

**CAN MUNICIPAL POLITICAL STRUCTURE IMPROVE FISCAL  
PERFORMANCE?**

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In 1501, the ruling doge of Venice, Agostino Barbarigo, met his demise.<sup>1</sup> During his reign, Agostino had been accused of violating the egalitarian principles that pervaded the Venetian aristocracy.<sup>2</sup> Many of the accusations concerned finances: self-dealing, corruption, secret gifts from foreign dignitaries, and public expenditures for personal monuments.<sup>3</sup> Norwich's *History of Venice* also suggests that Agostino was involved in the more forgivable sin of smuggling enormous quantities of wine.<sup>4</sup> So prodigious were Agostino's misdeeds that, on his death, the Great Council of Venice created a new institution.<sup>5</sup> It appointed three inquisitors to evaluate the performance of the dead doge and levy a fine against his estate in an amount that reflected the extent to which his rule disregarded the interests of the republic.<sup>6</sup> At least for any doge who cared about his gene pool as well as his reputation, the use of a board of inquisitors frustrated efforts at using the ducal office for personal gain and realigned the interests of the governors and the governed.

I raise this example because the conversation about the current spate of municipalities facing distress and bankruptcy tends to focus on symptoms more than on causes. In Vallejo, Stockton, San Bernardino, Detroit, Central Falls, and elsewhere, municipal distress tends to be attributed to pension and related obligations to employees that exceed the municipality's capacity to pay.<sup>7</sup> In this sense, the causes of fiscal distress are deemed to be different from what

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<sup>1</sup> JOHN JULIUS NORWICH, *A HISTORY OF VENICE* 387 (1982).

<sup>2</sup> EDWARD MUIR, *CIVIC RITUAL IN RENAISSANCE VENICE* 265–68 (1881).

<sup>3</sup> See NORWICH, *supra* note 1, at 388.

<sup>4</sup> *Id.*

<sup>5</sup> MUIR, *supra* note 2, at 267.

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., CITY OF DETROIT, *PROPOSAL FOR CREDITORS* 23–24 (2013); see also City of San Bernardino, Cal., 499 B.R. 776, 779 (Bankr. C.D. Cal. 2013); *In re* City of Stockton, Cal., 493 B.R. 772, 779 (Bankr. E.D. Cal. 2013).

transpired in the 1970s through 1990s when New York, Philadelphia, and the District of Columbia faced financial difficulty, and perhaps from Puerto Rico today. Those crises are typically attributed to excessive borrowing. Debt overhang discouraged new investment, prevented the use of scarce resources to deliver public goods and services, and threatened defaults to creditors.

I want to suggest, however, that these immediate sources of municipal fiscal distress—the legacy costs of pension obligations and formal debt—have a common element. They are both attributable to problems of institutional design, problems that fail to discourage local officials from pursuing self-interested objectives that deviate from policies that would enhance the fiscal health of the localities that they govern.

I want to focus on two likely sources of divergence between the interests of local officials and those of their constituents that I consider the most likely cause of our current widespread municipal distress. The first involves the intertemporal conflict between the costs and benefits of current expenditures. Debt crises in New York and elsewhere arose because municipal officials borrowed funds for operating and capital expenses, providing services to current residents while imposing the obligation to pay for them on future generations of residents—those who would *not* be casting votes in the next election.<sup>8</sup> The current pension crisis is similarly treated as a consequence of officials who trade higher compensation to municipal employees in the form of future pension benefits for electoral support from public sector unions today.<sup>9</sup> Since elected officials expect not to be in office when the pension bill is due, and those who must pay for the benefits may either be future residents or current residents who assign high discount rates to future payments, the temporal mismatch is likely to result in costs well in excess of the current benefits that the future obligations warrant.

In a sense, the intertemporal conflict is puzzling. In a world of perfect Tiebout mobility, full information, and fully rational residents, officials would be unable to engage in the kinds of fiscal

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<sup>8</sup> See, e.g., ROBERT S. AMDURSKY, CLAYTON P. GILLETTE & G. ALLEN BASS, *MUNICIPAL DEBT FINANCE LAW* 207–08 (2d ed. 2013); ROBERT W. BAILEY, *THE CRISIS REGIME: THE MAC, THE EFCB, AND THE POLITICAL IMPACT OF THE NEW YORK CITY FINANCIAL CRISIS* 16 (1984).

