FULL TEXT OF MEASURE H

WHEREAS, Oakland City Charter section 205 provides for City Council vacancies to be filled by appointment; and

WHEREAS, a more democratic method for filling vacancies would be by election; and

WHEREAS, an amendment to Oakland City Charter section 205 to provide for elections to fill City Council vacancies when timing will permit those elections to occur on either the date of Municipal Nominating elections or General Municipal elections will balance the merits of holding elections to fill vacancies with the costs of holding special elections at dates other than the dates of Oakland municipal elections; and

WHEREAS, section 10400 et seq. of the Elections Code allows for the General Municipal election of November 7, 2000, to be consolidated with the statewide general election to be held on the same date; now, therefore, be it

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

The Oakland City Charter is amended to read:

Section 205. Vacancies, Filling of. Any vacancy occurring in the office of Councilmember on or before June 15 of the second year of a term shall be filled for the balance of the unexpired term by a special election held on the date of the first Municipal Nominating Election or General Municipal Election that occurs not less than 114 days after the call of the special election. The candidate receiving the highest number of votes at the special election shall be declared the winner and thereafter immediately be sworn into office. A vacancy created by resignation tendered on or before June 15 of the second year of a term but specifying a delayed effective date on or before the first Monday following January 1 of the third year of the term shall also be filled by special election as set forth above, except that if the winner of the special election is declared prior to the effective date of the resignation, the winner shall not be sworn into office until the effective date of the resignation. Whenever the period of vacancy in a Councilmember office required to be filled by special election would otherwise equal or exceed 120 days, the vacancy shall temporarily be filled by appointment in the manner provided below. A temporary appointment shall terminate on the date the winner of the special election is sworn into office. ~~appointment~~ All other vacancies shall be filled by appointment for the balance of the unexpired term in the manner provided below. An appointment to fill a vacancy in the office of Councilmember shall be by the majority vote of the remaining members of the Council; provided, that if two or less members remain, the appointment ~~of members of the Council~~ shall be made by the majority vote of a body consisting of the remaining members of the Council and the members of the Alameda County Board of Supervisors representing districts including a part of the City. In the event such body is unable to or fails within a period of five days to take such action, appointment shall be made by the Governor of California. ~~An appointee to the office of Councilmember for the balance of an unexpired term shall hold office until the next general municipal election~~.

The Council of the City of Oakland does hereby submit on its own motion, a proposed charter amendment to be voted upon by the qualified electors of the City of Oakland at the General Municipal Election (Run-Off) consolidated with the Statewide General Election to be held in the City of Oakland on Tuesday, November 7, 2000

PROPOSED CHARTER AMENDMENT
MEASURE PROVIDING FOR SPECIAL ELECTIONS TO FILL CITY COUNCIL VACANCIES.

CITY OF OAKLAND MEASURE	
MEASURE I: Shall Oakland City Charter sections 205 and 206 be amended to provide for special elections to fill City Council vacancies and to further define vacancy?	**YES** / **NO**

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE I

This is one of two measures that is proposed to amend the City Charter in regards to the filling of City Council vacancies. The measure receiving the greater number of votes will prevail.

Current section 205 of the City Charter provides, among other things, that a City Council vacancy is filled by a majority vote of the remaining members of the Council.

Current section 206 of the City Charter defines when a Council vacancy occurs.

This measure would amend section 205 of the Oakland City Charter to provide that, when a vacancy occurs in the office of Councilmember, the vacancy shall be filled by special election within 120 days of the vacancy. The 120 days for holding the special election may be extended by 60 days to consolidate the special election with the next Municipal Election.

If the vacancy should exceed 120 days, the Council may make a temporary appointment provided the appointee is not a candidate at the subsequent election to fill the vacancy.

