



10-2022

## Local Measures for the City of Sacramento

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### Recommended Citation

Zuñiga, Elizabeth Rocha and Lindgren, Jara (2022) "Local Measures for the City of Sacramento," *California Initiative Review (CIR)*: Vol. 2022, Article 2.

Available at: <https://scholarlycommons.pacific.edu/california-initiative-review/vol2022/iss1/2>

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# **Local Measures for the City of Sacramento**

**Measure L:** Amendment to the Sacramento City Charter

**Measure M:** Amendment to the Sacramento City Charter

**Measure N:** Amendment to the Sacramento City Code

**Measure O:** Adding a Chapter to the Sacramento City Code

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# MEASURE L: SACRAMENTO CHILDREN AND YOUTH HEALTH AND SAFETY ACT

## Amendment to the Sacramento City Charter

### I. EXECUTIVE SUMMARY

This measure will add Section 120 to article IX of the Sacramento City Charter. It will establish a “Sacramento Children’s Fund,” that would increase resources for youth development and youth violence programs. This allocation of funds will be set apart from the general fund. The targeted group the measure seeks to uplift is the city’s youth who are less than 25 years of age.<sup>1</sup> The allocation of funds will be toward the following: mental health counseling, wellness services, substance abuse prevention services, street outreach, violence intervention, case management, career pathways, summer/after-school programs, early childhood education, and family support services.

Additionally, there will be a Planning and Oversight Commission of nine members. Each member of the city council, including the Mayor, will have to appoint one member to this commission. Within these meetings, the commission will develop a Five-Year Strategic Investment Plan (which may be amended). This plan will cover the period of July 1, 2024, through June 30, 2029.

The precise language on the ballot states: “Shall the measure amending the City of Sacramento Charter to allocate an amount of its General Fund revenue equivalent to 40 percent of the total revenue generated from the existing cannabis business operations tax towards a Children’s Fund for positive youth development and youth violence prevention programs such as mental health counseling, substance abuse treatment, early prevention and intervention, after-school activities, and services for homeless youth and foster children, be adopted?”<sup>2</sup>

A “Yes” vote is in favor of amending the Sacramento City Charter to add this “Sacramento’s Children’s Fund.”

A “No” vote is against the charter amendment adding the “Sacramento Children’s Fund.”

### II. THE LAW

#### A. Existing Law

In 1920, the Sacramento city voters adopted a municipal constitution and a government grounded on a City Council-Manager form.<sup>3</sup> Following the charter, the City Manager proposes a

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<sup>1</sup> Susana Alcalá Wood, City Attorney, IMPARTIAL ANALYSIS OF MEASURE L, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-L---Impartial-Analysis.pdf?la=en> (last visited Oct. 14, 2022).

<sup>2</sup> Sacramento City Council, RESOLUTION NO. 2022-0231, [https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Nov\\_2022-Childrens-Health-and-Safety-Act/R2022-0231-Item-26-2022-01358-07192022---signed.pdf?la=en](https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Nov_2022-Childrens-Health-and-Safety-Act/R2022-0231-Item-26-2022-01358-07192022---signed.pdf?la=en) (last visited Oct. 14, 2022).

<sup>3</sup> City of Sacramento, OFFICE OF THE CITY MANAGER, Resources <https://www.cityofsacramento.org/City-Manager/Resources> (last visited Oct. 14, 2022).

budget to the city council every year with an opportunity for the public to attend and comment on the proposed budget.<sup>4</sup> This is the current democratic process in which the city council votes to adopt the budget by resolution. Within this process, there is a public hearing before the vote.

This measure will create a specific budget line for the Sacramento Children’s Fund that the city council cannot alter, removing the democratic process for the allocation of funds by the city council. The current fiscal year 2022-2023 City of Sacramento Proposed Budget has already allocated \$4.3 million for youth, workforce training, and gang prevention,<sup>5</sup> aside from this measure.

### B. Path to Ballot

On April 19, 2022, the city council gave notice of a General Municipal Election and desire to submit Measure L to the voters for the November 8, 2022, election.<sup>6</sup> On July 19, 2022, the Sacramento City Council adopted resolutions calling for and giving the notice to place the “Sacramento Children and Youth Health and Safety Act” measure on the ballot.

### C. Current Funding/Revenue

When adopting and amending the city’s budget, the city council can allocate portions of the city’s “special funds” to any lawful government purpose. Investments in youth are considered a lawful government purpose and are included in the “special funds.”

## III. Proposed Law

Measure L would add a section in the Sacramento City Charter that would create a budget requirement for the city council when allocating its funds. It would require a portion of the General Fund to go to the new “Sacramento Children’s Fund;” and it requires the budget to use an amount of the General Fund to maintain previously provided levels of youth services. Revenue from the General Fund will be allocated to the “Sacramento Children’s Fund.” This is equivalent to 40 percent of the total revenue currently generated from existing cannabis business operation taxes.

## IV. DRAFTING ISSUES

Section 2 of the measure adds section 120 to article IX of the Sacramento City Charter.<sup>7</sup> In section 120 (a) “Qualified organizations” has been defined as a “public entity (including the city through its offices and departments) or any organization exempt from taxation under the

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<sup>4</sup> City of Sacramento, OFFICE OF THE CITY MANAGER, Resources <https://www.cityofsacramento.org/City-Manager/Resources> (last visited Oct. 14, 2022).

<sup>5</sup> City of Sacramento, PROPOSED BUDGET FOR FISCAL YEAR 2022-2023, [https://www.cityofsacramento.org/-/media/Corporate/Files/Finance/Budget/FY2022\\_23\\_Proposed-Operating-Budget.pdf?la=en](https://www.cityofsacramento.org/-/media/Corporate/Files/Finance/Budget/FY2022_23_Proposed-Operating-Budget.pdf?la=en) (last visited Oct. 14, 2022).

<sup>6</sup> Sacramento City Council, RESOLUTION NO. 2022-0231, [https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Nov\\_2022-Childrens-Health-and-Safety-Act/R2022-0231-Item-26-2022-01358-07192022---signed.pdf?la=en](https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Nov_2022-Childrens-Health-and-Safety-Act/R2022-0231-Item-26-2022-01358-07192022---signed.pdf?la=en) (last visited Oct. 14, 2022).