<sup>9</sup> See, e.g., *In re City of Stockton*, 493 B.R. at 779.

illusion that cause current and future interests to deviate.<sup>10</sup> Future obligations would be perfectly capitalized into current property values and rents, so that residents would internalize the present value of future payments. They would therefore rationally decide whether the future costs were worth incurring. But in our less perfect world, officials may exploit the inconsistent and myopic preferences of residents for high levels of services and low levels of taxes. It is the pervasive nature of irrationality, incomplete information, and high discount rates of residents that ultimately enable officials to impose costs on future residents by convincing current residents that they are receiving a benefit for which they do not have to pay.

We tend to address the intertemporal difficulty with less personalized measures than did the Great Council of Venice. Unfortunately, our efforts tend not to work as well. The most obvious mechanisms that we use to constrain intertemporal externalities are state constitutional limitations on the amount of debt that a municipality can have outstanding. Virtually every state constrains the amount of debt that a municipality can incur, and typically those limits are stated as a percentage of the municipality's aggregate property valuation.<sup>11</sup> One might imagine that, if debt limits were rationally related to an appropriate level of debt that a locality should incur, some manner of calculating that optimal level would have been devised over the 150-year period in which state constitutions have included these limits. But the diversity of debt limits belies the notion that we have recognized the optimal tradeoff between capital requirements and oppressive debt. Indiana restricts its localities to 2% of property assessments.<sup>12</sup> South Dakota allows localities a 5% limit, but school districts can incur debt up to 10% of property valuation,<sup>13</sup> while municipalities in South Carolina face an 8% limit.<sup>14</sup> States tend to use flat amounts for limits of state debt rather than percentages of property valuations. Rhode Island, in its infinite wisdom, adopted a \$50,000 limit on state debt in 1842.<sup>15</sup> It has not altered that limit since.

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<sup>10</sup> See Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 418 (1956) (illustrating the idea that residents can vote with their feet).

<sup>11</sup> *E.g.*, IND. CONST. art. XIII, § 1.

<sup>12</sup> *Id.*

<sup>13</sup> S.D. CONST. art. XIII, § 4.

<sup>14</sup> S.C. CONST. art. X, § 14.

<sup>15</sup> R.I. CONST. art. VI, § 16.

Perhaps in recognition of the need to circumvent limitations that are outdated or unresponsive to current capital requirements, debt restrictions have essentially been eviscerated by smart investment bankers and bond lawyers who have created structures that courts have been willing to place outside the realm of constitutional debt. But basically, those efforts remove the primary institutional check on intertemporal externalities. Think of the exposure that Rhode Island currently faces as a consequence of its commitment to a project sponsored by Curt Schilling of Red Sox pitching fame. In 2010, largely at the behest of the Governor, the Rhode Island Economic Development Corporation issued \$75 million of bonds, the proceeds of which were loaned to a company that was owned by Schilling and that developed video games.<sup>16</sup> The bonds were to be paid from company revenues.<sup>17</sup> But the state, utilizing a form of commitment known in public finance as a moral obligation, agreed that it would *consider* making debt service payments if the company could not.<sup>18</sup> The state did not, and, in light of its debt limitation, could not incur a legal obligation to pay the debt in the event the company defaulted.<sup>19</sup>

The company, of course, has now filed for bankruptcy.<sup>20</sup> The market, which has treated the moral obligation as equivalent to a binding commitment, has the tools to punish Rhode Island for failure to pay debt service and avoid default. It can treat the state like a chiseler or high default risk and raise interest rates on its subsequent efforts to raise capital. The market made similar threats when the state hesitated to protect bondholders in the Central Falls bankruptcy.<sup>21</sup> To this point, the state has been unwilling to call the market's bluff. The legislature funded debt service in fiscal year 2014 to the tune of \$2.5 million.<sup>22</sup> Whether it will continue to do so

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<sup>16</sup> See Matt Bai, *Thrown for a Curve in Rhode Island*, N.Y. TIMES, Apr. 21, 2013, at BU1.