This measure would also amend section 206 of the Charter to provide that, when a Councilmember is elected to another office, the City Council office the Councilmember holds would become vacant on the date the election results for the new office become final.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE I

This measure will provide the following alternative ways to fill a vacant city council position: a special election to fill city council vacancies; consolidating the special election with a municipal election if such election is within 180 days of a vacancy; temporary appointment to fill a vacancy exceeding 120 days until that vacancy can be filled by a special election consolidated with a regularly scheduled election.

Fiscal Effect

The cost of a special election, when it is not consolidated with another municipal election, to fill a city council vacancy ranges from $1.50 to $2.00 per registered voter plus the fees for set up and typesetting of ballots. The number of registered voters that will vote on a candidate depends on whether the vacancy is an At-Large Council member seat (which requires the vote of the entire city, currently 177,679 registered voters) or whether it is a vacancy for a district (the districts have an average 25,383 registered voters).

An alternative special election process is voting by mail. While this type of voting has not been conducted in Oakland, a review of like cities provides a basis to estimate the following cost: approximately $1.58 per voter for the At-Large candidate seat and approximately $1.10-$1.65 for a district candidate election.

Another factor affecting the cost of a special election is whether that election can be consolidated with a regularly scheduled municipal election. The cost of a special election that is consolidated with a Municipal election is determined by two factors. One factor is whether the election is a Municipal Nominating Election or General Municipal Election. (The cost is less for a General Municipal election because it is shared by other governmental entities.) The other factor affecting cost is whether the vacancy is an At-Large Council member seat or whether it is a vacancy for a district. Below is a breakdown of the city costs based on these factors.

	At-Large	**District**
Registered Voters	**177,679**	**25,383<Av>**
Special Elections that are consolidated with:		
General Municipal Election $.30 per registered voter	$ 53,304	$ 7,615
Municipal Nominating Election $.80 per registered voter	$142,144	$20,306
Special Election at $1.50 per registered voter	$266,519	$38,075
At $2.00 per registered voter	$355,358	$50,766
Election conducted by Mail-In ballots estimates*	$280,733	$27,921 to 41,882

(*$1.58 per voter for At Large election, $1.10-1.65 per voter for district election)

Candidates will pay $300.00 in filing fees, which reduce election costs.

s/ROLAND E. SMITH
City Auditor

ARGUMENT IN FAVOR OF MEASURE I

Vote YES on this ballot measure to exercise your right to choose those who represent you. Vacancies on the City Council should be filled by election, not by appointment. Your right to choose your representative is a fundamental principle of democracy, which should not be taken from you.

Currently, when a vacancy occurs, the remaining seven City Councilmembers fill the vacancy by appointment. These seven do not represent the citizens of the affected district (with the exception of the At-Large Councilmember), but they do select your Councilmember. This appointment process does not support your right to choose. It eliminates it!

Since your Councilmember is your connection to city government, it is imperative that you decide who that person will be.

This ballot measure, sponsored by the League of Women Voters of Oakland, safeguards your right to elect your representative. It mandates elections to fill all Council vacancies and allows for aligning special elections with scheduled municipal elections. It also calls for alternative election methods, such as mail-in ballots, to reduce costs and increase voter participation. Cost and voter participation statistics from Oregon, which uses mail-in balloting exclusively, support this. In addition, special elections will prevent delays in filling vacancies and thus promote continuity of representation.

Oakland is known nationally as one of the most diverse cities in the country. Let us demonstrate that we are also one of the most democratically engaged cities in the US by voting in favor of this ballot measure.

Don't give up your right to be represented by the Councilmember of your choice. Vote YES on Measure I.

s/EMELINA FLORES-BAUER
President, League of Women Voters-Oakland

s/JAMES M. FERGUSON
Common Cause Representative

s/DICK SPEES
Councilmember

s/NATHAN MILEY
City Councilmember

s/JOHN RUSSO
City Attorney Elect

NO ARGUMENT AGAINST MEASURE I WAS SUBMITTED.

