

Clerk Notes.

**Item 104. Amend City Charter provisions to protect Auditor's Independence
Feb 1, 2017 amendment motions**

1. **Move the consensus replacement exhibit A:** Moved by Wheeler and seconded by Fish.
2. **Move the Auditor's proposed amendments # 2 and #3:** Moved by Wheeler and seconded by Fish.

Mayor withdraws Mayor #1 amendment regarding collective bargaining from the Amendment Matrix. These are included in the consensus replacement exhibit A.

Commissioner Fish withdraws Fish amendment #1 on Amendment Matrix.

3. **Fish amendment #2 re Auditor Salary. Motion to word 2-504 "The salary of the Auditor shall be the same as a City Commissioner":** Moved by Fritz and seconded for discussion by Fish. (No vote)

Discussion. Leaving in effective date removes potential question on public's part of Auditor self-dealing.

Motion to move Fish amendment #2, 2-504 to read "Effective January 1, 2019, the salary of the Auditor shall be the same as a City Commissioner: Moved by Fish and seconded by Eudaly. (Y-4; N-1 Fritz)

Fish #3 on behalf of League of Women Voters. 2-506a is included in Replacement Exhibit A. 2-506g is withdrawn by Fish.

4. **Move Saltzman #1 amendment to remove Ombudsman from Charter Section 2-509 and 2-507(5)(a):** Moved by Fish and seconded by Saltzman. (Y-1 Saltzman; N-4 Fritz, Fish, Eudaly, Wheeler) Motion fails.

5. **Fritz #1 qualifications. #1a Withdrawn by Fritz.**

Motion to accept Fritz amendment #1b, minus last sentence Section 506(c) Internal Controls and Periodic Review: Moved by Fritz and seconded by Fish.

Motion to withdraw last sentence of 1b: Moved by Fish and seconded by Fritz. (Y-5)
Motion on 1b Fritz original amendment (on left hand side of matrix) as amended: [moved and seconded previously]. (Y-5)

506(c) "Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically, but no less than every four years, with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public."

[Clerk note 34:43.9 audio mark]

6. Fritz #2 Section 2-505.

Move Auditor's 2-505 Budget (Auditor proposed amendment #3): Moved by Fritz and seconded by Fish.

Move to amend to delete the carry-over sentence: Moved by Fritz and second by Fish. (Y-5)

Discussion if there are carry-over funds which Auditor needs for particular purpose, Auditor would be accorded same courtesies as Commissioners to approach Mayor and Budget Office for an encumbrance. Work out through rule-making. All agree on having a pilot project and continue discussion.

Motion on main motion as amended: (Y-5)

Fritz #2 withdrawn.

Fritz #3-5 consensus in replacement exhibit.

Vote on Resolution as amended: (Y-5)

Sue Parsons
Assistant Council Clerk

Amendment Matrix (Item 104)

Sponsor	Redline Amendments to Auditor's Replacement Exhibit A	Auditor's Alternate Language	Status
Mayor #1	<p>2-508 (f): Subject to collective bargaining obligations to the City's recognized bargaining units, tThe Auditor shall have timely access to all employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Auditor shall maintain the confidentiality of all confidential and legally privileged information and records except as required by state law or authorized by the City Council.</p> <p>2-509 (f): Subject to collective bargaining obligations to the City's recognized bargaining units, tThe Ombudsman shall have timely access to all employees, information and records required to investigate or otherwise perform the Ombudsman's duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Ombudsman shall maintain the confidentiality of any confidential or legally privileged information and records except as required by state law or authorized by the City Council.</p> <p>2-509(h): The powers and duties of the Ombudsman shall not be exercised in contravention of any collective bargaining obligations of the City and may be further prescribed by ordinance in consultation with the Auditor.</p>	<p>Section 2-509(h): The powers and duties of the Ombudsman may be further prescribed by ordinance in consultation with the Auditor. The powers and duties of the Ombudsman shall not be exercised in contravention of any collective bargaining obligations of the City.</p>	Agreement between Mayor and Auditor

Amendment Matrix (Item 104)