<sup>17</sup> *Id.* at BU6.

<sup>18</sup> *Id.*

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

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

<sup>21</sup> See PEW CHARITABLE TRUSTS, THE STATE ROLE IN LOCAL GOVERNMENT FINANCIAL DISTRESS 16 (2013), available at [http://pewstates.org/uploadedFiles/PCS\\_Assets/2013/Pew\\_State\\_Role\\_in\\_Local\\_Government\\_Financial\\_Distress.pdf](http://pewstates.org/uploadedFiles/PCS_Assets/2013/Pew_State_Role_in_Local_Government_Financial_Distress.pdf).

<sup>22</sup> STATE OF R.I. SENATE COMM. ON FIN., SENATE FISCAL OFFICE REPORT: FY2014 BUDGET AS ENACTED 17 (2013), available at <http://webservice.rilin>.

is an open question. But to anyone who believes that debt limits provide a hard constraint against intertemporal conflict, the Rhode Island predicament serves as a reminder that smart underwriters and bond lawyers, aligned with willing political officials, can throw curve balls around constitutional constraints.

A complaint filed in the Detroit bankruptcy illustrates the same difficulties.<sup>23</sup> After Detroit fell behind in its payment obligations to its pension systems, it entered into arrangements to fund the necessary payments.<sup>24</sup> The amount of the shortfall exceeded Detroit's debt limitation, so it could not borrow funds directly to make the payments.<sup>25</sup> Bond market participants then agreed to a mechanism by which newly created service corporations would serve as conduits between the city and the retirement systems.<sup>26</sup> Through this device, the city issued \$1.44 billion of Certificates of Participation, which the city represented as not being debt, because payments were to be made in exchange for future services.<sup>27</sup> But the city has now contended that the Certificates of Participation were debt after all, and, as such, invalidly incurred in excess of its debt limitation and void.<sup>28</sup> If the initial view was correct, however, then overcoming constitutional limitations may involve nothing other than constructing a form that triumphs over substance. In short, we appear to have the capacity neither to define excessive debt nor to make constraints on its issuance stick.

The search for institutional responses to intertemporal explanations for the pension crisis poses a similar set of difficulties. The immediate response to the practice of committing to paying substantial pensions in the future is to transform defined benefit plans for public employees into defined contribution plans. That transformation arguably would not only bring the pension practices of the public sector into line with those of the private sector, it would also make prediction of future expenditures more reliable. We might expect current wages of public employees to increase as a result, but

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[state.ri.us/SenateFinance/budget\\_analyses/FY2014/FY2014%20Budget%20as%20Enacted%20-%20SFO%20Analysis.pdf](http://state.ri.us/SenateFinance/budget_analyses/FY2014/FY2014%20Budget%20as%20Enacted%20-%20SFO%20Analysis.pdf).

<sup>23</sup> See Complaint for Declaratory and Injunctive Relief, *City of Detroit v. Detroit Gen. Ret. Sys. Serv. Corp.*, No. 13-53846 (Bankr. E.D. Mich. Jan. 31, 2014).

<sup>24</sup> *Id.* at 4–8.

<sup>25</sup> *Id.* at 4.

<sup>26</sup> *Id.* at 5–6.

<sup>27</sup> *Id.* at 8.

<sup>28</sup> *Id.* at 19.

that presumably is exactly what we would want—current residents paying the full compensation of current employees and thus determining whether the current service levels are worth the related cost.

Nevertheless, the ease with which debt limits are circumvented should serve as a cautionary tale about the ability to design ideal solutions to intertemporal issues generally. Transitioning from a defined benefit plan to a defined contribution plan will not prevent other mechanisms that defer compensation, whether they take the form of liberal lifetime fringe benefits, incorporating overtime pay into final salaries on which pensions are based, or alternative devices that boost the pension base.<sup>29</sup> If the literature of fiscal illusion tells us anything, it is that the ability of public officials to circumvent budget constraints is bounded only by the myopia of residents who fail to recognize that costs are being shifted to the future in ways that can return to haunt them when payments become due and property values decline.