FULL TEXT OF MEASURE I

WHEREAS, Oakland City Charter section 205 provides for City Council vacancies to be filled by appointment; and

WHEREAS, a more democratic method for filling vacancies would be to provide for special elections to fill City Council vacancies by amending Oakland City Charter section 205 and amending Charter section 206 to provide for a vacancy upon the date successful election results are declared when a Councilmember runs for another office for which the Councilmember will take office prior to the end of the Councilmember's term; and

WHEREAS, section 10400 et seq. of the Elections Code allows for the General Municipal election of November 7, 2000, to be consolidated with the statewide general election to be held on the same date; now, therefore, be it

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

Section 205. Vacancies, Filling of.

~~Any vacancy~~ All vacancies occurring in the office of Councilmember shall be filled by ~~appointment by the majority vote of the remaining members of the Council; provided, that if two or less members remain, the appointment of members of the Council shall be made by the majority vote of a body consisting of the remaining members and the members of the Alameda County Board of Supervisors representing districts including a part of the City. In the event such body is unable to or fails within a period of five days to take such action, appointment shall be made by the Governor of California. An appointee to the office of Councilmember for the balance of an unexpired term shall hold office until the next general municipal election.~~ special election within 120 days of ~~the date of an action or occurrence that will result in~~ a vacancy. An extension of up to 60 days may be allowed for the express purpose of consolidating the special election with the next Municipal Election.

The candidate receiving the highest number of votes at the special election shall be declared the winner and thereafter sworn into office as soon as legally possible.

Whenever the period of vacancy in a Councilmember's term of office equals or exceeds 120 days the vacancy may be temporarily filled by appointment through a majority vote of the remaining Councilmembers provided the appointee is not a candidate for the office which created the vacancy and provided the appointment does not exceed 128 days or go beyond the date the new incumbent is sworn in, whichever is shortest.

The City Council shall use alternative legal voting methods to increase voter participation in special elections including but not limited to mail ballot voting, electronic voting, preference voting and extended voting periods.

The candidate receiving the highest number of votes at the special election shall be declared the winner and thereafter sworn into office as soon as legally possible.

Whenever the period of vacancy in a Councilmember's term of office equals or exceeds 120 days the vacancy may be temporarily filled by appointment through a majority vote of the remaining Councilmembers provided the appointee is not a candidate for the office which created the vacancy and provided the appointment does not exceed 128 days or go beyond the date the new incumbent is sworn in, whichever is shortest.

Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, electronic voting, preference voting and extended voting period.

Section 206. Vacancy, What Constitutes. An office of Councilmember shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his term is to begin, dies, resigns, ceases to be a resident of the City or of the district from which he was nominated, absents himself continuously from the City for a period of more than thirty days without permission from the Council, absents himself from any ten consecutive regular meetings except on account of his illness or when absent from City by permission of the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his office, forfeits his office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the Councilmember. When a Councilmember successfully runs for another office for which the Councilmember will take office prior to the end of the Councilmember's term, the Councilmember's office shall be declared vacant on the date final election results are declared for the new office.

The Council of the City of Oakland does hereby submit on its own motion, a proposed charter amendment to be voted upon by the qualified electors of the City of Oakland at the General Municipal Election (Run-Off) consolidated with the Statewide General Election to be held in the City of Oakland on Tuesday, November 7, 2000

PROPOSED CHARTER AMENDMENT
MEASURE PERMITTING THE TRANSFER OF ACTIVE POLICE AND FIRE RETIREMENT SYSTEM MEMBERS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY OF OAKLAND MEASURE	
J MEASURE J: Shall the Oakland City Charter be amended to permit active members of the Police and Fire Retirement System ("PFRS") to terminate their PFRS membership and become members of the California Public Employees' Retirement System ("PERS") (hereinafter referred to as "transfer to PERS") if (1) the City Council authorizes the transfer to PERS; and (2) the PFRS Board authorizes transfer to PERS of PFRS funds that represent the active members' employee and employer contributions to PFRS?	**YES** **NO**

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE J

The City Charter currently provides that all sworn members of the Police and Fire Departments who were hired from July 1, 1951 through June 30, 1976 shall be members of the City of Oakland Police and Fire Retirement System ("PFRS").

