



TO BE PUBLISHED AS A PUBLIC OPINION

OFFICE OF THE CITY ATTORNEY

City of Sacramento, California

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City Attorney

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| OPINION | : | No. 20-001 |
| of | : | October 21, 2020 |
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VICE MAYOR JEFF HARRIS has requested an opinion on the following question:

Does the mayoral term limit provision in the “Sacramento Mayoral Accountability and Community Equity Act of 2020” (Measure A) apply to the terms served by the incumbent mayor?

CONCLUSION

No. The mayoral term limit provision in Measure A operates prospectively only.

ANALYSIS

If the voters approve Measure A, Sacramento City Charter section 43 will be amended to read as follows:

The term of office of mayor shall be four years and until a successor qualifies. *No person may serve more than two full terms as mayor. Terms as a member of the city council shall not be counted towards the term limit as mayor. A partial term is equal to or less than two years. A partial term shall not be counted as a full term for purposes of the term limit.*

(Measure A, Section 15 [amendments in italics].)

The proposed amendment is silent on counting current terms against the two-term limit. When the Charter is silent on an issue, the state's general laws govern. (*Green Valley Landowners Assn. v. City of Vallejo* (2015) 241 Cal.App.4th 425, 435.)

The California Government Code provides:

Notwithstanding any other provision of law, the city council of a general law or charter city may adopt or the residents of the city may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve. *Any proposal to limit the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall apply prospectively only* and shall not become operative unless it is submitted to the electors of the city at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal. . . ."

(Cal. Gov. Code, § 36502(b) [emphasis added].)

State law thus makes clear that the mayoral term limit provision in Measure A operates prospectively only.¹ That provision will not apply to the two terms of the incumbent mayor.²

¹ Because Measure A is silent on the prospective operation of the term limit provision, allowing state general law to govern, we do not opine as to whether Government Code section 36502 improperly conflicts with the "plenary authority" granted charter cities under the California Constitution to provide for "the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed." (See Cal. Const. art. XI, § 5(b).) However, a case decided before the addition of subdivision (b) to Government Code section 36502 supports such a conclusion. (See *Cawdrey v. City of Redondo Beach* (1993) 15 Cal.App.4th 1212 [charter-imposed term limits are municipal affair and not a statewide concern].)

² As of the date of this opinion, the incumbent mayor is serving during his first term. As the outright winner during the March 2020 primary, the mayor has already been elected for a second term, which begins in December 2020. (Sacramento City Charter, §§ 152(b), 153.) Moreover, although Measure A will be voted upon in November 2020, if it passes it will not be effective until after the commencement of the mayor's second term, as charter amendments are not effective until accepted and filed by the Secretary of State (Cal. Gov. Code, § 34459), which must be

preceded by the County Registrar of Voters' certification of official results, the city council's subsequent adoption of a resolution declaring those results, and the authentication and certification of all the documents required to be filed with the Secretary of State.