Aside from intertemporal conflict, there is an alternative source of divergence in the interests of officials and residents. Fiscal distress may arise as a function of fragmented decision-making within local governments. By fragmentation, I mean nothing more than a budgetary system in which, for any given proposed expenditure, there are multiple points of access and review before a decision is finalized. The result is that those who seek government funds may find success through a variety of avenues, and none of the gatekeepers on those avenues has reason to be concerned about the budget as a whole. Representatives from a single district within a locality may be willing to support expenditures within their district, regardless of the desirability of those expenditures from the perspective of the locality. If a publicly funded park in my district enhances my chances at re-election, I will fight for it notwithstanding that, from the perspective of the city as a whole, it is an inefficient expenditure.

Fragmentation in budgetary decision making also means that municipal agencies have the capacity to distort budget decisions, because their expenditures are made without considering the consequences of their decisions for other agencies. Police officials may pursue one form of communication, while the fire department pursues another, oblivious to concerns that the result is that police

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<sup>29</sup> See, e.g., *In re City of Stockton, Cal.*, 493 B.R. 772, 779 (Bankr. E.D. Cal. 2013).

and fire have difficulty communicating with one another. And private interests that place demands on the public treasury, whether they are developers, public sector unions, or bondholders, have numerous avenues by which to achieve their objectives, indifferent to the effects of their project on intersecting items in the overall budget.

In short, fragmentation means that the local treasury takes on the characteristics of a commons, and like any commons, the various groups that utilize it tend, in the aggregate, to over-utilize it, because each one recognizes the full benefit of its consumption and only a small portion of the cost of overuse. Indeed, in such a regime, only a sucker would fail to claim more than its fair share, because no one can bind others similarly to refrain from overuse. If I fail to gain more than a fair share for the constituents of my district, while all other representatives continue to overuse the local budget, my constituents still pay for the inefficiencies of other districts and get a disproportionately low share of the gains.

One might conclude that diffusion of municipal authority would have offsetting advantageous effects. After all, the process of checks and balances among different governmental entities lies at the foundation of our federal constitutional system. Competition between executive and legislative bodies presumably precludes abuse by either one and generates better policies, just as we think that competition between products improves the quality of goods.

Let me be somewhat contrarian about that proposition. For here, I think we may have the prospect of institutional design that actually facilitates fiscal stability. Much of the literature about the relationship between municipal fiscal stability and municipal governmental structures shows that inter-branch competition may be a bad idea, at least at the local level. Strong mayor systems—systems in which mayoral authority swamps that of the local legislature—appear strongly correlated with, and arguably causally related to, fiscal stability.<sup>30</sup> That is certainly the conclusion of Ester Fuchs, whose comparison of Chicago and New York in the 1970s attributes the relative stability of the former to a strong party system dominated by a mayor who exercised authority over the entire budget and who had the capacity, through patronage and formal legal power, unilaterally to dictate governmental policy.<sup>31</sup> New York, on the other

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<sup>30</sup> See, e.g., ESTER R. FUCHS, *MAYORS AND MONEY: FISCAL POLICY IN NEW YORK AND CHICAGO* 278 (1992).

<sup>31</sup> *Id.* at 277.

hand, was governed by an apparatus in which party discipline was absent and mayors had “little formal authority to control the demands of the large number of competing groups that have always been active in city politics.”<sup>32</sup> Fuchs effectively confirmed the view previously expressed in Sayre and Kaufman’s classic study of New York that the city’s governance structure had multiple points of decision making, each of which concentrated on a specific issue, and each of which was dominated by an influential group that resisted centralization.<sup>33</sup> In the 1970s, Fuchs asserted, the result of centralization in Chicago was the effective exercise of budgetary constraints during a period of general economic decline, while decentralized New York was unable to avoid demands for redistribution and capital expenditures that had been agreed to in headier economic moments.<sup>34</sup>

