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City of Huntington Beach, Charter Amendment Measure 2

Shall proposed Charter Amendment Measure 2 to: require City Clerks and City Treasurers to meet minimum qualifications at the time of filing candidacy; require at least four votes to fill Council vacancies and limit appointees to serve only until the next municipal election; no longer require City Attorneys to be graduates from law schools only accredited by the American Bar Association; and update City Treasurer responsibilities accordingly, be approved?

What your vote means

YES	NO
A "yes" vote for Measure M will approve the proposed Charter Amendment as set forth in the measure.	A "no" vote for Measure M opposes the amendment to the Charter.

For and against

FOR	AGAINST
Dan Kalmick Councilmember Mike Posey Mayor Pro Tem	Erik Peterson Councilmember



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Full Text of Measure M City of Huntington Beach

Text in **bold underline** = proposed additions - Text with ~~double strike outs~~ = proposed deletions

Charter Amendment Measure No. 2

Section 309. CITY ATTORNEY. POWERS AND DUTIES. To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school ~~accredited by the American Bar Association~~, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of law in this State for at least five years prior to their election or appointment. The City Attorney shall have the power and may be required to:

Section 310. CITY CLERK. POWERS AND DUTIES. To become and remain eligible for City Clerk, the person elected or appointed shall, **at the time of filing one's candidacy for election or application for appointment**, have a Bachelor's Degree in business, public administration, or a related field, and hold a certification as a Municipal Clerk ~~or obtain such certification within the first three years in office~~. The City Clerk shall have the power and shall be required to:

Section 311. CITY TREASURER. POWERS AND DUTIES. To become and remain eligible for City Treasurer, the person elected or appointed shall, **at the time of filing one's candidacy for election or application for appointment**, have a minimum of five years of financial and/or treasury experience, and have either:

A Master's Degree in accounting, finance, business, or public administration; or

A Bachelor's Degree in accounting, finance, business, or public administration with certification by the California Municipal Treasurer's Association, or their successor, within three years of election or appointment.

The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal governments, or from any court, or from any office, department or agency of the City.

(b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into their hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

~~(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager and City Council.~~

(de) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(ef) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 312. VACANCIES, FORFEITURES AND REPLACEMENT.

(a) **Vacancies.** A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council **with at least four affirmative votes**.

(b) **Forfeiture.** If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer pleads guilty or no contest to or is convicted of a felony or any crime of moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government.

(c) **Replacement.** In the event ~~if~~ **the City Council** shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term. **If the City Council fills the vacancy by appointment, such appointee shall hold office until an election to fill the remainder of the unexpired term at the next general municipal election. Should the appointment occur after the filing deadline for the next general municipal election, the seat shall be deemed vacant upon the certification of the general municipal election, and the vacancy shall be filled in accordance with Sections 312(a) and 312(c).**



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**Impartial Analysis
City of Huntington Beach
Measure M**

If approved by the voters, Charter Amendment Measure 2 would amend Charter Section 309 to eliminate the requirement that the City Attorney must have graduated from a law school that is accredited by the American Bar Association (ABA). ABA-approved law schools offer a legal education program with a set of standards promulgated by the Council of the Section of Legal Education and Admissions to the Bar. Removing this requirement would allow potential City Attorneys to have graduated from law schools with or without this specific accreditation.

Charter Sections 310 and 311, currently allows the City Clerk and City Treasurer to meet minimum qualifications before or after their election. The proposed amendment would require the minimum qualification to be met no later than at the time of filing one's candidacy for their respective positions.

The proposed amendment to Charter Section 311(d) removes the City Treasurer's responsibility to prepare and submit certain monthly written financial reports to the Director of Finance, since this responsibility was effectively transferred to the Finance Department many years ago. The data in these financial reports are maintained daily by the Finance Department and are not managed by the City Treasurer.

The proposed amendment to Section 312 clarifies the Charter requirement to fill a vacancy on City Council by requiring at least four affirmative votes (and not a simple majority of the seated Council Members at that time). This proposed amendment would also establish that any appointees would fill the vacancy only until the next general municipal election, when the local electorate may vote for a candidate to permanently fill the remainder of the unexpired term for that position. If the appointment occurs after the filing deadline for the next general municipal election, the seat is deemed vacant. Upon certification of the general municipal election, the newly seated City Council will be charged with filling the vacancy by appointment or election.

This Measure was placed on the ballot by the City Council.



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Argument in Favor of Measure M

The sudden vacancy that occurred on the City Council early in 2021 made apparent the appointment process for a vacant seat needed to be updated.