This measure would give the City Council and the PFRS Board the authority to provide to current City employees who are PFRS members the option to terminate their PFRS membership and become members of the California Public Employees' Retirement System ("PERS").

This measure does not require that the City Council or the PFRS Board give current City employees who are PFRS members the option to terminate their membership in PFRS and become members of PERS.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE J

This measure will allow active members of the police and fire retirement system to transfer their retirement membership and employer and employee contribution funds from their current retirement system to the California Public Employees' retirement system.

Annual Expenses

The City cost is estimated to be an addition 2.2 million per year. The member contributions will be a higher percentage of pay under CalPERS (9%) than in PFRS. The City's costs will increase to the extent that the City subsidizes these contributions.

There will be administrative costs associated with this measure, however these costs are uncertain.

s/ROLAND E. SMITH
City Auditor

ARGUMENT IN FAVOR OF MEASURE J

Measures J and K were placed on the ballot unanimously by the City Council to update the City Charter regarding retirement rules for police and firefighters.

Measures J and K make minor changes to the city charter.

Measure J would allow Oakland police officers and firefighters, who wish to do so, to transfer their retirement benefits to the California Public Employment Retirement System.

Measure K, the companion measure to Measure J, would allow Oakland police officers and firefighters who have enough years of service for full retirement benefits to be permitted to continue to work in the police and fire departments without the city having to pay additional retirement benefits.

Measures J and K will have no affect on taxpayers and could actually save the city money by lowering retirement costs and reducing the bureaucracy to administer the retirement plans.

Measures J and K are supported by all members of the City Council, Mayor Brown and the Oakland Police officers and firefighters. There is no opposition.

Please vote Yes on both.

s/EDGARDO AYALA
Police Officer

s/F. MENDOZA
Police Officer

s/JOHN REINTHALER
Fire Fighter

s/FRANK SPLENDORIO
Retired Business Owner

s/RUTHANNE SOLLESNES
Fire Fighter

NO ARGUMENT AGAINST MEASURE J WAS SUBMITTED.

FULL TEXT OF MEASURE J

WHEREAS, Article XXVI of the Oakland City Charter established the Police and Fire Retirement System to provide retirement benefits for Police and Fire Department sworn employees and created the Police and Fire Retirement Board to manage and administer the funds of such system (the "Police and Fire Retirement Fund"); and

WHEREAS, section 2600 of the City Charter provides that all sworn members of the Police and Fire Departments who were hired from July 1, 1951 through June 30, 1976 "shall be members of the [Police and Fire] Retirement System established by this Article [Article XXVI] and shall be subject to the provisions hereof"; and

WHEREAS, the City Council of the City of Oakland desires to amend City Charter section 2600 to permit active members of the Police and Fire Retirement System ("PFRS") to terminate their membership in PFRS and become members of the California Public Employees' Retirement System ("PERS") (hereinafter referred to as "transfer to PERS") if (1) the City Council authorizes the transfer to PERS; and (2) the PFRS Board authorizes transfer to PERS of PFRS funds that represent the active members' employee and employer contributions to PFRS; now, therefore, be it

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

Section 2600(a) hereby is added to Article XXVI of the City Charter and shall read as follows:

(a) Notwithstanding any other provision of this Article XXVI, active members of PFRS shall be permitted to terminate their membership in PFRS and become members of the California Public Employees" Retirement System ("PERS") (hereinafter referred to as "transfer to PERS"); provided that active members may transfer to PERS only if the following occur:

(1) the City Council authorizes the transfer to PERS; and

(2) the PFRS Board authorizes transfer of PFRS retirement funds representing the employer and employee contributions to PFRS for each PFRS member who exercises the option to transfer to PERS.