Fish #1	Prior to the adoption, amendment or repeal of any rule, the Auditor shall provide reasonable public notice and opportunity for comment. The Auditor may adopt interim rules without prior notice upon finding that failure to act promptly will result in prejudice to the public interest and shall be effective for a period of not more than 180 days.	Suggest placing amendment language at end of Section 2-506(a).	Agreement between Fish and Auditor
Fish #2 o/b/o Auditor	Section 2-504: Salary. Effective January 1, 2019, The salary of the Auditor shall be the same as a City Commissioner.		No known Council objections
Fish #3 o/b/o League of Women Voters	2-506 (a): Administrative Authority. The Auditor may establish such rules, policies and practices for the Office of the Auditor as the Auditor determines necessary to carry out the duties of the Auditor under this Charter. 2-506 (g): Administrative Rulemaking and Review. The Auditor will develop rules to implement Section 2-506 Administrative Powers using administrative rulemaking that includes opportunities for public comment. These rules will be reviewed at least once during an Auditor's four year term by a review committee composed of stakeholders and interested public members.		Agreement as to 2-506(a) between Fish and Auditor; Auditor opposed to Section 2-506 (g)

Saltzman #1	<p>2-507(5)(a): Investigating the actions of a City department, bureau or other administrative agency, and the official conduct of any City officer, employee or agent as provided in Section 2-509 of this Charter; and</p> <p>Striking Section 2-509. Office of the Ombudsman in its entirety.</p>		Auditor opposed
Fritz #1	<p>2-502: Qualifications and Restrictions on Other City Candidacy. There shall be an Auditor of the City of Portland who shall possess the same qualifications required of a Commissioner, and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected. The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during his or her term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing.</p>		Auditor opposed

Amendment Matrix (Item 104)

Fritz #1b	<p>Section 506 (c): Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically, but no less than every four years, with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public. These assessments shall occur in the third year of an Auditor's term.</p>	<p>Section 506 (c): Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall periodically conduct, but not less than every four years, contract periodically with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public. The Auditor may contract with outside service providers to conduct the assessments.</p>	<p>Unresolved; Auditor will seek to offer alternate language as additional amendment (Auditor #2)</p>
Fritz #2	<p>Section 2-505. Budget. The Auditor shall prepare a requested budget and submit it to the Mayor and City Council in accordance with state law and on a schedule consistent with the City's budget process. The Auditor's budget is not subject to review by a City department, bureau or other administrative agency prior to its submission to the Mayor and City Council. After its submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's requested budget. The Mayor or City Council may modify the requested budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. The Auditor may carry-over any unused funds from year to year as provided by state law.</p>	<p>Section 2-505. Budget. The Auditor shall prepare a requested budget and any budget cycle reports and submit it them to the Mayor and City Council in accordance with state law and on a schedule consistent with the City's budget process. The Auditor's budget may include carry-over of any unused funds from year to year as provided by state law. The Auditor's requested budget and budget cycle reports are is not subject to review by a City department, bureau or other administrative agency prior to its their submission to the Mayor and City Council. After its their submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's requested budget and budget cycle reports. The Mayor or City Council may modify the Auditor's budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. The Auditor may carry-over any unused funds from year to year as provided by state law.</p>	<p>Unresolved; Auditor will seek to offer alternate language as additional amendment (Auditor #3)</p>

