

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 1, 2023

TO: Honorable Members of the Rules Committee

FROM: City Attorney Mara W. Elliott

SUBJECT: Ballot Measure Proposal to Amend the San Diego Charter to: (1) Replace the Elected City Attorney with Municipal Counsel Appointed by the City Council; and (2) Elect a City Prosecutor to Prosecute Misdemeanors and San Diego Municipal Code Violations

On July 26, 2023, the Rules Committee met to discuss various proposed ballot measures, including Item 2 titled “Initial Committee Review of a Ballot Measure Proposal by Jared Quient Regarding the Offices of the City Attorney and Municipal Counsel for the November 2024 Election or Later in Accordance with Council Policy 000-21,” hereinafter referred to as the “Measure.”

If approved, the Measure will divide the Office of the City Attorney (CAO or City Attorney) into two separate offices: City voters would elect a City Prosecutor, referred to in the proposal as the “City Attorney,” and the San Diego City Council (Council) would appoint municipal counsel who would advise and represent the Council, Mayor, and all City departments (except for the Ethics Commission and Commission on Police Practices). These functions are currently under one elected City Attorney who is accountable to the electorate.

Following the presentation, the Rules Committee approved a motion directing the “CAO and IBA to study and work on the proposed ballot measure and provide an analysis and report back at a future Rules Committee meeting. The analysis should include an assessment on similar governance models, operational impacts and impacts on affected workers.”¹

This Office will expedite this request to address several concerns. First, those who are impacted, particularly the voters, the represented employee organizations who work in and with this Office, and stakeholders and community partners, including the undersigned, the Mayor, the District Attorney, and City staff, have not had an opportunity to offer input on the potential reorganization of an office that has existed since 1931. Good governance demands a robust and public discussion with the electorate.

¹ As this Office prepares ballot measures, we presume that the Independent Budget Analyst (IBA) is tasked with assessing “similar governance models, operational impacts and impacts on affected workers.”

Second, voters may be presented with three items relating to the City Attorney in 2024: who should replace the termed-out City Attorney; should the City Auditor have legal counsel independent of the City Attorney; and should the City Attorney's office be divided and restructured as contemplated in the Measure. If sufficient time is not allotted for education and public discourse, voters may be confused and disenfranchised. This is a consequential proposal and voters should feel informed so that they can vote.

Last, there is the issue of fairness and transparency. Candidates have been running for the position of City Attorney for more than a year now. When explaining their qualifications and vision to the electorate, they are doing so based on the position as it currently exists. Similarly, for nearly a century, the electorate has voted for a City Attorney who has a job description they approved and comprehend. The Council must ensure that voters understand how the Measure will change the City Attorney's role and how those changes will impact the lives of San Diegans.

To maximize opportunities for public engagement and to ensure sufficient time is allotted for meet-and-confer as required under the Meyers-Milias-Brown Act, we encourage the Rules Committee to vet the language and forward it to Council as soon as possible. To that end, we request that this item be docketed for Rules Committee discussion on **September 6, 2023**.

We also request that the Rules Committee's legislative assistant immediately provide this Office with any research, correspondence, or communications received from, or in the possession of, the Measure proponents relating to this proposal to aid us in our review of the Measure.

Sincerely,
MARA W. ELLIOTT, CITY ATTORNEY

By: */s/ Mara W. Elliott*

Mara W. Elliott
City Attorney

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Doc. # 3376343

cc: Honorable Mayor Todd Gloria
Independent Budget Analyst Charles Modica