Similar findings emerge from the research of Robert Inman, who finds that council-dominated cities are correlated with lower home values,<sup>35</sup> and Inman’s collaboration with Andrew Haughwout.<sup>36</sup> Reza Baqir’s study of multi-member local legislatures concludes that concentration of budgetary powers in a strong mayoral system is associated with lower costs of government and that an additional political district in the average city is associated with a budgetary increase of approximately \$0.72 million.<sup>37</sup> More representatives means more logrolling and more logrolling has the tendency to translate into more projects that, while useful to a representative’s prospects for re-election or post-public service employment, has a net negative effect on the locality as a whole. In a study of Philadelphia, Inman found that a sudden increase in city council members who were identified with particular neighborhoods (an increase attributable to the resignation of other council members

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<sup>32</sup> *Id.* at 276.

<sup>33</sup> *Id.* at 242.

<sup>34</sup> *Id.* at 250.

<sup>35</sup> Robert P. Inman, *Finances: Financing City Services*, in *MAKING CITIES WORK: PROSPECTS AND POLICIES FOR URBAN AMERICA* 328, 331 (Robert P. Inman ed., 2009). I discuss these findings at greater length in Clayton P. Gillette, *Dictatorships for Democracy: Takeovers of Financially Failed Cities*, 114 *COLUM. L. REV.* (forthcoming 2014).

<sup>36</sup> See Andrew F. Haughwout & Robert P. Inman, *Should Suburbs Help Their Central City?*, in *BROOKINGS-WHARTON PAPERS ON URBAN AFFAIRS* 2002, at 45, 60 (William G. Gale & Janet Rothenberg eds., 2002).

<sup>37</sup> Reza Baqir, *Districting and Government Overspending*, 110 *J. POL. ECON.* 1318, 1319 (2002).

who had been caught taking bribes) led to a twenty-five percent increase in citywide spending on neighborhood services and a five percent increase in overall citywide spending.<sup>38</sup>

Can the structure of municipal governance really explain the deterioration of local finances? I think the answer is yes. Centralization certainly serves as a defragmenting device. Monolithic control over the budget prevents separate bodies within the government from serving the interests of a subset of the locality at the expense of constituents as a whole. Indeed, one might expect that the dilution of checks and balances is less problematic at the local level, because those checks and balances are likely to be less effective at the local level in any event. That is because, in local politics, one party is likely to control both executive and legislative branches, so that policy prescriptions from different officials are less likely to deviate than at the state or federal level. If that is the case, then any differences in the authority of the executive and legislative body are likely to devolve into turf battles over spoils rather than serve as a mechanism for making policy determinations.

One need look no further than Detroit for some illustration of the consequences of municipal fragmentation. Detroit's City Charter entrenches a level of redundancy that, at the very least, produces waste through duplication of effort. To read Detroit's City Charter is to conclude that the good residents of the city are primarily concerned about the risk of public corruption. Any municipality that worries about abuse of the public treasury would presumably create some independent institution charged with investigating allegations of corruption. Detroit has four: the Board of Ethics, an Ombudsperson, the Auditor General, and the newly formed Inspector General.<sup>39</sup> A review of their respective jurisdictions suggests that there is no sharp dividing line among them. One would expect that allegations of official misconduct would produce, not efficient prosecution, but duplicative competition among the oversight agencies for the title of protector of the public treasury.

If redundancy means additional administrative costs, that is bad enough. But the literature concerning strong mayors suggests that Detroit's redundant municipal structure imposes greater risks of fiscal instability. Fragmentation in budget making results from shared power over expenditures, and Detroit serves as a poster child

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<sup>38</sup> Inman, *supra* note 35, at 357 n.22.

