartered city's power to provide for the matters addressed by this proposed charter amendment. (See e.g., Education Code sections 5200, 5222 and 5301.)

The power of chartered cities to provide for selection of board members by appointment or election, for the number of board members, and for their terms, qualifications and removal has been recognized by the California Supreme Court, the California Court of Appeal and the Attorney General. (*See Esberg v. Badaracco*, 202 Cal. 110 (1927); *People v. Smith*, 16 Cal.App.2d 333 (1936); 1 Ops.Cal.Atty.Gen. 335 (1943).) Article XI of the California Constitution, grants to chartered cities home rule as to municipal affairs, thereby giving them the right and power to make and enforce all laws and regulations in respect to municipal affairs. These authorities establish that the matters

addressed by this proposed charter amendment are a municipal affair and can be covered by charter provisions.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE D

This measure will add three members to the Oakland Board of Education, bringing the total number of Board members to ten. The following are the estimated costs associated with this action, as provided by Oakland Unified School District.

Expenses

Stipend, \$750 per month per board member

\$27,000

Benefits, \$7416 per board member per year

22,248

Total projected expenses

\$49,248

There may be other costs incurred, such as the construction of offices and fixtures in the meeting room. Such requirements have not been determined and costs are not available. The Mayor has stated that his appointees will not require separate offices and support, and the Superintendent has stated that administrative support will be provided by existing resources.

s/ROLAND E. SMITH
City Auditor

ARGUMENT IN FAVOR OF MEASURE D

Everyone knows that the Oakland public school system is in crisis. The Grand Jury has made this point repeatedly. An official audit team from the State of California found shocking and countless deficiencies. Families by the thousands have fled Oakland because they could not get the kind of education they believed their children deserved. Less than a third of our elementary school students read and solve math problems at grade level. In the higher grades, it is worse.

Regardless of the economic challenges in Oakland, our schools could be much better. We know this from the example in other cities where public schools have made great progress.

What is missing here? It is the unified leadership and commitment of the School Board and the City government to create schools of excellence for all our children.

Vote YES on Measure D and create the mandate for dramatic public school improvement in Oakland. By authorizing the Mayor to appoint three at-large members of the school board, you will inject a new dynamic into the governing of our schools. You will signal that the status quo is unacceptable and that the time for dramatic change has arrived. Make the mayor accountable along with the school board. This appointive power is limited to four years only. In this period, we can and must raise our public schools to a standard of excellence.

Vote YES of Measure D.

s/JERRY BROWN

Mayor of Oakland

s/IGNACIO DE LA FUENTE

President, Oakland City Council

s/KATHERINE A. GUELDER

Past President, League of Women Voters, Oakland

s/DON PERATA

California State Senator

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE D

Stop the rhetoric. This proposal has nothing to do with improving Oakland schools.

Voters don't need Measure D to make their voice known. Voters can have their say about the future direction of Oakland's public schools by electing four of the seven school board members whose seats are up this election. "One person, one vote" is a basic right of democracy. We lose that right when we allow the mayor to appoint school board members.

In a school board election, we know exactly where candidates stand and that's why we vote for or against them. A vote for Measure D is a vote for three ANONYMOUS candidates with UNKNOWN POSITIONS.

Adding more people to the board by mayoral appointment will not guarantee school improvement. Nor does it solve the two biggest problems facing the school district - accountability and resources. A 10-member Board will be faced with developing new groundrules for its operation, since it would be the largest school board in the state and the only school board with appointed members.

Measure D is a divisive measure and will not build unity. It has already discouraged teachers and principals who are critical to improving student achievement. Just as parents have been demanding more direct say at their schools, we cannot afford a four-year experiment that will only mire the board in political agendas and delay true school reform. We need a school board that is focused on the students, not on politics.

VOTE NO ON MEASURE D.

s/SARAH M. CHÁVEZ

Mayor's Commission on Education

s/ALAN S. YEE

Former President, Peralta Community College Board of Trustees

s/MAE F. MONROE

District 19 PTA President

s/EUGENE J. (GENE) ZAHAS

Business Owner

ARGUMENT AGAINST MEASURE D

VOTE "NO!" TO PROTECT YOUR DEMOCRATIC RIGHT TO ELECT SCHOOL BOARD MEMBERS.

This proposal doesn't solve the two biggest problems facing the school district - accountability and resources. The Board relies on a direct line of communication to parents and voters for input on the tough decisions about priorities.