<sup>7</sup> *Id.*

United States Internal Revenue Code section 501(c)(3)”<sup>8</sup> This raises the question of whether, there is a reason why non-profits are included in this measure but for-profit organizations are not?

There may be a challenge to this provision. The city may face questions of whether for-profit organizations could apply for funds if they are interested? What would that look like? What about advocacy organizations that are not organized as 501(c)(3) corporations? So long as the city has a rational basis for defining “qualified organizations” as public agencies and non-profits, the measure will prevail.

Additionally, section 4 of the measure contains a severability clause.<sup>9</sup> It states that if there is any provision that is invalid within the act, that invalidity shall not affect other provisions.

## V. PUBLIC POLICY ISSUES

### A. Proponents’ Argument

Yes on Measure L proponents contend that the measure will expand the programs that currently support the most vulnerable youth in Sacramento—foster youth, homeless children, and low-income students—without increasing taxes on the public. As the cannabis industry continues to grow in Sacramento, this measure will prevent youth substance abuse by providing healthy alternatives.<sup>10</sup> The proponents of the measure put into perspective that 30% of the population in the Sacramento area are youth. Additionally, City Council Member, Mai Vang, states that young people have led the formation of the measure and have demanded the city to invest in them.<sup>11</sup> Proponents argue that the measure will prevent the youth from growing up homeless and prevent them from getting involved with crimes, violence, drugs, and gangs.<sup>12</sup> To further their point, they bring in research that finds that after-school programs are seen to help the youth by guiding them to stay out of trouble.<sup>13</sup>

Another major argument is based on accountability. Proponents argue that the government is responsible for the increase in crime by the youth and this measure would hold the government accountable by requiring the city council to allocate funds that invest in Sacramento’s “most vulnerable” population.<sup>14</sup>

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<sup>8</sup> Sacramento City Council, RESOLUTION NO. 2022-0231, [https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Nov\\_2022-Childrens-Health-and-Safety-Act/R2022-0231-Item-26-2022-01358-07192022---signed.pdf?la=en](https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Nov_2022-Childrens-Health-and-Safety-Act/R2022-0231-Item-26-2022-01358-07192022---signed.pdf?la=en) (last visited Oct. 14, 2022).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Metro Cable 14, SACRAMENTO CITY MEASURE L PROS & CONS FORUM <https://www.youtube.com/watch?v=mx4UioLMV8g>. (last visited Oct. 14, 2022).

<sup>12</sup> Vang, M., Van Der, L., Lawson-Perez, D., Jamison, T., & Taukolo, A., CITY OF SACRAMENTO BALLOT ARGUMENT FORM <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-L--Primary-Ballot-Argument-In-Favor-updated.pdf?la=en> (last visited Oct. 14, 2022).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

The Center at Sierra Health Foundation, along with Youth Forward, is part of the Sac Kids First Coalition and has been pushing the city to invest more in mental health resources, specifically for students of color.<sup>15</sup> Nakeya Bell, the program director at the nonprofit, has been investing her organization in the life of the youth. Specifically, her organization seeks to empower girls of color.<sup>16</sup> In an interview, she mentions how heartbreaking some of the stories she hears from the youth are. The close relationship that she has formed with her students reignites her hope to see more investment in mental health resources.

According to The Observer, Sacramento County’s ratio of students to mental health professionals has not been in line with the recommended ratio.<sup>17</sup> Kids Data<sup>18</sup> found that in the 2019-2020 school year, within Sacramento County, there were about 6,300 students to one social worker; 1,300 students to one psychologist; and 700 students to one school counselor.<sup>19</sup> Dr. Imelda Padilla-Frausto, a research scientist at the University of California Los Angeles Center for Health Policy Research, mentions that the distribution of mental health resources to students of color are also inequitable.<sup>20</sup> She focuses her research on the impacts of the pandemic, and how important it is to fund these resources.<sup>21</sup> Dr. Padilla-Frausto believes that community organizations and familial units can offset the burden on teachers, schools, districts, and the county.<sup>22</sup> She mentions that this collaboration is already in place throughout Sacramento.<sup>23</sup> This measure would support those initiatives even more.

Sac Kids First has a personalized website that breaks down the measure and highlights the positive impacts that will happen if passed. They anticipate roughly \$10 million for funding children and youth services.<sup>24</sup> One important argument they also have is that there will be accountability through citizen oversight of funds.<sup>25</sup> This argument aims to remove any doubt on where exactly the funds will be going due to millions of dollars being discussed. By informing the public that the funds will be used “effectively, efficiently, and as promised,” the proponents tie this back to governmental accountability.<sup>26</sup> Overall, the main argument is to support more investment into resources for the youth of Sacramento.

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<sup>15</sup> Prabha, Srishti, THE OBSERVER, As Sacramento schools try to address student mental health crisis, nonprofits work to fill a void, <https://sacobserver.com/2022/09/as-sacramento-schools-try-to-address-student-mental-health-crisis-nonprofits-work-to-fill-a-void/> (last visited Oct. 14, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Kids Data, RATIO OF STUDENTS TO PUPIL SUPPORT SERVICE PERSONNEL, by Type of Personnel, <https://www.kidsdata.org/topic/126/pupil-support-ratio/table#fmt=2740&loc=2,127,347,1763,331,348,336,171,321,345,357,332,324,369,358,362,360,337,327,364,356,217,353,328,354,323,352,320,339,334,365,343,330,367,344,355,366,368,265,349,361,4,273,59,370,326,333,322,341,338,350,342,329,325,359,351,363,340,335&tf=124&ch=276,278,280,277,279,807,1136&sortColumnId=0&sortType=asc> (last visited Oct. 14, 2022).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Sac Kids First, YES ON L, [www.yesonsackids.com](http://www.yesonsackids.com) (last visited Oct. 14, 2022).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

Major proponents include Mai Vang, Councilmember, City of Sacramento; Dr Lena van der List, Board Member, American Academy of Pediatrics California Chapter 1; Dr. Debi Lawson-Perez, Elementary School Teacher, Sacramento City Unified School District; Trevor Jamison, President, Sacramento Area Firefighters Local 552; and Ana Taukolo, Director of Youth Programs, Sac Youth Alliance.