<sup>39</sup> See CITY OF DETROIT CHARTER §§ 2-106.8, 7.5-102, 7.5-301, 7.5-401 (2011).

for that possibility. To take a single, but stark example, the mayor's office has a Planning and Development Department.<sup>40</sup> The City Council has a City Planning Commission.<sup>41</sup> Certainly one would want some planning to occur within the city. But to have multiple departments with overlapping functions is a recipe for proxy battles between the executive and the city council. And that is exactly what we see—the mayor's planning department makes recommendations that are subject to revision by City Council.<sup>42</sup> The mayor's planning department can be expected to evaluate proposed development from the perspective of the city as a whole. District representatives, on the other hand, will approach the same issue from the perspective only of their own districts and of the clients who might be supportive of their re-election campaigns. What we anticipate, then, is the mayor's planning department favoring large projects that may generate citywide benefit, while the legislative City Planning Commission favors smaller projects that divide the spoils of federal grant money among multiple clients, but that, in the aggregate, may return less in the way of municipal benefit.

Detroit resists centralization by providing little authority to the mayor to make appointments to top level positions without the approval of the City Council, thereby balkanizing the loyalty of key officials and fragmenting responsibility for service delivery. Whereas New York City's Charter gives the mayor sole appointive authority over the police commissioner, the budget director, and corporation counsel,<sup>43</sup> Detroit dilutes the mayor's appointive authority over these officials.<sup>44</sup> Perhaps the oddest phenomenon is that Detroit's Chief of Police is appointed by the mayor, subject to approval by the City Council from a list of qualified candidates provided by the Board of Police Commissioners.<sup>45</sup> The Board of Police Commissioners is a mixed body of seven elected members and four members appointed by the mayor but with the approval of the City Council.<sup>46</sup> Currently, of those members that are elected, a

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<sup>40</sup> *Id.* § 6-201.

<sup>41</sup> *Id.* § 4-301.

<sup>42</sup> *Id.* § 6-201.

<sup>43</sup> See N.Y. CITY CHARTER §§ 225(b), 431 (2009); *About the Law Department*, N.Y.C. LAW DEP'T, <http://nyc.gov/html/law/html/about/about.shtml> (last visited Apr. 16, 2014).

<sup>44</sup> See CITY OF DETROIT CHARTER § 3-107.

<sup>45</sup> *Id.* § 7-805.

<sup>46</sup> *Id.* § 7-802.

strong plurality consists of former police officers. The result is that police officers create the pool from which the mayor must select who runs the police department. One need not invoke foxes and henhouses to conclude that a mayor who seeks to devise a strategy for crime reduction and public safety may desire an administrator who does not require the imprimatur of those whose tasks may be altered or increased by any change in policy.

Contrary to the literature that suggests that a district system is likely to increase the size of government as representatives of districts seek to maximize their share of the municipal budget pie, Detroit has recently moved from an at-large system to a mixed council in which seven of nine council members are elected from discrete districts and two are elected at-large.<sup>47</sup> The city is precluded from entering into any procurement contract without approval by resolution of the City Council.<sup>48</sup> Nor can the city privatize any services without a series of findings of the effects on city employees and a two-thirds approval of the legislative body.<sup>49</sup>

All these structures entrench joint decision-making that dilutes the authority of a strong mayor and thus makes it more difficult for the city to devise and implement a budget with a unitary voice. What weak mayor systems lack is a grant to the mayor of broad and exclusive authority to appoint and remove officials who have discretion over the budget, such as a finance officer or budget director. A strong mayor system also requires line-item veto authority for the mayor, so that City Council efforts to adjust the budget are subject to the constraint of the one official who represents the entire city.

Notice that most of the institutions that I have suggested are necessary to municipal fiscal stability have a common characteristic. They range from the mildly to the deeply anti-democratic. They grant to the mayor powers that border on the autocratic, maybe even dictatorial. They place substantial authority in one branch of government, typically in one person, and remove that person from vulnerability to checks by competing institutions. They deny district representatives the capacity to fulfill the preferences of their constituents, although only if one defines their constituents as the immediate electorate rather than the municipality as a whole. Perhaps we could justify such a move if we believed that the results

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<sup>47</sup> *Id.* § 3-108.

<sup>48</sup> *Id.* § 4-122.