The decision to authorize the transfer to PERS shall be based on the City Council's sole judgment and discretion. The City shall have absolutely no obligation to authorize such transfer and the City Council's decision shall be final and binding and without recourse to a court of law, section 910 of the City Charter, which provides for binding interest arbitration, or any other administrative, contractual or legal avenue or remedy.

The decision of the PFRS Board to authorize transfer of PFRS retirement funds to PERS as described above, shall be based upon the board's sole judgment and discretion exercised in accordance with board members' fiduciary obligations, the prudent person standard, the provisions of Article XXVI of the City Charter, the California Constitution and other applicable law.

The Council of the City of Oakland does hereby submit on its own motion, a proposed charter amendment to be voted upon by the qualified electors of the City of Oakland at the General Municipal Election (Run-Off) consolidated with the Statewide General Election to be held in the City of Oakland on Tuesday, November 7, 2000

PROPOSED CHARTER AMENDMENT
MEASURE PERMITTING RETIRED MEMBERS OF THE POLICE AND FIRE RETIREMENT SYSTEM TO HOLD EMPLOYMENT WITH THE CITY PURSUANT TO A CITY AUTHORIZED DEFERRED RETIREMENT OPTION PLAN

CITY OF OAKLAND MEASURE	
K MEASURE K: Shall the Oakland City Charter be amended to permit retired members of the Police and Fire Retirement System ("PFRS") to hold employment with the City pursuant to a City authorized Deferred Retirement Option Plan ("DROP")?	YES NO

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE K

Oakland's current charter prohibits retired members of the Police and Fire Retirement System ("PFRS") from holding an elective or appointive position in the service of the City of Oakland and further prohibits retired PFRS members from receiving any payment for service rendered to the City.

This measure would allow the City to employ retired PFRS members pursuant to a City-authorized Deferred Retirement Option Plan ("DROP"). The City Council has not decided whether it will establish a DROP program and this measure would not obligate the City to establish a DROP program.

There are various types of DROP programs. This measure would allow the City to establish any type of DROP program. Because the City has not decided whether it wishes to establish a DROP program or the terms and conditions of such a program, we are not able to analyze the legal issues pertaining to a specific DROP program. However, the DROP program would include the components specified in this measure.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE K

This measure would permit retired members of the Police and Fire Retirement System ("PFRS") to hold employment with the City pursuant to a City authorized Deferred Retirement Option Plan ("DROP"). The measure also allows the City to retain the services of long-term employees who otherwise likely would retire and therefore be obligated to leave City service.

Uncertain fiscal impact. There may be administrative costs associated with this measure, however these costs cannot be determined until program implementation. Depending on the design of the program there may be cost benefits to the city.

s/ROLAND E. SMITH
City Auditor

ARGUMENT IN FAVOR OF MEASURE K

Measures J and K were placed on the ballot unanimously by the City Council to update the City Charter regarding retirement rules for police and firefighters.

Measures J and K make minor changes to the city charter.

Measure J would allow Oakland police officers and firefighters, who wish to do so, to transfer their retirement benefits to the California Public Employment Retirement System.

Measure K, the companion measure to Measure J, would allow Oakland police officers and firefighters who have enough years of service for full retirement benefits to be permitted to continue to work in the police and fire departments without the city having to pay additional retirement benefits.

Measures J and K will have no affect on taxpayers and could actually save the city money by lowering retirement costs and reducing the bureaucracy to administer the retirement plans.

Measures J and K are supported by all members of the City Council, Mayor Brown and the Oakland Police officers and firefighters. There is no opposition.

Please vote Yes on both.

s/EDGARDO AYALA
Police Officer
s/F. MENDOZA
Police Officer
s/JOHN REINTHALER
Fire Fighter
s/RUTHANNE SOLLESNES
Fire Fighter
s/FRANK SPLENDORIO

NO ARGUMENT AGAINST MEASURE K WAS SUBMITTED.