<p>Fritz #3-5</p>	<p>Deputies and Employees. The Auditor may appoint and remove one chief deputy. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. The Auditor may appoint employees and establish their compensation, within the existing classification and compensation structure. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor, subject to funding by Council. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor should shall establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide for cause disciplinary review procedures for an employee who is not an at will employee or subject to a collective bargaining agreement. The Auditor's human resource policies and rules shall provide functionally equivalent protections as the Classified Service, including for-cause disciplinary review procedures for all Auditor's Office employees, with the exception of the Chief Deputy Auditor, Ombudsman, and Audits Director; employees hired under Section 2-507(a)(6) of this Charter and who are designated by Council as at-will; and the employees subject to a collective bargaining agreement.</p> <p>Section 506(d): Procurement. The Auditor has all authority granted to a contracting agency under state</p>	<p>Deputies and Employees. The Auditor may appoint and remove one chief deputy. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor, subject to funding by Council. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor should shall establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, including classification and compensation, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide functionally equivalent protections as the Classified Service, including for-cause disciplinary review procedures for an all Auditor's Office employees who is not an at will employee or with the exception of the Chief Deputy Auditor, Ombudsman, and Audits Director; employees hired under Section 2-507(a)(6) of this Charter who are designated by Council as at-will; and employees subject to a collective bargaining agreement.</p>	<p>Agreement between Fritz and Auditor</p>
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	law to procure or supervise the procurement of goods, services and personal services the Auditor finds necessary for the proper functioning of the Office. The Auditor should shall adopt administrative rules governing the Auditor's procurement practices and procedures that are consistent with City procurement policies and rules, except where the Auditor determines in writing that a City procurement policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter.		
Fritz #___	509(d): Pursuant to a complaint or on the Ombudsman's own initiative, the Ombudsman is authorized to investigate any administrative act of a City department, bureau or other administrative agency, including the Office of the Auditor; recommend changes to City policy, practice or procedures; and issue public reports.		Agreement between Fritz and Auditor

Item 104 - Auditor Amendments for February 1, 2017**Auditor's Proposed Amendment #2**

Section 506 (c): Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall ~~periodically conduct, but not less than every four years, contract periodically with outside service providers to conduct~~ organizational efficiency and compliance assessments, the results of which shall be made public. ~~The Auditor may contract with outside service providers to conduct the assessments.~~

Auditor's Proposed Amendment #3

Section 2-505. Budget. The Auditor shall prepare a requested budget ~~and any budget cycle reports~~ and submit ~~it them~~ to the Mayor and City Council in accordance with state law and on a schedule consistent with the City's budget process. ~~The Auditor's budget may include carry-over of any unused funds from year to year as provided by state law.~~ The Auditor's ~~requested budget and budget cycle reports are~~ is not subject to review by a City department, bureau or other administrative agency prior to ~~its their~~ submission to the Mayor and City Council. After ~~its their~~ submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's ~~requested budget and budget cycle reports.~~ The Mayor or City Council may modify the Auditor's budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. ~~The Auditor may carry-over any unused funds from year to year as provided by state law.~~

Item 85. Amend City Charter provisions to protect Auditor's independence.Amendments presented 1/25/2017

1. **Motion to require public notice and comment for rules adoption, amendment or repeal:** Moved by Fish and seconded by Wheeler for discussion. Vote to be taken 2/1/2017.
Withdrawn 2/1/2017
2. **Motion to remove placing the Ombudsman role in the Charter:** Moved by Saltzman and seconded by Wheeler for discussion. Vote to be taken 2/1/2017. *Failed 2/1/2017*
3. **Motion to accept Fritz amendment package for 2-502, 505, 506,:** Moved by Fritz and seconded by Wheeler for discussion. Vote to be taken 2/1/2017. *Sec 2/1 Notes*
4. **Motion to accept Wheeler amendments to 2-508(f), 2-509(f) and 2-509(h):** Moved by Wheeler and seconded by Saltzman. Vote to be taken 2/1/2017. *Withdrawn 2/1*
5. **Motion by Auditor to amend 2-504 salary effective date:** Moved by Fish and seconded by Wheeler for discussion. Vote to be taken 2/1/2017. *Passed 2/1*
6. **Motion to work with League of Women Voters amendments to 2-506 regarding administrative rule making:** Moved by Fritz and seconded by Wheeler for discussion. Vote to be taken 2/1/2017.
*2-1-17 2-506a accepted
2-1-17 2-506g withdrawn by Council*

See attached pages for complete wording of each amendment.

37265

1/25/2017

Motion 1.

Withdrawn
2/1/2017

Auditor's Proposal

Fish Amendment #1:

Prior to the adoption, amendment or repeal of any rule, the Auditor shall provide reasonable public notice and opportunity for comment. The Auditor may adopt interim rules without prior notice upon finding that failure to act promptly will result in prejudice to the public interest and shall be effective for a period of not more than 180 days.