<sup>49</sup> *Id.* § 6-307.

amounted to benign dictatorship. But there remains a risk that, unattended by additional checks, strong mayors, like the Doge Agostino, will follow an agenda determined by personal objectives rather than public interest, or, that Boston's James Curley—re-elected from prison—will be the model of the strong mayor rather than Michael Bloomberg.<sup>50</sup> Recall that even without a strong mayor system, Detroit suffered through the regime of fraud and misconduct of a mayor who is currently serving a twenty-year sentence for extortion, bribery, and conspiracy.<sup>51</sup> One might, therefore, be forgiven for skepticism about moving to an even more autocratic regime.

Notice also the related paradox created by strong mayor systems. The very autonomy that must be granted to a strong executive in order to centralize budgetmaking necessarily risks exacerbating the intertemporal conflict. Strong mayors, like law school deans, may suffer from an edifice complex, a desire to invest in capital projects that stand as testimony to their period of rule. Such projects are typically funded by borrowing, and that activity, of course, lies at the heart of the tendency to trade short-term benefits for long-term costs.

The issue then, is how to empower a strong mayor to resolve the fragmentation problem without simultaneously aggravating apparently unresolvable intertemporal externalities. New York City's Charter makes a move in this direction. It permits the governor of the state to remove the mayor of New York City on the filing of unspecified charges and a hearing.<sup>52</sup> But like the nuclear bomb option, one would imagine that this deterrent is so drastic that it is unlikely to be used in any but the most extreme case and therefore provides little deterrent at all. It would be nice to think that the denial of re-election would serve its intended deterrent function, but if the myopia of the electorate is responsible for the intertemporal conflict, it is unlikely to serve as the solution. One plausible alternative is

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<sup>50</sup> See Edward L. Glaeser & Andrei Shleifer, *The Curley Effect: The Economics of Shaping the Electorate*, 21 J.L. ECON. & ORG. 1, 2, 9–12 (2005).

<sup>51</sup> Press Release, FBI: Detroit Division, Former Detroit Mayor Kwame Kilpatrick, Contractor Bobby Ferguson, and Bernard Kilpatrick Sentence on Racketeering, Extortion, Bribery, Fraud, and Tax Charges (Oct. 17, 2013), available at <http://fbi.gov/detroit/press-releases/2013/former-detroit-mayor-kwame-kilpatrick-contractor-bobby-ferguson-and-bernard-kilpatrick-sentenced-on-racketeering-extortion-bribery-fraud-and-tax-charges>.

<sup>52</sup> N.Y. CITY CHARTER § 9 (2009).

simply to provide residents with sufficient information that it becomes less costly for them to monitor their officials. New York City's Independent Budget Office ("IBO"), a local analogue to the nonpartisan Congressional Budget Office, perhaps serves as a model.<sup>53</sup> But it is unclear that other cities could attract the major economists and analysts who populate the IBO, and even less clear that New York City residents are aware of it, much less read the data that it generates.

So maybe the Venetians had it right after all. Maybe *ex post* evaluations and penalties are better than *ex ante* deterrents. But they, too, suffer from imperfections, perhaps cutting in the direction of tenure more conservative than the times require. In 1521, Agostino's successor as doge, Leonardo Loredan, met his demise.<sup>54</sup> Again, inquisitors were appointed to evaluate his tenure.<sup>55</sup> His heirs were charged 1500 ducats.<sup>56</sup> Since the government appropriated 3500 ducats per year for ducal ceremonies, this was not a trivial sum.<sup>57</sup> But Leonardo's heirs did not suffer because of his overreaching. Rather, the inquisitors concluded that he had failed to uphold the dignity of his office with sufficient majesty and magnificence.<sup>58</sup>

It might be nice if major city mayors suffered from a similar lack of conceit. Until that utopian moment, however, the risk of fiscal crisis may remain significantly substantial that it is worth adopting governance structures that at least increase the probability of financial stability.

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<sup>53</sup> *Id.* §§ 259–64.

<sup>54</sup> Muir, *supra* note 2, at 276–77.

<sup>55</sup> *See id.* at 277.

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

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*