#### B. Opponents' Argument

No on Measure L argues that this idea has failed twice (Measure Y and Measure G) for good reason.<sup>27</sup> The opponent's main argument is that this measure is irresponsible because there is already an allocation of funds for youth services.<sup>28</sup> This measure would amend the City Charter to limit the city council's ability to fund other programs. Opponents mention that within a recent survey, the community has demonstrated that the most pressing concerns are cleaning up the city, homelessness, climate change, and other critical priorities.<sup>29</sup> If this measure passes, the constituents' priorities will not be addressed.

Another major issue is economic uncertainty. There are high inflation rates and falling incomes that should be considered before locking up this youth fund.<sup>30</sup> From opponents' perspective, it is never a good idea to secure this funding when there is economic uncertainty. Opponents are also concerned about "Ballot Box Budgeting." Currently, 7.5% (over \$23 million) of the general funds are spent on youth services and nonprofits.<sup>31</sup> The city council can vote to allocate more funds toward youth services, there is no need to amend the Sacramento Charter.<sup>32</sup>

Additionally, City Council Member, Jeff Harris, expressed that the City of Sacramento needs to learn from history.<sup>33</sup> He brings up the example of an Oakland measure that was passed in 2008, Measure OO, a "protection fund."<sup>34</sup> During the recession, they could not use those funds to assist their constituents and they had to pass an emergency measure to access them.<sup>35</sup> This type of required allocation for the city budget has never been done before in Sacramento. He urges voters to not allow ballot box budgeting in Sacramento. For these reasons, opponents urge voters to vote no on Measure L.

Major opponents to the measure are Jeff Harris, Sacramento Councilmember - District 3, and Heather Fargo, Former Mayor of Sacramento.

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<sup>27</sup> Harris, Jeff & Fargo, Heather, CITY OF SACRAMENTO, Ballot Argument form against Measure L, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-L---Primary-Ballot-Argument-Against.pdf?la=en> (last visited Oct. 14, 2022).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Metro Cable 14, SACRAMENTO CITY MEASURE L PROS & CONS FORUM, <https://www.youtube.com/watch?v=mx4UioLMV8g> (last visited Oct. 14, 2022).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

## VI. FISCAL CONSIDERATIONS

There will be no tax increase to fund this new program. Measure L will allocate roughly \$10 million from the general fund--40% of the annual cannabis business tax revenue, to invest in youth services.<sup>36</sup>

## VII. CONCLUSION

Measure L would effectively allocate funds from the general fund for youth services. This allocation will have a set amount, every year, with no budgetary process intervention, for resources that positively impact the youth of the City of Sacramento.

A **“Yes”** vote on Measure L will amend the Sacramento City Charter to include this allocation for the “Sacramento’s Children Fund.”

A **“No”** vote on Measure L will be against adding the amendment for this allocation toward the “Sacramento’s Children Fund.”

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<sup>36</sup> Prabha, Srishti, THE OBSERVER, As Sacramento schools try to address student mental health crisis, nonprofits work to fill a void, <https://sacobserver.com/2022/09/as-sacramento-schools-try-to-address-student-mental-health-crisis-nonprofits-work-to-fill-a-void/> (last visited Oct. 14, 2022).



## MEASURE M: REDISTRICTING MAP IMPLEMENTATION

### Amendment to the Sacramento City Charter

#### I. EXECUTIVE SUMMARY

To comply with federal and state law, this measure would amend subsection (b) of Section 171 of the Sacramento City Charter. It is related to the implementation of newly adopted redistricting maps. The purpose of the measure is to “clarify the effective implementation date of a newly adopted redistricting map in elections that occur after its adoption.”<sup>37</sup>

Measure Language: “Shall the measure amending section 171 to the City of Sacramento Charter – to state that at the first election after the adoption of a new redistricting map, councilmembers shall be elected for each district under the map that has the same district number as a district whose incumbent’s term is due to expire – be adopted?”<sup>38</sup>

A “Yes” vote is in favor of amending the Sacramento City Charter.

A “No” vote is against the amendment.

#### II. THE LAW

##### A. Existing Law

The United States census occurs every 10 years with the means of determining the population within the country.<sup>39</sup> Under state and federal law, the City of Sacramento must redraw the city council district boundaries within six months after the data of the United States Census is available to the public.<sup>40</sup>

Under the Sacramento City Charter, the Sacramento Independent Redistricting Commission is responsible for adopting the city council district maps.<sup>41</sup> The Sacramento City Charter states that a “newly-adopted boundary map is effective immediately upon adoption.”<sup>42</sup>

The State’s FAIR MAPS Act also impacts the City of Sacramento. It states that, in order “for cities that do not have comprehensive charter provisions governing redistricting, a new

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<sup>37</sup> Sacramento City Council, RESOLUTION NO. 2022-0250, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/R20220250-Notice-of-Submittal-to-Ballot-Measure-Amending-the-City-Charter-Regarding-Redistricting-Ma.pdf?la=en> (last visited Oct. 14, 2022).

<sup>38</sup> *Id.*

<sup>39</sup> 13 U.S. Code §141 – POPULATION AND OTHER CENSUS INFORMATION, <https://www.law.cornell.edu/uscode/text/13/141#g> (last visited Oct. 14, 2022).

<sup>40</sup> City of Sacramento Charter, ARTICLE XIII. REDISTRICTING, [https://library.qcode.us/lib/sacramento\\_ca/pub/city\\_code/item/city\\_of\\_sacramento\\_charter-article\\_xii-171](https://library.qcode.us/lib/sacramento_ca/pub/city_code/item/city_of_sacramento_charter-article_xii-171) (last visited Oct. 14, 2022).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

redistricting map is to be used in the first election after its adoption.”<sup>43</sup> To comply with the state legislation, this measure will clarify how the new redistricting maps will be used for upcoming elections, rather than the map taking effect “immediately.”

#### B. Path to Ballot

On July 26, 2022, the Sacramento City Council adopted resolutions calling and giving notice for placement of the Redistricting Map Implementation measure on the ballot for the November 8, 2022, election.

### III. PROPOSED LAW

Measure M would amend subsection (b) of Section 171, of the Sacramento City Charter. This will assist the city in clarifying when the final map would be adopted, and implemented, for the following normal election cycle. Additionally, the final map is not to be used for any special election--vacancy or recall--that may occur before the normal election cycle.<sup>44</sup> Newly elected Council members would fill the space of the corresponding incumbent of that district.<sup>45</sup>

### IV. PUBLIC POLICY ISSUES

#### A. Proponents Arguments

The main argument set forth by the proponents is regarding the measure’s effectiveness. The amendment would help clarify when the newly adopted council redistricting map can become active.<sup>46</sup> This means that the newly adopted map becomes effective only for the upcoming city council district elections. Currently, when there is a new map implemented it takes effect immediately.