Section 2-509. Office of the Ombudsman.

37265

- (a) ~~The Office of the Ombudsman is established within the Office of the Auditor. The Office of the Ombudsman shall be under the supervision and control of the Auditor, who is solely responsible for its operation and management. The purpose of the Ombudsman is to provide an impartial office, readily available to the public, that is authorized to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend changes with the goals of safeguarding the rights of persons and promoting high standards of fairness, competency, efficiency and justice in the provision of City services.~~
- (b) ~~The Auditor shall appoint and may remove the Ombudsman.~~
- (c) ~~The Office of the Ombudsman shall be guided by generally accepted standards for government ombudsmen offices serving the public.~~
- (d) ~~Pursuant to a complaint or on the Ombudsman's own initiative, the Ombudsman is authorized to investigate any administrative act of a City department, bureau or other administrative agency; recommend changes to City policy, practice or procedures; and issue public reports.~~
- (e) ~~The Ombudsman shall not investigate the acts of an elected official or the official's personal staff, matters currently in litigation, matters subject to collective bargaining agreement grievance procedures, or a discrimination complaint from an employee or applicant for employment.~~
- (f) ~~The Ombudsman shall have timely access to all personnel, information and records required to investigate or otherwise perform the Ombudsman's duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Ombudsman shall maintain the confidentiality of any confidential or legally privileged information and records except as permitted by state law or authorized by the City Council.~~
- (g) ~~A City department, bureau and agency director or manager shall respond in writing to Ombudsman recommendations within the time specified by the Ombudsman.~~
- (h) ~~The powers and duties of the Ombudsman may be further prescribed by ordinance in consultation with the Auditor.~~

Section 2-507. Duties in General.

~~a. 5. Investigating the actions of a City department, bureau or other administrative agency, and the official conduct of any City officer, employee or agent as provided in Section 2-509 of this Charter; and~~

Note: This section specifically relates to the provisions regarding the Ombudsman

1/25/2017

Commissioner Fritz - potential amendments to Auditor Charter changes

Amendment #1 – Section 2-502

Section 2-5042. Qualifications and Restrictions on Other City Candidacy. There shall be an Auditor of the City of Portland who shall possess the same qualifications required of a Commissioner, ~~and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected.~~ The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during his or her term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing.

Amendment #1b – Section 506 (c)

(c) Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically, but no less than every four years, with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public. These assessments shall occur in the third year of an Auditor's term.

Amendment #2 – Section 2-505

Section 2-505. Budget. The Auditor shall prepare a requested budget and submit it to the Mayor and City Council in accordance with state law and on a schedule consistent with the City's budget process. The Auditor's budget is not subject to review by a City department, bureau or other administrative agency prior to its submission to the Mayor and City Council. After its submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's requested budget. The Mayor or City Council may modify the requested budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. The Auditor may carry over any unused funds from year to year as provided by state law.

Amendment #3 – Section 2-506 (b)

(b) Section 2-503. Deputies and Employees. The Auditor may appoint and remove one chief deputy who shall serve at the pleasure of the Auditor. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required

by the Council or the Charter. ~~The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan. The Auditor may appoint employees and establish their compensation, within the existing classification and compensation structure.~~ The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor ~~should~~ establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide for-cause disciplinary review procedures for an employee who is not an at will employee or subject to a collective bargaining agreement.

Amendment #4 – Section 506(a), Section 506(c) and Section 506(d) Minor amendments

- (a) Section 2-503. Deputies and Employees.** The Auditor may appoint and remove one chief deputy who shall serve at the pleasure of the Auditor. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. ~~The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan.~~ The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor ~~should~~ shall establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide for-cause disciplinary review procedures for an employee who is not an at will employee or subject to a collective bargaining agreement.

(c) **Section 2-503. Deputies and Employees.** The Auditor may appoint and remove one chief deputy ~~who shall serve at the pleasure of the Auditor.~~ In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. ~~The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan.~~ The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor, ~~subject to funding by Council.~~ Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor should establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide for-cause disciplinary review procedures for an employee who is not an at will employee or subject to a collective bargaining agreement.