FULL TEXT OF MEASURE K

WHEREAS, Article XXVI of the Oakland City Charter established the Police and Fire Retirement System to provide retirement benefits for Police and Fire Department sworn employees and created the Police and Fire Retirement Board to manage and administer the funds of such system (the "Police and Fire Retirement Fund"); and

WHEREAS, section 2615 of the City Charter prohibits retired members of the PFRS from holding an elective or appointive position in the service of the City of Oakland and further prohibits retired PFRS members from receiving any payment for service rendered to the City; and

WHEREAS, the City Council of the City of Oakland desires to amend City Charter section 2615 to permit retired members of the Police and Fire Retirement System ("PFRS") to hold employment with the City pursuant to a City authorized Deferred Retirement Option Plan ("DROP"); and

WHEREAS, the DROP program would allow the City to retain the services of long-term employees who otherwise likely would retire and therefore be obligated to leave City service; now, therefore, be it

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

Section 2615(1) of Article XXVI of the City Charter is amended to read as follows:

> No member of the System who is retired for service or disability under this Article shall hold an elective or appointive position in the service of the City of Oakland, including membership on Boards or Commissions, except that retired members of the Police and Fire Departments may serve on the Police and Fire Retirement Board as provided in Section 2601, nor shall any such person receive any payment for service rendered to the City, provided that service such as an election officer or juror shall not be affected by this section.
>
> Notwithstanding any other provision of this section 2615 or this City Charter, retired members of the System may hold employment with the City pursuant to a Deferred Retirement Option Plan ("DROP") authorized by the City. DROP shall mean a program under which, after the effective date of a System member's retirement, (1) he/she continues to work for the City (a) for a period of time prescribed by the City and (b) in the position and assignment determined by the City in its sole judgment and discretion; (2) neither the City nor the System member makes retirement contributions; (3) the System member receives no service credit for the period of time he/she is employed by the City; and (4) the System member's monthly retirement allowances are paid into a fund established by the PFRS until the member terminates his/her City employment. DROP is intended to encompass all types of DROP programs.

The Council of the City of Oakland does hereby submit on its own motion, a proposed charter amendment to be voted upon by the qualified electors of the City of Oakland at the General Municipal Election (Run-Off) consolidated with the Statewide General Election to be held in the City of Oakland on Tuesday, November 7, 2000

PROPOSED CHARTER AMENDMENT
MEASURE PROVIDING FOR CERTAIN CHARTER AMENDMENTS TO ELIMINATE INCONSISTENCIES AND TO CLARIFY EXISTING CHARTER PROVISIONS

CITY OF OAKLAND MEASURE	
L MEASURE L: Shall the Oakland City Charter be amended at Section 107, 207, 218, 405, 701, 809, 906, 1208 and 1213 to eliminate inconsistencies, clarify existing charter text, and harmonize previous charter sections with more recently enacted mayor-council provisions?	YES NO

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE L

This measure amends various sections of the City Charter to eliminate inconsistencies and clarify existing text. The amendments would reconcile existing language with additional Charter provisions adopted by the voters at the November 1998 election, known as "Measure X", and also include some additional clarifications that are not Measure X related.

The specific provisions of the City Charter that will be amended by this measure are:

Section 107, regarding the City's form of government, will be amended to reference the Mayor-Council form of government, to be consistent with the provisions of Measure X.

Section 207, regarding the powers of the City Council, will be amended to delete references to the Mayor in the description of City Council powers, to be consistent with the provisions of Measure X.

Section 218, regarding the prohibition against Council interference in administrative affairs, will be amended to delete reference to the Mayor, to be consistent with the provisions of Measure X.

Section 405, regarding City Manager and City Attorney political activity, will be deleted in its entirety, because the provision is too vague, and impermissible political activity is otherwise addressed under state law.