This has caused confusion amongst the constituents in the past when the district boundaries changed, and a district had two council members simultaneously. The constituency did not know who their elected representative was. Measure M will address this confusion.

#### B. Opponents

There is no opposition to this measure.

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<sup>43</sup> Sacramento City Council, RESOLUTION NO. 2022-0250, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/R20220250-Notice-of-Submittal-to-Ballot-Measure-Amending-the-City-Charter-Regarding-Redistricting-Ma.pdf?la=en> (last visited Oct. 14, 2022).

<sup>44</sup> Sacramento City Council, RESOLUTION NO. 2022-0250, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/R20220250-Notice-of-Submittal-to-Ballot-Measure-Amending-the-City-Charter-Regarding-Redistricting-Ma.pdf?la=en> (last visited Oct. 14, 2022).

<sup>45</sup> *Id.*

<sup>46</sup> Steinberg, D., Ashby, A., Guerra, E., Fargo, H. & Lee, Paula, CITY OF SACRAMENTO, Ballot Argument Form, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-M---Primary-Ballot-Argument-In-Favor.pdf?la=en> (last visited Oct. 14, 2022).

## **V. Conclusion**

Measure M will bring clarification for the City of Sacramento for the implementation of new redistricting maps and how that impacts the eight city council districts. It would clarify that the new map will go into effect at the next regular district election cycle.

A **“Yes”** vote will amend the City of Sacramento Charter to clarify that new district maps will take effect for the next regular election following the redistricting rather than immediately.

A **“No”** vote is against this amendment.

**MEASURE N: SACRAMENTO TOURISM AND ECONOMIC DEVELOPMENT  
FACILITIES UPDATE OF 2022**

Amendment to the Sacramento City Code

**I. EXECUTIVE SUMMARY**

This measure seeks to reallocate existing taxes and fees for new uses. There will not be a tax increase. This measure would amend the Sacramento City Code, Section 3.26.180, titled “Use of tax receipts, annual audits.”<sup>47</sup> The amendment to the City Code will require the assessor-collector to allocate all the revenue from the transient occupancy (hotel/lodging bed) tax, to be used for the following purposes:

Administration of the provision of this chapter; Economic development projects to create local jobs; Acquisition, construction, completion, operation, repair, and maintenance of visitor-serving facilities that promote tourism, economic development, and other activities that bolster the local economy, such as convention halls and centers; theatre and arts venues; public off-street parking facilities and related site improvements; lands, easements, rights-of-way, and other works, property, or structures, necessary or convenient for these facilities; Expense in connection with proposals or proceedings for acquisition of the facilities referred to in subsection 3 of this section; Interest and principal payments on bonds issued to acquire any of the facilities referred to in subsection 3 of this section; Lease payments for lease of any of the facilities referred to in subsection 3 of this section.<sup>48</sup>

Measure Language: “Shall the measure, with no increase in tax rates, amending the city’s special transient occupancy (hotel/lodging bed) tax to allow its revenues to be used for tourism-related economic development projects that would create jobs and strengthen the local economy, subject to independent annual audits and full public disclosure of all spending, be adopted?”<sup>49</sup>

A “**Yes**” vote is in favor of amending the Sacramento City Code relating to the allocation of the “transient occupancy tax.”

A “**No**” vote is against amending the Sacramento City Code.

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<sup>47</sup> Sacramento, CALIFORNIA CITY CODE, Title 3 Revenue and Finance, [https://library.qcode.us/lib/sacramento\\_ca/pub/city\\_code/item/title\\_3-chapter\\_3\\_28-3\\_28\\_180](https://library.qcode.us/lib/sacramento_ca/pub/city_code/item/title_3-chapter_3_28-3_28_180) (last visited Oct. 14, 2022)

<sup>48</sup> Sacramento City Council, RESOLUTION NO. 2022-0253, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/R20220253-Calling--Giving-Notice-to-Voters-a-Ballot-Measure-Sacramento-Tourism--Economic-Development.pdf?la=en> (last visited Oct. 14, 2022).

<sup>49</sup> *Id.*

## II. THE LAW

### A. Existing Law in the City of Sacramento

The city currently has a “transient occupancy tax (TOT),” of 12%, which is taxed on individuals who stay less than 31 days at hotels, motels, lodges, inns, rentals, and similar establishments.<sup>50</sup> A hotel must submit TOT forms to the city, every month.<sup>51</sup> “The tax is actually an amalgamation of three rates: a 7% tax; a 3% tax; and a 2% tax.”<sup>52</sup> The 2% tax revenues are placed in the General Fund, and the remaining 10% are restricted for specified purposes.<sup>53</sup>

### B. Path to Ballot

On July 26, 2022, the Sacramento City Council adopted resolutions calling and giving the notice to place the Sacramento Tourism and Economic Development Facilities Update of 2022, measure on the ballot. On this same day, the city council voted to approve the language for measure N.

## III. PROPOSED LAW

The amendment would add a new subsection to describe eligible uses of the transient occupancy tax. It would also describe how the revenue could be used for “economic development projects to create local jobs;”<sup>54</sup> it would amend Section 3.28.180 to establish what the allowable uses of visitor-serving facilities are that promote “tourism, economic development, and other activities that bolster the local economy; and theater and art venues.”<sup>55</sup>

There will also be a clause within this amendment that states that spending is subject to independent annual audits and public disclosure.<sup>56</sup>

## IV. PUBLIC POLICY ISSUES

### A. Proponents Arguments

The main argument for in support of the measure is the fact that the City’s ordinance has not been updated for nearly 60 years. Proponents argue that it is time to update this language to

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<sup>50</sup> Sacramento City Council, RESOLUTION NO. 2022-0253, *supra* note 48.