(d) **Procurement.** The Auditor has all authority granted to a contracting agency under state law to procure or supervise the procurement of goods, services and personal services the Auditor finds necessary for the proper functioning of the Office. The Auditor ~~should~~ shall adopt administrative rules governing the Auditor's procurement practices and procedures that are consistent with City procurement policies and rules, except where the Auditor determines in writing that a City procurement policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter.

Amendment #5 – Section 506(a)

Section 2-503. Deputies and Employees. The Auditor may appoint and remove one chief deputy ~~who shall serve at the pleasure of the Auditor.~~ In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. ~~The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan.~~ The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor should establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, except where the Auditor determines in writing that a City human

resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. ~~The Auditor's human resource policies and rules shall provide for cause disciplinary review procedures for an employee who is not an at will employee or subject to a collective bargaining agreement.~~ The Auditor's human resource policies and rules shall provide functionally equivalent protections as the Classified Service, including for-cause disciplinary review procedures for all Auditor's Office employees, with the exception of the Chief Deputy Auditor, Ombudsman, and Audits Director; employees hired under Section 2-507(a)(6) of this Charter and who are designated by Council as at-will; and employees subject to a collective bargaining agreement.

Mayor's

Amendments to Auditor Charter measure

37265
1/25/2017
Motion 4
Withdrawn
2/1/2017

Add to beginning of 2-508(f) and 2-509(f):

Subject to collective bargaining agreements with the City's recognized bargaining units,

Add to 2-509(h):

The powers and duties of the Ombudsman shall not be exercised in contravention of any collective bargaining agreement or obligations of the City and (continue with existing language)

Motion 5

37265

Auditor's Amendment to the Replacement Exhibit A (January 25, 2017)

Amendment – Section 2-504

Section 2-5024. Salary. Effective January 1, 2019, tThe salary of the Auditor shall be fixed
~~by the Council~~ the same as a City Commissioner.

LWV amendment

37265

1/25/2017

Amendment

Motion 6

League of Women Voters suggested addition/revision to the proposed charter amendment:

37265

Section 2-506. Administrative Powers.

(a) Administrative Authority. The Auditor may establish such rules [~~delete~~ - policies and practices] for the Office of the Auditor as the Auditor determines necessary to carry out the duties of the Auditor under this Charter.

(g) Administrative Rulemaking and Review. The Auditor will develop rules to implement Section 2-506 Administrative Powers using administrative rulemaking that includes opportunities for public comment. These rules will be reviewed at least once during an Auditor's four year term by a review committee composed of stakeholders and interested public members.

2/1
Withdrawn
Fish.

Moved by
Fish / Fritz
2nd
Wheelen.

EXHIBIT A – Auditor's proposed replacement (January 24, 2017)

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 2

GOVERNMENT

ARTICLE 5. THE AUDITOR.

Section 2-501. Office of the Auditor. To ensure an open and accountable City government, the Office of the Auditor is established. The Office shall be under the supervision and control of the Auditor of the City of Portland.

Section 2-5042. Qualifications and Restrictions on Other City Candidacy. There shall be an Auditor of the City of Portland who shall possess the same qualifications required of a Commissioner, and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected. The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during his or her term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing.

Section 2-503. Independent Authority. The Auditor and the Office of the Auditor are administratively independent of the Mayor, City Council, and City departments, bureaus and other administrative agencies in the exercise of the Auditor's duties under this Charter. ~~The Auditor is authorized to interpret the requirements of Chapter 2, Article 5 of this Charter as necessary to carry out the duties of the Auditor under this Charter.~~

Section 2-5024. Salary. The salary of the Auditor shall be ~~fixed by the Council~~ the same as a City Commissioner.

Section 2-505. Budget. The Auditor shall ~~propose~~ prepare a requested budget and submit it to the Mayor and City Council in accordance with state law and on a schedule consistent with the City's budget process. The Auditor's budget is not subject to review by a City department, bureau or other administrative agency prior to its submission to the Mayor and City Council. After its submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's ~~proposed~~ requested budget. The Mayor or City Council may modify the ~~proposed-requested~~ budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. The Auditor may carry-over any unused funds from year to year as provided by state law.