The Council recognizes that a special election is extremely expensive if not consolidated with Statewide elections. We believe that changes contemplated in this Measure balance the extremely high cost and low voter turnout of a special election with letting the voters choose who they want to fill the vacated seat at the next scheduled election. This Measure should help depoliticize the appointment process by only allowing that appointee to serve a maximum of two years before having to stand for an election. Additionally, this measure updates the Charter to resolve a scenario whereby a minority of the Council could appoint vacant seats.

Huntington Beach is the only city in Orange County with an elected City Attorney. By requiring a candidate to be a graduate of an ABA accredited law school, we create an additional limit on the pool of potential City Attorneys (they must also live in Huntington Beach) while providing no beneficial screening process. There is no clear reason as to why this was added to the Charter in the last review a little over a decade ago but passing the California Bar and standing before the voters is sufficient.

We respectfully ask for your support for good governance and policy.

s/ Dan Kalmick
Councilmember

s/ Mike Posey
Mayor Pro Tem

Rebuttal to Argument in Favor of Measure M

These proposed changes REDUCE the qualifications for the elected City Attorney and City Clerk and remove the independent oversight by the City Treasurer. Reducing the technical qualifications for any job, but especially for elected officials, is never a good idea for the residents of the City. The ABA accredited law school requirement for the elected City Attorney signifies that the attorney graduated with a more rigorous education than other law schools without the accreditation. Voters understood this and approved the requirement in 2010. In addition, voters expect that the elected City Treasurer provide INDEPENDENT oversight of the City's finances by creating and submitting monthly reporting. If this function is eliminated, then the role of the City Treasurer becomes meaningless. Why would voters want an elected City Treasurer that provided no independent oversight? Additionally, the Councilmembers' arguments that this proposed Amendment to the City Charter will depoliticize the process of filling a vacancy on City Council is completely not true. In fact, the only way to depoliticize the process for the filling of the vacant City Council seat is to conduct a Special Election so that the people can vote for a candidate to fill that vacant seat. This proposed Amendment makes changes to the City Charter that might be in the best interests of City Council by giving City Council MORE POWER but these changes are NOT in the best interests of the residents of Huntington Beach. Vote NO.

s/ Erik Peterson
Huntington Beach City Council Member



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Argument Against Measure M

Rebuttal to Argument Against Measure M

Measure 2: City Attorney, Treasurer, Clerk Updates

Vote NO on this measure to amend the City Charter. This amendment (1) REMOVES the requirement for a candidate running in the election for City Attorney of Huntington Beach to have graduated from an American Bar Association ("ABA") accredited law school. This ABA REQUIREMENT was overwhelming approved by voters and added to the City Charter in 2010. Voters determined that increasing the qualifications of City Attorney candidates to run for office was necessary. In 2018, the City's ABA requirement successfully survived a legal challenge by a candidate. There is no benefit to voters by lowering the qualifications for their elected City Attorney. (2) REMOVES the responsibility of the elected City Treasurer to prepare monthly financial reporting of receipts, disbursements, and fund balances providing voters with INDEPENDENT OVERSIGHT of the City's finances. Independent oversight is the primary function of an elected City Treasurer. WITHOUT this SEPARATION OF DUTIES, it would be difficult if not impossible for the City to pass an AUDIT of internal controls. Vote NO on this amendment.

s/ Erik Peterson
Councilmember

In 2010, the whole Charter restated, not just slightly amended as is being asked for today. The addition of the ABA language didn't even show up in the Impartial Analysis. So, to say that voters overwhelmingly approved (55% YES) adding this language is a mischaracterization at best. There are only so many attorneys in Huntington Beach and by requiring anything other than having some years of experience and having a California law license can dwindle that pool. Additionally, excluding those folks that did not attend an ABA law school can exclude those attorneys who have deep connections to the community, but didn't take the normal route to becoming an attorney: attending a night school program or a becoming an attorney later in life. In fact, the current City Attorney was not a municipal law attorney before being Elected.

Updating the City Treasurer responsibility was requested **BY THE CURRENT CITY TREASURER**. This has nothing to do with oversight. The reports mentioned in the section subject to removal are generated with data from the Finance Department, not something within the Treasurer's Office. The reporting responsibility was transferred out when the Treasurer was transitioned to a parttime position some years ago. The opponents are trying to fearmonger under the guise of oversight.

We request your vote YES on this Measure to ensure we have the best elected department heads Huntington Beach has to offer.

s/ Dan Kalmick
City Councilmember

s/ Mike Posey
Mayor Pro Tempore