Elected board members are accountable to the voters; appointed board members would be accountable only to one person. These appointees could face conflicts of interest whenever the Board deals with issues that involve the City of Oakland. Furthermore, a larger (10 member) Board is much more cumbersome and can be paralyzed by tie votes.

This proposal is divisive when Oakland is trying to unite diverse communities in support of our schools. It would distract us from our focus on raising student achievement at a time when we have much work ahead of us:

- raising test scores
- attracting and hiring a permanent superintendent
- implementing the recommendations to improve our schools from the independent FCMAT auditors
- finding funds for more competitive salaries for teachers and other employees, major repairs and construction of new facilities.

Voters currently have a proven method of making their sentiments known to Board members. If you are unhappy, you can recall your elected board member or vote for new representatives. You lose that democratic right with an appointee. Voters must retain their right to elect ALL their school board members.

Vote NO.

s/RANDY H. HAMILTON

Graduate School Dean (ret.)

s/PATRICK M. DAUGHTON

Parent Activist

s/SHEILA QUINTANA

President, Teachers' Union

s/DAN SIEGEL

Member, Oakland Board of Education

s/LARRY E. REID

Councilmember, District #7

REBUTTAL TO ARGUMENT AGAINST MEASURE D

Vote YES on Measure D.

The Oakland school crisis continues because those who powerfully influence the school board – like the signers of the opposition argument – live in denial. They deny discipline problems, academic failures and the sheer inability of the school board – as now organized – to be accountable for the children.

Read their argument. They claim: "Voters currently have a proven method of making their sentiments known to Board members." If so, why do only 15% of Oakland voters feel the school board is doing a good job?

Just before Christmas, East Oakland students were actually kept home from school because the heating system had broken down and their classrooms were unacceptably cold. Given the endless complaints on this subject, how could anyone honestly say that the school board is listening to voter sentiment?

The truth is that the democratic right of voters to control their schools has been systematically subverted. For years, insiders have been calling the tune and serving their own special interests.

Measure D is precisely designed to restore integrity and focus to the school board. It will add three outstanding citizens who will represent the entire city. They will forge a unified position out of the divisive politics of the separately elected school board.

This measure will become effective May 1, 2000, and terminate four years later. By this date, Oakland school test scores should have reached the state average as called for in the advisory ballot Measure E.

Vote YES on Measure D.

s/IGNACIO DE LA FUENTE

President, Oakland City Council

s/DON PERATA

California State Senator

s/KATHERINE A. GUELDER

s/JERRY BROWN

Mayor of Oakland

The Council of the City of Oakland does hereby submit on its own motion, a proposed advisory measure to be voted on by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Primary Election to be held in the City of Oakland on Tuesday, March 7, 2000

PROPOSED ADVISORY MEASURE

MEASURE ADVISING THE OAKLAND SCHOOL BOARD, THE OAKLAND CITY COUNCIL, AND THE MAYOR OF OAKLAND TO COLLABORATIVELY IMPLEMENT AN AGENDA THAT CREATES A SYSTEM OF DIVERSE AND EXCELLENT PUBLIC SCHOOLS THAT ACHIEVE IMPROVED STUDENT PERFORMANCE THROUGHOUT THE OAKLAND UNIFIED SCHOOL DISTRICT.

CITY OF OAKLAND ADVISORY MEASURE E

E **MEASURE E:** Shall voters endorse the Mayor's Education Commission's call for Oakland achieving statewide test averages for elementary schools by 2002, and middle and high schools by 2004, by establishing a system of diverse and excellent public schools that:

- provides safe, modern facilities;
- requires each school to adopt a successful reading program;
- allows each school to select and remove its teachers and staff;
- sanctions and rewards schools based on performance; and
- initiates City/County collaborations to support education?

YES

NO

FULL TEXT OF MEASURE E

WHEREAS, in June 1999 Mayor Jerry Brown appointed a Commission on Education consisting of sixteen civic leaders, activists, parents and educators, to review the current state of Oakland's public schools and to recommend steps that would significantly improve the performance of students in the Oakland Unified School District; and

WHEREAS, the Commission determined that the performance of the Oakland Public Schools has fallen dramatically below the level of excellence that the young people of our community deserve and require to prepare them to enter institutions of higher education, to become productive citizens, and to pursue rewarding careers and lives; and

WHEREAS, the Commission also determined that in order to improve student performance, Oakland public schools must set high performance standards for all schools; emphasize the acquisition of reading skills; provide safe, modern facilities that reduce overcrowding; provide program supplies, trained teachers and other staff; provide accountability standards and measures; reward schools that achieve high performance standards; and promote collaborative efforts between the community, the schools, and local government; and