Section 701, regarding the Board of Port Commissioners, will be amended to replace the four year residency requirement with a 30 day residency requirement, to conform to state law.

Section 809, regarding annual audits of the City's financial statements, will be amended to delete references to the Mayor's authority to cause such audits, to be consistent with the provisions of Measure X.

Section 906, regarding improper political activity, will be deleted in its entirety, because the provision is too vague, and improper political activity is otherwise addressed under state law.

Section 1208, regarding penalties for violations of the Charter, will be amended to expressly allow for additional penalties besides misdemeanor prosecution for the violation of the Charter.

Section 1213, regarding the sunset of Measure X provisions (passed by the voters in 1998), will be amended so that *all* Measure X related charter changes would sunset, not just those passed in 1998 and 1999.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE L

This measure would allow the City Council to adopt amendments created by the City Charter Clean-up Task Force to revise the city charter to eliminate inconsistencies and clarify existing charter sections 107, 207, 218, 405, 701, 809, 906, 1208 and 1213.

These measures appear to have no fiscal impact on the city.

s/ROLAND E. SMITH
City Auditor

ARGUMENT IN FAVOR OF MEASURE L

The City Council's Rules Committee formed a task force to review and propose clean-up amendments to the City Charter. The task force members were two City Councilmembers and representatives of the Mayor, City Manager, League of Women Voters, Common Cause and the public.

These minor amendments to the Charter will bring all of its sections into conformance with Measure X (the voter-approved change to the "strong mayor" form of government), and with current state law and the state constitution.

Under Oakland's former Charter, both the Mayor and City Council were prohibited from interfering with the city manager's oversight of city personnel, contracting and purchasing, fiscal matters and work priorities. However in 1998, the voters specifically charged the Mayor with overseeing these administrative functions by passing Measure X. To comply with the "strong mayor" government, Measure L cleans up inconsistent language in Sections 207 and 218 about the Mayor's role.

Similarly, since the Mayor is now in charge of the administrative oversight of the City budget and expenditures, this Measure, in Section 809, allows the City Council to annually select an independent certified public accountant to audit the City's books. This is a separation of powers that commonly occurs in "strong mayor" governments.

Measure L also makes certain changes to conform to state law and the constitution. It deletes Sections 405 and 906 because prohibiting city employees from political activities goes against state law. At Section 701, it changes the residency requirement for Port Commissioners: a new appointee must be a resident of Oakland for 30 days, because that is the legal limit.

Finally, the amendments to Sections 107, 1208 and 1213 clear up internal inconsistencies and ambiguities in the Charter that resulted from previous voter-approved Charter amendments.

Please vote for the Charter clean-ups in Measure L.

s/DICK SPEES
Council Member
s/JERRY BROWN
Mayor
s/ROSALEE H. SCHUBERT
Charter Clean Up Task Force Member

NO ARGUMENT AGAINST MEASURE L WAS SUBMITTED.

FULL TEXT OF MEASURE L

WHEREAS, the City Council created the City Charter Clean-up Task Force to make recommendations for the amendment of the Oakland City Charter for the purpose of removing inconsistent language and clarifying existing provisions; and

WHEREAS, the City Charter Clean-Up Task Force has completed the review of the Charter and has developed specific recommendations for City Council consideration; and

WHEREAS, the City Council Rules Committee added additional changes and clarifying language as a result of the committee's review of the proposed changes on July 6, 2000; and

WHEREAS, on July 18, 2000, the City Council made additional refinements to the Task Force recommendations for consideration at the Council meeting of July 25, 2000; and

WHEREAS, the City Council narrowed the recommendations on July 25, 2000 to limit the proposed charter changes to sections 107, 207, 218, 405, 701, 809, 906, 1208 AND 1213 of the Charter; now, therefore, be it

RESOLVED: That the City Council approves the recommendations of the Charter Clean-up Task Force, as amended by the City Council Rules Committee on July 6, 2000 and the City Council on July 18, 2000 and July 25, 2000, for submittal as a ballot measure for the November 7, 2000 General Municipal election; and be it

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

A. The Oakland City Charter is amended at section 107 to read:

Section 107. Form of Government.