<sup>51</sup> City of Sacramento, Revenue, TRANSIENT OCCUPANCY TAX, <https://www.cityofsacramento.org/Finance/Revenue/Transient-Occupancy-Tax> (last visited Oct. 14, 2022)

<sup>52</sup> *Id.*

<sup>53</sup> Sacramento City Council, RESOLUTION NO. 2022-0253, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/R20220253-Calling--Giving-Notice-to-Voters-a-Ballot-Measure-Sacramento-Tourism--Economic-Development.pdf?la=en> (last visited Oct. 14, 2022).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

reflect the fact that our community is a tourist destination, and we need to make Sacramento a more dynamic place for its residents.<sup>57</sup>

**B. Opponents Arguments**

There is no opposition to this measure.

**V. FISCAL CONSIDERATIONS**

The hotel and lodging guests will continue to pay the tax, and there will be no tax increase. The revenue from these taxes will help pay for projects targeted to make Sacramento a better tourist destination.

**VI. CONCLUSION**

This measure will benefit the City of Sacramento by using the already existing tax revenue to invest in facilities that improve Sacramento’s tourist economy. It also strengthens the local economy by increasing hospitality jobs and making Sacramento an overall “better place to live.”

A “Yes” vote is in favor of amending the Sacramento City Code TOT.

A “No” vote is opposed to amending the Sacramento City Code TOT.

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<sup>57</sup> Steinberg, D., Vang, M., Winlock, S., Testa, M., & Deen, A., CITY OF SACRAMENTO, Ballot Argument form, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-N---Primary-Ballot-Argument-In-Favor.pdf?la=en> (last visited Oct. 14, 2022).

## MEASURE O: EMERGENCY SHELTER AND ENFORCEMENT ACT OF 2022

### Adding a Chapter to the Sacramento City Code

#### I. EXECUTIVE SUMMARY

This measure would add chapter 12.100 to the Sacramento City Code to address homelessness in the City of Sacramento. It would only be enforceable if the County and the City of Sacramento memorialize each of their roles in addressing homelessness.<sup>58</sup>

The measure mandates that the City Manager establish a minimum number of new emergency shelter spaces. The minimum number is established as a percentage of people experiencing homelessness in Sacramento as measured by the Point-in-Time Homeless count. The City Manager may also identify and authorize more emergency shelter spaces if there are sufficient funds. “The measure provides that the law against “unlawful camping” on public property may not be enforced against any person until all the following have occurred: the City Manager has authorized the requisite number of emergency shelter spaces; an emergency shelter space for the person is available; the City has offered that emergency shelter space; and the person has rejected the offer and refuses to move from the public property.”<sup>59</sup>

Under the new ordinance, encampments will be unlawful, and a “public nuisance,” if there are “four or more persons camping together or within 50 feet of each other” without permitted resources.<sup>60</sup> Residents who are harmed by “unlawful camping” or “unlawful storage” on public property will be able to commence abatement proceedings against the city and may recover their costs and attorney fees if it is determined that the harm was a nuisance.<sup>61</sup> This section of the ordinance will go into effect 180 days after this chapter is enacted.

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<sup>58</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O-R2022-0265-Calling-and-Giving-Notice-of-the-Emergency-Shelter-and-Enforcement-Act-of-2022.pdf?la=en> (last visited Oct. 14, 2022).

<sup>59</sup> Susana Alcalá Wood, City Attorney, IMPARTIAL ANALYSIS OF MEASURE O, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O---Impartial-Analysis.pdf?la=en> (last visited Oct. 14, 2022).

<sup>60</sup> *Id.*

<sup>61</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O-R2022-0265-Calling-and-Giving-Notice-of-the-Emergency-Shelter-and-Enforcement-Act-of-2022.pdf?la=en> (last visited Oct. 14, 2022).

The ordinance also states that if the resources are insufficient to fund the measure’s commitments, the City manager shall annually allocate up to 50% of the “unobligated General Fund,” not exceeding \$5 million to cover the costs of the measure.<sup>62</sup>

Measure Language: “Shall the measure entitled The City of Sacramento Emergency Shelter and Enforcement Act of 2022 – which requires identification of a minimum number of emergency shelter spaces based on the estimated number of homeless persons; conditions enforcement of the city’s unlawful camping ordinance on shelter space availability; prohibits encampments; allows residents to bring action against the city for unlawful camping or storage on city property; and limits the city’s annual general fund budget obligation to \$5,000,000 – be adopted?”<sup>63</sup>

A “Yes” vote is in favor of adopting the ordinance.

A “No” vote is against adopting the ordinance.

## II. THE LAW

### A. Existing Law

Under the Sacramento City Code, there exists an emergency ordinance that was adopted by the city council on January 19, 2021. It is Ordinance No. 2021-0002, titled “An Interim Ordinance Authorizing the Establishment of Small Temporary Residential Shelters and Temporary Shelter Facilities and Declaring the Ordinance to be an Emergency Measure to take Effect Immediately Upon Adoption.”<sup>64</sup>

The history of this ordinance dates to when Governor Gavin Newsom signed Assembly Bill 2552 on September 25, 2020.<sup>65</sup> This bill expanded the “shelter crisis” declarations for all cities and counties to tackle homelessness with less restrictions. This created an avenue for local jurisdictions to meet minimum standards when providing shelters for the homeless population. Additionally, it exempted cities from the California Environmental Quality Act, when constructing shelters.<sup>66</sup> This bill requires the counties to develop a shelter plan on or before July 1 of the year the city declared a “shelter crisis.”<sup>67</sup>

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<sup>62</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O-R2022-0265-Calling-and-Giving-Notice-of-the-Emergency-Shelter-and-Enforcement-Act-of-2022.pdf?la=en> (last visited Oct. 14, 2022).

<sup>63</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O-R2022-0265-Calling-and-Giving-Notice-of-the-Emergency-Shelter-and-Enforcement-Act-of-2022.pdf?la=en> (last visited Oct. 14, 2022).

<sup>64</sup> Sacramento City Council, ORDINANCE NO. 2021-0002, <https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/Temp-Shelter-FInal-Ordinance.pdf?la=en> (last visited Oct. 14, 2022).

<sup>65</sup> Legislative Counsel Bureau, ASSEMBLY BILL NO. 2553 CHAPTER 147, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2553](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2553)

<sup>66</sup> Fast Democracy, AB 2553, <https://fastdemocracy.com/bill-search/ca/20192020/bills/CAB00019532/> (last visited Oct. 14, 2022).