Section 2-506. Administrative Powers.

- (a) Administrative Authority. The Auditor may establish such rules, policies and practices for the Office of the Auditor as the Auditor determines necessary to carry out the duties of the Auditor under this Charter.
- (b) **Section 2-503.** Deputies and Employees. The Auditor may appoint and remove one chief deputy who shall serve at the pleasure of the Auditor. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. ~~The deputies shall have power to do and perform any act or duty required of the Auditor, and the Auditor shall be responsible for their conduct. The compensation to be paid to all of the Auditor's Office staff shall be determined by Council as part of the City's general compensation plan. The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct.— The Auditor shall should establish and administer personnel human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, regarding discipline and discharge of employees in the Office of the Auditor who are not subject to a collective bargaining agreement. The personnel policies and rules shall include a grievance procedure for an employee who is subject to discipline or discharge. Personnel policies and rules established under this subsection should be consistent with City personnel policies and rules, except where the Auditor determines in writing that a City personnel human resources policies-policy and-or rules impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide for-cause disciplinary review procedures for an employee who is not an at will employee or subject to a collective bargaining agreement.~~
- (c) Internal Controls and Periodic Review. The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically with outside service providers to conduct organizational efficiency and compliance assessments, ~~the results of which shall be made public.~~
- (d) Procurement. The Auditor has all authority granted to a contracting agency under state law to procure or supervise the procurement of goods, services and personal services the Auditor finds necessary for the proper functioning of the Office. ~~The Auditor should including the authority to adopt~~

administrative rules governing the Auditor's procurement practices and procedures that are consistent with state law City procurement policies and rules, except where the Auditor determines in writing that a City procurement policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter.

- (e) Legal Services. The Auditor may obtain legal advice and representation from the City Attorney or may retain or employ independent legal counsel. If the Auditor retains or employs independent legal counsel, the Office of the Auditor shall be the client and is entitled to the benefits and privileges thereof.
- (f) The Auditor may obtain advice, services and assistance from any City department, bureau, administrative agency, officer, employee or agent in the performance of the Auditor's duties under this Charter or as may be prescribed by ordinance.

Section 2-5047. Duties in General.

- (a) The Auditor ~~shall be~~ is responsible for the following activities:
 1. ~~Performance of~~ Performing financial and performance audits of the City, including audits of its boards and commissions, franchises and contracts as provided in Section 2-5058 of this Charter;
 2. ~~Supervision of~~ Supervising City elections as provided by state law and Chapter 3 of this Charter;
 3. ~~Maintenance of~~ Maintaining all official records, including records of the various bureaus, records regarding the City Charter and City Code, and all other records regarding City business;
 4. ~~Provision of~~ Providing official certifications as required by this Charter; and
 5. Investigating the actions of a City department, bureau or other administrative agency, and the official conduct of any City officer, employee or agent as provided in Section 2-509 of this Charter; and
 56. Other duties as prescribed by this Charter or as may be assigned by the Council with the consent of the Auditor, ~~or as prescribed by Charter.~~
- (b) ~~The Auditor may delegate, s~~ Subject to the Auditor's supervision, the Auditor may delegate any of these duties to other City officials or may contract with outside service providers. The Auditor shall remain responsible for ~~the~~

~~provision of these services~~ performing the duties. The Council shall provide staffing, funding, and facilities for the Auditor to carry out these duties.

Section 2-5058. Audits.