WHEREAS, voter endorsement of a unified, comprehensive plan for

developing a system of diverse and excellent public schools that achieve improved student performance throughout the Oakland Unified School District would identify an agenda that the Oakland Board of Education, the Oakland City Council, and the Oakland Mayor could work together to implement; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland hereby authorizes and directs the City Clerk, at least 88 days prior to the March 7, 2000 election to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the text of the proposed ballot advisory measure shall be as follows:

Shall voters endorse the Mayor's Education Commission's call for Oakland achieving statewide test averages for elementary schools by 2002, and middle and high schools by 2004, by establishing a system of diverse and excellent public schools that:

- provides safe, modern facilities;
- requires each school to adopt a successful reading program;
- allows each school to select and remove its teachers and staff;
- sanctions and rewards schools based on performance; and
- initiates City/County collaborations to support education?

and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed ballot advisory measure, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed ballot advisory measure in the manner provided for by law; and be it

FURTHER RESOLVED: That the City Clerk and City Manager are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the March 7, 2000 election and appropriate all monies necessary for the City Manager and City Clerk to prepare and conduct the March 7, 2000 election, consistent with law.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE E

In June 1999, Mayor Jerry Brown appointed a Commission on Education consisting of sixteen members. Mayor Brown requested that the Commission review the current state of Oakland's public schools and make recommendations to improve Oakland public school students' performance. The Commission recommended that an advisory measure be placed on the March 2000 ballot that would seek the voters' endorsement of the Commission's recommendations to improve student performance.

If adopted, this advisory measure would declare the voters' endorsement of the Commission's recommendations that the Oakland Board of Education, the Oakland City Council and the Mayor of Oakland work together to achieve statewide, standardized test averages in reading and math for elementary schools by 2002 and for middle and high schools by 2004. The advisory measure, if passed, would endorse the following policies and actions as a means for Oakland public schools' students to achieve the statewide, standardized test averages in reading and math:

the establishment of a system of diverse and excellent public schools that

- provides safe, modern facilities;
- requires each school to adopt a successful reading program;
- allows each school to select and remove its teachers and staff;
- sanctions and rewards schools based on performance; and
- initiates City/County collaborations to support education.

Passage of this advisory measure would impose no legal obligations on the Oakland School Board, the Mayor of Oakland or the City Council to take any action regarding the Commission's recommendations. The measure, if adopted, would advise the Oakland School Board, Mayor and City Council of the voters' support of the Commission's recommendations to improve student performance.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE E

This proposed measure is advisory and does not mandate any action by the Oakland Unified School District or the City of Oakland. Accordingly, no new taxes, revenues or expenditures are identified and mandated.

The measure does not identify and allocate responsibility to the Oakland Unified School District and the City of Oakland. However, passage of this advisory will communicate an expectation that action will be taken toward the agenda.

The final draft of the Long-Range Facilities Master Plan prepared by URS Greiner Woodward Clyde for the School Board indicates modernization needs totaling \$461,584,747.00, the best indication of costs known at this date.

The four other objectives identified have not been studied by the School District or the City to an extent that would make a cost determination available. Accordingly, costs are not available at this date.

s/ROLAND E. SMITH
City Auditor

ARGUMENT IN FAVOR OF MEASURE E

In June 1999, the Mayor's Commission on Education, consisting of sixteen civic leaders, activists, parents and educators, began reviewing the current state of Oakland's public schools. The Commission examined school programs in Oakland and in similar urban communities. In October, the Commission made recommendations and called for Oakland's public school to reach statewide test standards by the year 2004. By voting YES on Measure E, you will for the first time set a clear goal and timetable for Oakland's schools.

This advisory ballot measure envisions a system of diverse schools which emphasize reading, school site decision-making and close collaboration between the schools and other levels of local government.

Vote YES on Measure E to give the Oakland School Board, the Oakland City Council and the Mayor a democratically endorsed agenda for Oakland's public schools.

By voting YES on Measure E, you do your part to put Oakland's school back on track.

s/JERRY BROWN,
Mayor of Oakland

s/IGNACIO DE LA FUENTE
President Oakland City Council

s/KATHERINE A. GUELDER
Past President, League of Women Voters Oakland

s/DON PERATA
California State Senator

NO ARGUMENT AGAINST MEASURE E WAS SUBMITTED.