"The government provided by this Charter shall be known as the ***Mayor***-Council ~~Manager~~ form of government."

B. The Oakland City Charter is amended at section 207 to read:

Section 207. Powers of the Council.

"The Council shall be the governing body of the City. It shall exercise the corporate powers of the City and, subject to the expressed limitations of this Charter, it shall be vested with all powers of legislation in municipal affairs adequate to provide a complete system of local government consistent with the Constitution of the State of California. It shall have no administrative powers ~~except as specifically reserved in the Mayor as provided in Section 305 of this Charter.~~ The Council shall fix the compensation of all City employees, officers and officials except as otherwise provided by this Charter."

C. The Oakland City Charter is amended at section 218 to read:

Section 218. Non-Interference in Administrative Affairs.

"Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the City

Manager, Mayor and other appointed or elected officers are responsible, solely through the City Manager, Mayor or such other officers. ~~Except for powers particularly reserved to the Mayor pursuant to Section 305 of this Charter,~~ ***Neither*** the Council nor any ***Council*** member shall give orders to any subordinate of the City under the jurisdiction of the City Manager or such other officers, either publicly or privately; nor shall they attempt to coerce or influence the City Manager or such other officers, in respect to any contract, purchase of any supplies or any other administrative action; nor in any manner direct or request the appointment of any person to or his removal from office by the City Manager, or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City. Violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member."

D. The Oakland City Charter is amended to delete section 405 related to prohibited political activity in its entirety:

~~Section 405. Officers Prohibited Political Activity.~~

~~"The City Manager and the City Attorney shall not participate in municipal political activities or elections for municipal office, nor in any other political activities which are prohibited for city employees by state law."~~

E. The Oakland City Charter is amended at section 701 to read:

Section 701. Board of Port Commissioners.

"The exclusive control and management of the Port Department is hereby vested in the Board of Port Commissioners, which shall be composed of seven (7) members who shall be appointed by the Council, upon nomination by the Mayor.

No person shall be appointed as, or continue to hold office as, a member of the Board who is not at the time of his appointment, and has not been continuously for ~~four (4) years~~ ***thirty (30) days*** immediately preceding his appointment, and who shall not continue to be during his term, a bona fide resident of the City of Oakland.

The members of the Board shall serve without salary or compensation."

F. The Oakland City Charter section 809 is amended to read:

Section 809. Annual Audit.

"The ~~Mayor upon approval of the~~ Council shall engage during the first month of each fiscal year an independent certified public accountant who shall examine and report to the Council on the annual financial statement of the City. He shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds, and of such other officers, employees, or departments as the Council may direct. He shall submit his audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the Council, and shall be available for public inspection and review."

G. The Oakland City Charter is amended to delete section 906, related to "improper political activity", in its entirety:

~~Section 906. Improper Political Activity.~~

~~"No city employee shall engage in or participate in any political activity contrary to any general law applicable to such employee. No city officer or official shall solicit or obtain from any city employee a contribution of services, money or any other thing of value, for any election or campaign purpose."~~

H. The Oakland City Charter section 1208 is amended to read:

Section 1208. Violation.

"The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction in the manner provided by State Law, ***unless otherwise expressly provided for in this Charter***."

I. . The Oakland City Charter section 1213 is amended to read:

Section 1213. Sunset Provision.

"At the general election to be held in November, 2004, the City Council shall cause to be placed on the ballot a proposed Charter amendment the sole effect of which, if passed, shall be to retain the changes made to the Charter ~~in 1998 and 1999~~ ***that relate specifically to the 1998 adoption of Measure X***. If that proposed Charter amendment is put before the voters and not passed, then all of said changes to ***the*** Charter shall lapse and have no further effect."