- (a) The Auditor shall conduct financial and performance audits of City government in accordance with generally accepted governmental auditing standards, and shall appoint, coordinate and monitor the annual audit of the City's financial statements by an independent licensed public accountant.
- (b) The Auditor shall appoint and may remove the Audits Director.
- ~~(b)(c)~~ City ~~bureau managers~~ departments, bureaus and administrative agencies shall respond to audit recommendations made by the Auditor, through the Commissioner In Charge, to the Auditor, in writing within the time specified by the Auditor. All audit reports and responses shall be made available to the public. The Auditor shall retain workpaper files concerning all audit reports issued for at least six years.
- ~~(e)(d)~~ The Auditor shall make the final determination of acceptability and legitimacy of ~~all~~ claims for payment made against the City.
- ~~(d)(e)~~ The Auditor may require at any time that any or all demands upon the City for payment of money out of the treasury be presented to the Auditor before it can be paid in order to determine whether the money is legally due and payable, and the fund from which it should be paid. Any ordinance or resolution of the City Council providing for the payment of any demand out of the treasury, whether from public funds or private funds shall be construed as allowing the auditing of the demand by the Auditor, either before payment or as part of the financial audit. The Auditor shall keep an official record of all demands audited by the Auditor showing the number, date, amount, name of the payee, the appropriation if any against which it was drawn and the fund from which it was paid.
- ~~(e)(f)~~ The Auditor shall have timely access to all ~~personnel~~employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Auditor shall maintain the confidentiality of all confidential and legally privileged information and records except as ~~permitted~~required by state law or authorized by the City Council.

Section 2-509. Office of the Ombudsman.

- (a) The Office of the Ombudsman is established within the Office of the Auditor.

The Office of the Ombudsman shall be under the supervision and control of the Auditor, who is solely responsible for its operation and management. The purpose of the Ombudsman is to provide an impartial office, readily available to the public, that is authorized to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend changes with the goals of safeguarding the rights of persons and promoting high standards of fairness, competency, efficiency and justice in the provision of City services.

- (b) The Auditor shall appoint and may remove the Ombudsman.
- (c) The Office of the Ombudsman shall be guided by generally accepted standards for government ombudsmen offices serving the public.
- (d) Pursuant to a complaint or on the Ombudsman's own initiative, the Ombudsman is authorized to investigate any administrative act of a City department, bureau or other administrative agency; recommend changes to City policy, practice or procedures; and issue public reports.
- (e) The Ombudsman shall not investigate the acts of an elected official or the official's personal staff, matters currently in litigation, matters subject to collective bargaining agreement grievance procedures, or a discrimination complaint from an employee or applicant for employment.
- (f) The Ombudsman shall have timely access to all ~~personnel~~employees, information and records required to investigate or otherwise perform the Ombudsman's duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Ombudsman shall maintain the confidentiality of any confidential or legally privileged information and records except as ~~permitted~~required by state law or authorized by the City Council.
- (g) A City department, bureau and agency director or manager shall respond in writing to Ombudsman recommendations within the time specified by the Ombudsman.
- (h) The powers and duties of the Ombudsman may be further prescribed by ordinance in consultation with the Auditor.

Section 2-50610. Auditor's Duties as Clerk of the Council. The Auditor shall serve as the Clerk of the Council and shall maintain a journal of its proceedings and all of the public records in connection with the Council's official business. The Auditor shall produce an agenda for all formal meetings of the Council; maintain a record of the Council's actions; and make the records available for public inspection as provided by the State Public Records laws. As Clerk of the Council, the Auditor shall maintain and make available current

versions of the City Charter and Code and maintain a record of Charter and Code revisions.

Section 2-50711. Charter Arrangement and Corrections. Subject to Council approval, the Auditor shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this Charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this Charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The Auditor may substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the Charter provision, in accordance with the changes of title or duties subsequently made by law.

Section 2-50812. Deletion of Charter Terms Referring to Masculine or Feminine Gender. Future amendments to the City Charter shall require the use of terms which are neither masculine nor feminine, unless the context of such Charter provision shall require otherwise.

The City Auditor, with approval of the City Attorney, shall be authorized to change the provisions of the City Charter to delete use of terms which are masculine or feminine, unless the context of such Charter provisions shall require otherwise.

Section 2-50913. Official Oaths and Certifications and Custodian of the City Seal.