<sup>67</sup> *Id.*



On January 14, 2020, the City declared Sacramento to be in a “shelter crisis.”<sup>68</sup> The city council declared this under California Government Code Chapter 7.8 of Division 1 of Title 2.<sup>69</sup> The city focused on sections 8698, 8698.1, and 8698.2.

Now, under the existing ordinance, No. 2021-0002, there is no obligation to identify or authorize emergency shelter spaces, and it does not address the definition of a multi-person “encampment.”<sup>70</sup> Additionally, the ordinance does not allow individuals to camp on any public property or any private property, unless they have a permit or consent of a private property owner.<sup>71</sup>

## B. Path to Ballot

On April 6, 2022, the city council adopted the ordinance which is contingent on the voters’ approval in a 7-2 vote. On August 9, 2022, the Sacramento City Council adopted amendments to the ordinance and gave notice for the placement of the measure on the ballot. Again, in a 7-2 vote.

## C. Background

When this measure was being proposed, there was much community concern. On August 16, 2022, advocates who focus on homelessness announced their legal action challenging the proposed ballot measure.<sup>72</sup> They wanted to keep this measure off of the ballot for several reasons, especially because of the emergency shelter spaces that were meant to be built.<sup>73</sup> The measure described these shelters as spaces of at least “ 70 square feet with a bed and roof, a space of at least 100 square feet in which a person may camp, and a space of at least 150 square feet in which a person may park a vehicle and sleep temporarily.”<sup>74</sup> One of the activists argued that this was not addressing homelessness in Sacramento. Additionally, it was their belief that the measure did not do enough to address affordable housing and to construct more indoor shelters.<sup>75</sup>

The challengers’ lawsuit was based upon a potential violation of the Eighth Amendment of the United States Constitution. Challengers to the ordinance relied on a federal court decision, *Martin v. Boise*.<sup>76</sup> Under the Eighth Amendment, individuals are protected from cruel and

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<sup>68</sup> Sacramento City Council, RESOLUTION NO. 2020-0017, <https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/R2020-0017-Declaring-a-Shelter-Crisis-in-the-City-of-Sacramento.pdf?la=en> (last visited Oct. 14, 2022).

<sup>69</sup> Cal. Govt. Code §8698.1 (2021).

<sup>70</sup> Sacramento City Council, ORDINANCE NO. 2021-0002, <https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/Temp-Shelter-FInal-Ordinance.pdf?la=en> (last visited Oct. 14, 2022).

<sup>71</sup> *Id.*

<sup>72</sup> Kristin Lam, CAPRADIO, Sacramento Activists Sue City, <https://www.capradio.org/articles/2022/08/16/sacramento-activists-sue-city-to-pull-homeless-camping-measure-from-november-ballot/> (last visited Oct. 14, 2022).

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018), opinion amended and superseded on denial of reh'g, 920 F.3d 584 (9th Cir. 2019).

unusual punishment.<sup>77</sup> The court in *Martin* found that municipal ordinances that criminalize sleeping, sitting, or lying in all public spaces, when no alternative sleeping space is available, violate the Eighth Amendment.<sup>78</sup>

However, the Sacramento County Superior Judge, Shelleyanne Chang, ruled that the advocates did not show how the measure was invalid under *Martin v. Boise*.<sup>79</sup> Most importantly, the Judge also ruled that if the voters pass the measure, it can be legally challenged then because some things are still unclear.<sup>80</sup> The lawsuit theory was that the measure would result in a violation of Constitutional law because it would criminally punish unhoused people.<sup>81</sup> The Superior Court disagreed, and the measure was allowed to proceed onto the November ballot. This ruling came a few days after both the Sacramento County and the City of Sacramento, passed ordinances that banned encampments on sidewalks along critical infrastructure.<sup>82</sup>

The Civil rights attorney, Mark Merin, led the challenge to Measure O alongside the Sacramento Regional Coalition to End Homelessness, Sacramento Area Congregations Together, Sacramento Housing Alliance, Organize Sacramento, and the Sacramento Homeless Union. Advocates against this measure also cited a recent Federal Judge ruling to stop the city's sweeping encampments until August 25, *Sacramento Homeless Union v. County of Sacramento*.<sup>83</sup>

The coalition of business groups, The Sacramento Metropolitan Chamber of Commerce, and the Sacramento Region Business Association pledged to defend the measure.

### III. PROPOSED LAW

#### A. Chapter 12.100, Emergency Shelter and Enforcement Act of 2022, added to the Sacramento City Code.

There are six subsections included in the Enforcement Act that clarify and detail different aspects of the Emergency Shelter and Enforcement Act (ESEA) of 2022. The highlights of each follow.

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<sup>77</sup> U.S. Const., amend. VIII.

<sup>78</sup> *Martin*, 902 F.3d at 1035.

<sup>79</sup> Planetizen, SACRAMENTO VOTERS TO DECIDE ON USING LAWSUITS TO RECLAIM SIDEWALKS, <https://www.planetizen.com/news/2022/09/118973-sacramento-voters-decide-using-lawsuits-reclaim-sidewalks> (last visited Oct. 14, 2022).

<sup>80</sup> *Id.*

<sup>81</sup> Kristin Lam, CAPRADIO, Sacramento Activists Sue City, <https://www.capradio.org/articles/2022/08/16/sacramento-activists-sue-city-to-pull-homeless-camping-measure-from-november-ballot/> (last visited Oct. 14, 2022).

<sup>82</sup> Kristin Lam, CAPRADIO, Sacramento OKs Charging Homeless Residents with Misdemeanors for Blocking Sidewalks, [sacramento-oks-charging-homeless-residents-with-misdemeanors-for-blocking-sidewalks](https://www.capradio.org/articles/2022/08/16/sacramento-oks-charging-homeless-residents-with-misdemeanors-for-blocking-sidewalks) (last visited Oct. 14, 2022).

<sup>83</sup> *Sacramento Homeless Union v. County of Sacramento*, 2:22-cv-01095-TLN-KJN (E.D. Cal. Jul. 28, 2022) <https://casetext.com/case/sacramento-homeless-union-v-cnty-of-sacramento>.

### 1. *Sub-Section 12.100.010 Definitions*

This sub-section defines all the important, and relevant, terms used in the ESEA. Three of the terms are of particular importance to highlight. The first is “Emergency shelter space.” This is defined as a city-authorized location providing temporary sleeping space for persons experiencing homelessness.<sup>84</sup> There are three types of shelter minimums defined within the scope of an emergency shelter space. A 70 square foot shelter, fully or partially enclosed, with a roof and a bed;<sup>85</sup> a 100 square foot area in which a person may camp, and there may be designated hours of usage;<sup>86</sup> a 150 square foot area in which a person may park a vehicle they sleep in.<sup>87</sup>

The second term is “PIT Count Report.” PIT stands for Point-in-time Homeless Count of individuals experiencing homelessness during a twenty-four-hour period.<sup>88</sup>

The third term to highlight is “minimum threshold.” This is being defined as 60 percent of the estimated number of unsheltered homeless persons in the city according to the 2022 PIT Count Report or the most recent PIT Count Report, whichever is less.<sup>89</sup> This number is then used to help determine the number of emergency shelter spaces the city will need to offer.<sup>90</sup>

### 2. *Sub-Section 12.100.020 Emergency Shelter Identified and Provided*

Sub-Section 12.100.020 states that once the minimum threshold number is established, the City manager will identify and authorize at least 20 percent of that number in emergency shelter spaces.<sup>91</sup> For example, if the PIT Count Report states that there are 1000 persons experiencing homelessness in the city, then the minimum threshold number is 600 (60 percent of 1000.) Then from that 600 minimum threshold set, the city will need to identify and authorize 120 emergency shelter spaces.

This subsection also establishes what types of locations are permissible for emergency shelters. The measure restricts the locations of shelters in a number of ways including but not limited to distances from schools, daycares, and bodies of water.<sup>92</sup> This subsection also sets up the framework by which people experiencing homelessness can be vacated from one area to another.<sup>93</sup>

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<sup>84</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.010 (2022).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.020 (2022).

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

### 3. *Sub-Section 12.100.030 Unlawful Camping Enforcement*

Sub-Section 12.100.030 sets up the four-part process necessary to enforce unlawful camping.<sup>94</sup> First, the city manager must have authorized the correct number of shelter spaces; second, the city manager has determined that an emergency shelter is currently available for the individual; third, the city manager has offered the individual an emergency shelter space; and fourth, the individual has rejected the city's offer for shelter and refuses to move from the public property.<sup>95</sup>

### 4. *Sub-Section 12.100.040 Unlawful Encampments*

Sub-Section 12.100.040 provides the framework for identifying an unlawful encampment and clarifies that camping on private property at the discretion of the owner is not unlawful.<sup>96</sup> Neither is it unlawful to camp on public property with the proper permitting, such as for a special event like a marathon or scouting activity.<sup>97</sup>

### 5. *Sub-Section 12.100.050 Abatement of Unlawful camping or Storage on Public Property Owned by the city.*

Sub-Section 12.100.050 outlines the process by which a resident, who has been harmed by a violation of “unlawful camping,” or “unlawful storage,” may require the city to abate the violations.<sup>98</sup> A resident must file the violation of sections 12.52.030 or 12.52.040 with the City Clerk’s office.<sup>99</sup> This will be a “notice and demand” form detailing the location, the violations, the harm to the resident caused by the violations, and a demand for action by the city to abate the violation.<sup>100</sup>

### 6. *Sub-section 12.100.060 Budgeting*

Sub-Section 12.100.060, prioritizes the use of external funding sources, such as the county, state, and federal to be used first, and then, if needed, the city manager may allocate up to “50 percent of unobligated general fund year-end resources, but not to exceed \$5,000,000.”<sup>101</sup>

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<sup>94</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.030 (2022).

<sup>95</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.030 (2022).

<sup>96</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.040(C) (2022).

<sup>97</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.040(D) (2022).

<sup>98</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.050 (2022).

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> Sacramento City Council, RESOLUTION NO. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.060 (2022).

## IV. CONSTITUTIONAL ISSUES

### A. California Constitution

As stated above, Judge Shelleyanne Chang ruled that there may be a potential lawsuit if the voters pass this measure. Seeing how the measure gets implemented and the availability of shelters for the homeless population, will determine whether a challenge will prevail.

It is relevant to highlight the part of the California Constitution that may be challenged under the measure because an argument imposed by the advocates was that this measure “puts unhoused people’s constitutional rights up for a vote.”<sup>102</sup> Citing that under the California Constitution, people have a right to pursue and obtain safety.<sup>103</sup>

“Section 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.”<sup>104</sup>

### B. United States Constitution

Under *Martin v. Boise*, an ordinance like Measure O may be found unconstitutional if there are no alternative sleeping spaces for the homeless population. If a claim is filed, under the Eight Amendment again, they must show that there is a clear violation.

Whether they can win, depends on how many shelters are built and available to adapt to the homeless population. As of now, there is not much to consider in this regard, aside waiting to see if the voters pass this measure. Again, the prior ruling of Judge Change pre-election will not stop an “as-applied challenge” if the measure passes.<sup>105</sup>

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<sup>102</sup> Kristin Lam, CAPRADIO, Sacramento Activists Sue City, <https://www.caprдио.org/articles/2022/08/16/sacramento-activists-sue-city-to-pull-homeless-camping-measure-from-november-ballot/> (last visited Oct. 14, 2022).

<sup>103</sup> *Id.*

<sup>104</sup> Article 1 Declaration of Rights [Section 1- Sec. 32], CALIFORNIA CONSTITUTION, [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CONS&sectionNum=SECTION%201.&article=I](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS&sectionNum=SECTION%201.&article=I) (last visited Oct. 14, 2022).

<sup>105</sup> Planetizen, SACRAMENTO VOTERS TO DECIDE ON USING LAWSUITS TO RECLAIM SIDEWALKS, <https://www.planetizen.com/news/2022/09/118973-sacramento-voters-decide-using-lawsuits-reclaim-sidewalks> (last visited Oct. 14, 2022).

## V. PUBLIC POLICY CONSIDERATIONS

### A. Proponents Arguments

#### 1. *Homelessness as a Crisis*

One of the main arguments set forth by proponents is based on research and findings about the impacts the homeless population has had within the City of Sacramento. There are thousands of people who are currently living in unsafe and unhealthy conditions, and many suffer from mental health and substance abuse issues. This measure would require the city to use its revenue to establish new housing locations for these individuals.<sup>106</sup> The measure also requires the city to ensure that both major local government entities, the city and the county, are participating in the solution to the homelessness crisis.

Public safety is another key argument of the proponents. Residents and businesses of Sacramento are afraid for their safety. They argue this measure will increase safety and help improve business by removing the homeless population from certain areas.<sup>107</sup> With these new shelters, the city will aid the homeless population in moving toward permanent housing. The location of these shelters would be away from schools, daycare centers, playgrounds, and neighborhood parks.

An additional argument for this measure is that the homeless population is a “vulnerable community,” that needs help securing shelter.<sup>108</sup> Proponents also point out the work done by Governor Newsom to highlight this vulnerable community and that he is asking the city and the county to put forth the same effort together to solve this urgent issue. The state has a larger budget than the city’s and due to the state being recognized as a public health agent, this measure will take effect once the city and county adopt a legally binding agreement detailing how these homeless residents will receive social services.<sup>109</sup>

### B. Proponents

Sacramento City Mayor Darrell Steinberg, stated on CapRadio, “This is an open door for creating a right to shelter, a right to housing, a right to mental health care.”<sup>110</sup> Amanda Blackwood, who is the President and CEO of Sacramento Metro Chamber of Commerce,

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<sup>106</sup> Susana Alcala Wood, City Attorney, IMPARTIAL ANALYSIS OF MEASURE O, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O---Impartial-Analysis.pdf?la=en> (last visited Oct. 14, 2022)

<sup>107</sup> Ayestas, J., & Manna, O., KCRA3, SACRAMENTO MEASURE GREENLIGHTING MORE SHELTERS, <https://www.kcra.com/article/sacramento-shelters-clear-encampments-november-ballot/40853839> (last visited Oct. 14, 2022).

<sup>108</sup> Steinberg, D., Ashby, A., Blackwood, A., Wood, J., & Sawires Rapaski, A., CITY OF SACRAMENTO, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O---Primary-Ballot-Argument-In-Favor.pdf?la=en> (last visited Oct. 14, 2022).

<sup>109</sup> *Id.*

<sup>110</sup> Chris Nichols, CAPRADIO, Ballot measure that would outlaw homeless encampments...headed to voters, <https://www.capradio.org/articles/2022/04/06/sacramento-city-council-to-consider-ballot-measure-outlawing-homeless-encampments-forcing-city-to-build-more-shelters/> (last visited Oct. 14, 2022).

commented on the depth of thought and analysis that Measure O has gone through, stating, “We have worked hand in hand with top legal experts in the state to craft Measure O and are confident that the shelter requirements and methodology adopted in our measure will meet all *Boise* test requirements.”<sup>111</sup>

According to Joshua Wood, who is the Chief Executive Officer of the Sacramento Region Business Association, “We will do everything in our power to defend the measure, especially against an opposition group that has focused on suing for solutions instead of presenting them.”<sup>112</sup>

Sacramento City Vice Mayor, Angelique Ashby, and Amani Sawires Rapaski, the Chief Operating Officer for Volunteers of America-NCNN, also support Measure O.

### C. Opponents Arguments

The opponents of this measure argue that this measure violates people’s rights to live as they choose. They also claim that the measure is propagated by corporate interests forcing the City of Sacramento to put this measure on the ballot by using their money and influence.<sup>113</sup>

Opponents also argue that our city is not equipped to deal with the crises because of how urgent this issue is.<sup>114</sup> The City Manager has even said, several times, that the city cannot afford to keep our current shelters open after this year. Opponents wonder how putting more strain on the city's resources will help this issue.

Another opposition argument focuses on the contingency between the county and city, and highlights that it is an unspecified agreement, to be determined behind closed doors, that would give the measured effect.<sup>115</sup> This contingency was a last-minute amendment to the measure. Opponents argue that this is an unacceptable “perversion of the democratic process.”<sup>116</sup>

### D. Opponents

A few of the opponents are Katie Valenzuela and Mai Vang Sacramento City Councilmember, District 4 and District 8, respectively, Eric Sunderland, Region 3 Director, California Democratic Party, Gabby Trejo, Executive Director, Sacramento Area Congregations Together, and Kendra Lewis, Executive Director, Sacramento Housing Alliance.

## VI. FISCAL CONSIDERATIONS

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<sup>111</sup> Emily Hamann, SACRAMENTO BUSINESS JOURNAL, Business groups pledge to defend homeless ballot measure, <https://www.bizjournals.com/sacramento/news/2022/08/17/homeless-measure-legal-challenge.html> (last visited Oct. 14, 2022).

<sup>112</sup> *Id.*

<sup>113</sup> Valenzuela, K., Vang, M., Sunderland, E., Trejo, G., & Lewis, K., CITY OF SACRAMENTO, <https://www.cityofsacramento.org/-/media/Corporate/Files/City-Clerk/Elections/Measure-O---Primary-Ballot-Argument-Against-Measure.pdf?la=en> (last visited Oct. 14, 2022).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

As discussed above, the city is allowed to allocate up to “50 percent of unobligated general fund year-end resources, but not to exceed \$5,000,000,” but only after the funds from the county, state, and federal government have been utilized to fund this act.<sup>117</sup>

## VII. CONCLUSION

Measure O would not only require several shelters based on 60% of the city’s homeless population, but it would also ban public camping in the City of Sacramento. The only way this measure will go into effect is when the city and the county both sign an agreement on their responsibilities to address homelessness. It is also likely to be challenged in court if it does go into effect.

A “**Yes**” vote supports requiring the city to provide shelter beds and to make it a criminal offense to camp in private and public areas.<sup>118</sup>

A “**No**” vote opposes the requirement of the city to provide shelter and opposes making it a criminal offense to camp in private and public areas.<sup>119</sup>

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<sup>117</sup> Sacramento City Council, RESOLUTION No. 2022-0265, § 2, *adding* Chapter 12.1000, Subsection 12.100.060 (2022).

<sup>118</sup> Sacramento, California, Homeless Shelter and Encampment Measure, BALLOTPEDIA, [https://ballotpedia.org/Sacramento,\\_California,\\_Homeless\\_Shelter\\_and\\_Encampment\\_Measure\\_\(November\\_2022\)](https://ballotpedia.org/Sacramento,_California,_Homeless_Shelter_and_Encampment_Measure_(November_2022)) (last visited Oct. 14, 2022).

<sup>119</sup> *Id.*