- (a) The Auditor, and each of the Auditor's deputies, are authorized to administer an oath and certify any acknowledgement authorized or required to be taken by City ordinance, or law of this State, and the Auditor may require any person presenting for settlement an account or claim of any kind against the City to be sworn before him or her regarding such account or claim, and when so sworn, to answer orally or in writing as to any facts relative to the merits or justice of such account or claim.
- (b) The Auditor shall cause his or her signature to be affixed to all warrants, contracts, bonds, and other official documents of the City as affirmation that the document and the action it represents have been duly authorized as required by this Charter and that the signatures of the other City officials on the document are true and duly authorized.
- (c) The Auditor shall be the custodian of the City's seal.

EXHIBIT A – Auditor’s proposed replacement (January 24, 2017)

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 4

CIVIL SERVICE

ARTICLE 2. MERIT SYSTEM.

Section 4-201. Merit System. Consistent with all applicable federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies and rules necessary for effective administration of the employees of the City's offices, bureaus, and agencies, other than the Office of the Auditor, including but not limited to classification and pay plans, recruitment, examinations, disciplinary actions, types of appointments, relationships with employee organizations, and appeals and hearings. Such ordinances shall be consistent with the merit principles in Article 1. Employees in the Office of the Auditor shall be subject to the ~~personnel~~ policies and rules established by the City Auditor under Chapter 2, Article 5 of this Charter.

ARTICLE 3. CLASSIFIED SERVICE.

Section 4-301. Classified Service. The classified service in the City shall consist of all positions in the government of the City except all officers chosen by popular election or by appointment by the City Council, all administrative staff of each City Council member, ~~the Chief Deputy City Auditor~~, employees in the Office of the Auditor, the deputies of the City Attorney, members of all boards and commissions, and all bureau directors hired after December 31, 2000. In addition, at the recommendation of the person responsible for administration of personnel issues, and with approval of Council by ordinance, employees may be excluded from classified service if they are in a classification with a major role in the formulation of policy that requires the exercise of independent judgment and are hired after the effective date of such ordinance.

The Mayor shall appoint and may remove the Chief of Police.

IMPACT STATEMENT

Legislation title: Place measure on the May 16, 2017 ballot to amend City Charter provisions to protect Auditor's independence.

Contact name: Margie Sollinger
Contact phone: (503) 823-4503
Presenter name: Auditor Mary Hull Caballero

Purpose of proposed legislation and background information:

City Charter provisions related to the Auditor's Office are outdated and do not contain adequate safeguards to protect the independence of the Auditor's oversight work, which includes audits and investigations. Voter-enacted protections in City Charter are needed to provide the Auditor's Office with adequate structural independence and align the Office with its peers, professional standards and current best practices.

City Council held a 2-hour work session on this proposal on January 10, 2017.

Financial and budgetary impacts:

Financial impacts are limited to the effect of having budget savings remain in the Auditor's Office from year to year. Precise dollar amounts are not known, but are not likely to exceed \$100,000 to \$200,000 one-time dollars per year being retained in the Auditor's Office rather than returning to the General Fund balance. The Charter change would likely result in additional contracts for legal services, external reviews, compliance audits, etc. but these expenses are expected be covered with existing resources.

Community impacts and community involvement:

No adverse community impacts; the amendments are largely directed at and affect operations internal to the City. Protecting the Auditor's independence is beneficial to the community because it preserves the credibility and integrity of the Auditor's audits and investigations.

The Auditor held two public engagement forums to discuss the proposed Charter amendment. One was held during the lunch hour at City Hall on December 16, 2016 and another was held in the evening at the East Portland Community Center on January 5, 2017. The Auditor/staff conducted additional outreach with multiple organizations, including the Portland Business Alliance, Albina Ministerial Alliance, Common Cause, Urban League, NAACP, National Lawyers' Guild, League of Women Voters, AFSCME, and the Citizen Review Committee.

Letters in support of the proposal have been submitted by former Secretary of State Jeanne Atkins, the United States Ombudsman Association and the National Association for Civilian Oversight of Law Enforcement. The Auditor also expects a letter in support from the Association of Local Government Auditors.

Public input has generally been supportive of the need for the Auditor's Office to have structural independence from agencies to subject to the Auditor's oversight. Specific public input was incorporated into the proposed amendments through strengthening of the accountability measures for the Auditor's Office and removing the proposal to place the Independent Police Review in Charter in order to allow for further public discussion.

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount