

File No. 110401

Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 6/2/11

Board of Supervisors Meeting

Date _____

Cmte Board

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OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Charter Amendment</u> |
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| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Linda Wong

Date 5/27/11

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[Charter Amendment - Allowing Amendments to or Repeals of Initiative Ordinances and Declarations of Policy]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Section 14.101 to allow amendments to or repeals of initiative ordinances and declarations of policy.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 8, 2011, a proposal to amend the Charter of the City and County by amending Section 14.101 to read as follows:

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~.

Section 1. Findings.

1. For years, members of the Board of Supervisors and the Mayor have placed initiative ordinances and declarations of policy ("initiatives") on the ballot for the voters' consideration.
2. In addition, private individuals may draft and qualify initiatives for placement on the ballot without any substantive involvement from the City.
3. These initiatives often address some of the most complex policy issues facing the City.
4. Collectively, these processes regularly place numerous initiatives before the voters in City elections.
5. Unless a voter-approved initiative provides otherwise, only the voters may repeal or make any changes to it. This cumbersome system only encourages more and more initiatives to address technical glitches, unforeseen consequences, and changed circumstances that clearly

warrant amendments. This process also prevents the repeal of initiatives that may have long outlived their original aims and purposes.

Section 2. The San Francisco Charter is hereby amended by amending Section 14.101 to read as follows:

SEC. 14.101. INITIATIVES; AMENDMENT AND REPEAL.

(a) Voter-proposed initiative ordinances and declarations of policy ("voter-proposed initiatives"). The voters may propose An initiative ~~may be proposed~~ by presenting to the Director of Elections an initiative petition containing ~~the signatures of voters initiative and signed by voters in a number~~ equal in number to at least five percent of the votes cast for all candidates for ~~m~~Mayor in the last preceding general municipal election for Mayor. Upon certification of the sufficiency of a petition's signatures, the Director of Elections shall submit ~~Such initiative shall be submitted to the voters by the Director of Elections upon certification of the sufficiency of the petition's signatures.~~

A vote on such initiative shall occur at the next general municipal or statewide election occurring at any time after 90 days from the date ~~of the~~ Director of Elections executes the certificate of sufficiency ~~executed by the Director of Elections~~, unless the Board of Supervisors directs that the initiative be voted upon at a special municipal election.

If the initiative petition contains ~~ing~~ signatures of voters ~~the initiative is signed by voters in a number~~ equal in number to at least ten percent of the votes cast for all candidates for Mayor in the last preceding general municipal election for Mayor, and contains a request that the initiative be submitted forthwith to voters at a special municipal election, the Director of Elections shall promptly call such a special municipal election on the initiative. Such election shall be held not less than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a general municipal or statewide election, in which event the initiative shall be submitted at such general municipal or statewide election.

(b) Amendment or repeal of voter-proposed initiatives. No initiative or declaration of policy approved by the voters shall be subject to veto, or to amendment or repeal except by the voters, unless such initiative or declaration of policy shall otherwise provide. Voter-proposed initiatives shall not be subject to veto or repeal. Voter-proposed initiatives, regardless of the date of voter approval, shall be subject to amendment as follows:

(1) If the voter-proposed initiative explicitly provides that it is subject to amendment in a more permissive manner than the procedure set forth in Subsection (2) below, it will be subject to amendment as provided.

(2) All voter-proposed initiatives not described in Subsection (1) will be subject to amendment as follows:

(i) For three years after the initiative's effective date, only the voters may amend the initiative.

(ii) Thereafter, until seven years have elapsed after the initiative's effective date, the Board of Supervisors and the Mayor may amend the initiative by ordinance, provided that the Board of Supervisors must approve the ordinance by a two-thirds vote of all of its members.

(iii) After seven years have elapsed from the initiative's effective date, the Board of Supervisors and the Mayor may amend the initiative by ordinance.

(iv) Any amendments made under subsection (ii) or (iii) must further the purposes of the initiative, and any ordinance amending an initiative shall include findings identifying those purposes and stating how the amendments further the purposes of the initiative.

(c) Amendment or repeal of legislative initiatives. Under Sections 2.113 and 3.100(16), either a majority of the Board of Supervisors, four members of the Board of Supervisors or the Mayor may propose initiative ordinances or declarations of policy to the voters ("legislative initiatives"). Legislative initiatives approved by the voters shall not be subject to veto. Such legislative initiatives, regardless of the date of their approval by the voters, shall be subject to amendment or repeal as follows:

(1) If the legislative initiative explicitly provides that it is subject to amendment or repeal in a more permissive manner than the procedure set forth in Subsection (2) below, it will be subject to amendment or repeal as provided.

(2) All legislative initiatives not described in Subsection (1) will be subject to amendment or repeal as follows:

(i) For three years after the initiative's effective date, the initiative shall not be subject to amendment or repeal except by the voters.

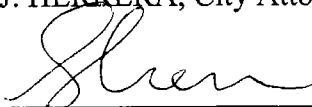
(ii) Thereafter, until seven years have elapsed after the initiative's effective date, the Board of Supervisors and the Mayor may amend or repeal the initiative by ordinance, provided that the Board of Supervisors must approve the amendment or repeal by a two-thirds vote of all of its members.

(iii) After seven years have elapsed from the initiative's effective date, the Board of Supervisors and the Mayor may amend or repeal the initiative by ordinance.

(iv) Any amendments made under subsection (ii) or (iii) must further the purposes of the initiative, and any ordinance amending an initiative shall include findings identifying those purposes and stating how the amendments further the purposes of the initiative.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By:



ANDREW SHEN
Deputy City Attorney

LEGISLATIVE DIGEST
(First Draft, dated April 5, 2011)

[Charter Amendment – Allowing Amendments to or Repeals of Initiatives]

A proposal to amend the Charter of the City and County of San Francisco at an election to be held on November 8, 2011, by amending Section 14.101 to allow amendments to or repeals of initiative ordinances and declarations of policy.

Existing Law

The Charter permits either the voters, the Board of Supervisors ("Board") or the Mayor to place an initiative ordinance or declaration of policy on the ballot. The voters may do so by collecting a sufficient number of signatures from voters registered in the City and County of San Francisco. Charter § 14.101. Board members may place an initiative ordinance or declaration of policy on the ballot by either a majority vote of the Board or with the approval of four of its members. Charter § 2.113(a). The Mayor may also independently place measures on the ballot. Charter § 3.100(16).

Once the voters have approved a measure, neither the Board nor the Mayor may amend or repeal it, unless the measure itself explicitly grants that authority. Charter § 14.101.

Amendments to Current Law

The proposed Charter Amendment would empower the Board and the Mayor to amend voter-approved initiative ordinances and declarations of policy through the City's legislative process as follows:

- within three years of the initiative's effective date, the Board and Mayor may not make any amendments;
- after the first three years, and until seven years have elapsed from the initiative's effective date, the Board and the Mayor may amend the measure by ordinance, but the Board must first approve those amendments by a two-thirds vote of the Board (*i.e.*, at least eight votes) before submitting the ordinance to the Mayor for the Mayor's approval; and
- after seven years have elapsed from the initiative's effective date, the Board and the Mayor may amend the measure by ordinance, but those amendments require a majority vote of the Board (*i.e.*, at least six votes) before submitting the ordinance to the Mayor for the Mayor's approval.

To amend any initiative under this scheme, the Board would be required to include in the ordinance findings establishing how the changes further the purposes of the initiative.

FILE NO.

The proposed Charter amendment would allow the Board and Mayor to *amend* but not *repeal* measures placed on the ballot by voter petitions. In contrast, it would authorize the Board and Mayor to amend *and* repeal initiatives placed on the ballot by a majority of the Board, four members of the Board, or the Mayor, subject to the procedural requirements and time limitations described above.

The proposed Charter amendment would apply to all ordinances and declarations of policy previously approved by the voters, including those adopted before November 8, 2011.



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

✓ Rules Committee
File 110401

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 MAY 17 PM 1:22
BY [Signature]

May 17, 2011

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

RE: File 11041 – Charter amendment allowing the Board of Supervisors to amend and repeal ballot measures, subject to time limits and other conditions

Dear Ms. Calvillo,

Should the proposed Charter amendment be approved by the voters, in my opinion, it would not in and of itself affect the cost of government.

However, the amendment would provide the Board of Supervisors with the authority to change certain City programs that currently cannot be changed without voter approval. In general, this authority could help reduce City costs by allowing the Board of Supervisors to consolidate functions, change cost and fee structures, and generally remove limits to administrative efficiency. Such changes would be subject to the normal budget and fiscal policies of the Charter.

Current program costs that would be subject to this changed authority are unknown but certainly substantial, more than \$25 million. Current revenues that would be subject to this changed authority are also substantial, however most such revenues are general taxes that are now separately subject to a required vote of the people under State law and could not be affected by this amendment.

The amendment gives authority to the Board of Supervisors to amend and repeal ballot measures approved by the voters. This authority would be subject to certain limits including that no amendments could be made until at least three years after the passage of a measure. Currently, voter-approved ballot measures generally may not be amended or repealed except by another ballot measure.

Sincerely,

[Handwritten Signature]
Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.



Miraloma Park Improvement Club (MPIC) Urges You to Oppose Supervisor Wiener's
proposed Charter amendment (file number 110401)
Miraloma Park Improvement Club

to:
Eric Mar, Mark Farrell, David Chiu, Carmen Chu, Ross Mirkarimi, Jane Kim, Sean
Elsbernd, Scott Weiner, David Campos, Malia Cohen, John Avalos, Angela Calvillo, Rick
Caldeira
05/27/2011 10:32 AM
[Show Details](#)

Security:

To ensure privacy, images from remote sites were prevented from downloading. [Show Images](#)

1 Attachment



wiener proposal.doc

Dear Supervisors:

The Miraloma Park Improvement Club (MPIC) urges you to oppose Supervisor Wiener's proposed Charter amendment (file number 110401) that would limit to three years the effective duration of ordinances placed on the ballot by initiatives. Please reference the attached letter detailing our reasons for opposing this proposed legislation.

Sincerely,

Dan Liberthson, Corresponding
Secretary





File 110401: proposed Charter amendment (file number 110401)
Board of Supervisors to: Linda Wong

05/26/2011 02:23 PM

From: "gary noguera" <garynoguera@earthlink.net>
To: "Carmen Chu" <Carmen.Chu@sfgov.org>, "David Campos" <David.Campos@sfgov.org>, "David Chiu" <David.Chiu@sfgov.org>, "entire board" <Board.of.Supervisors@sfgov.org>, "ERIC MAR" <Eric.L.Mar@sfgov.org>, "Jane Kim" <Jane.Kim@sfgov.org>, "John Avalos" <John.Avalos@sfgov.org>, "Malia Cohen" <Malia.Cohen@sfgov.org>, "mark farrell" <Mark.Farrell@sfgov.org>, "Ross Mirkarimi" <Ross.Mirkarimi@sfgov.org>, "Scott Weiner" <Scott.Wiener@sfgov.org>, "Sean Elsbernd" <Sean.Elsbernd@sfgov.org>
Date: 05/26/2011 11:27 AM
Subject: proposed Charter amendment (file number 110401)

Dear Supervisors,

I am strongly opposed to Supervisor Weiner's proposed legislation [file 110401] that would effectively limit the duration of initiative to three years.

This is an unforgivable abridgement of the rights of the people.

Please reject this bad legislation, especially subdivision (b).

Thanks

gary noguera
942 teresita bv
sf 94127



File No. 110401 -- Vote NO on Supervisor Wiener's Charter Amendment on
Voter Initiatives...Rose Hillson (Jordan Park Impvt Assn.)-EOM
Board of Supervisors to: Linda Wong

05/26/2011 02:24 PM

From: ":\)" <gumby5@att.net>
To: "Supervisor David Campos" <David.Campos@sfgov.org>, "Carmen Chu"
<Carmen.Chu@sfgov.org>, "David Chiu" <David.Chiu@sfgov.org>, "Jane Kim"
<Jane.Kim@sfgov.org>, "John Avalos" <John.Avalos@sfgov.org>, "Malia Cohen"
<Malia.Cohen@sfgov.org>, "Mark Farrell" <Mark.Farrell@sfgov.org>, "Sean Elsbernd"
<Sean.Elsbernd@sfgov.org>, "Supervisor Eric Mar" <Eric.L.Mar@sfgov.org>, "Supervisor Ross
Mirkarimi" <Ross.Mirkarimi@sfgov.org>
Cc: "Scott Wiener" <Scott.Wiener@sfgov.org>, <Board.of.Supervisors@sfgov.org>
Date: 05/26/2011 10:42 AM
Subject: File No. 110401 -- Vote NO on Supervisor Wiener's Charter Amendment on Voter
Initiatives...Rose Hillson (Jordan Park Impvt Assn.)-EOM



To: BOS Conr ent Mail Distribution,

Cc:

Bcc:

Subject: Support Charter Amendment Allowing BOS Repeal of Voter-Approved Initiatives [BOS File No. 110401]

From: Christopher Pederson <chpederson@yahoo.com>

To: boardofsupervisors@sfgov.org

Date: 05/18/2011 08:09 AM

Subject: Support Charter Amendment Allowing BOS Repeal of Voter-Approved Initiatives [BOS File No. 110401]

I urge you to support Supervisor Wiener's proposed charter amendment to allow the board of supervisors to amend voter-approved initiative ordinances after a reasonable period of time has passed. This proposal preserves the electorate's right to enact initiatives, but allows for modifications over time without having to go through the burdensome and expensive initiative process all over again. Thank you.

Christopher Pederson
201 Laguna St. # 9
SF, CA 94102



Oppose Charter Amendment Allowing BOS Repeal of Voter-Approved
Initiatives [BOS File No. 110401]
Board of Supervisors to: Linda Wong

05/19/2011 02:51 PM

From: "Kathy Howard" <kathyhoward@earthlink.net>
To: <Scott.Wiener@sfgov.org>
Cc: <boardofsupervisors@sfgov.org>, <Board.of.Supervisors@sfgov.org>, "Carmen Chu"
<Carmen.Chu@sfgov.org>, <David.Campos@sfgov.org>, <David.Chiu@sfgov.org>,
<Eric.L.Mar@sfgov.org>, "Supervisor Jane Kim" <Jane.Kim@sfgov.org>,
<John.Avalos@sfgov.org>, "Supervisor Malia Cohen" <Malia.Cohen@sfgov.org>, "Supervisor
Mark Farrell" <Mark.Farrell@sfgov.org>, "Ross Mirkarimi" <Ross.Mirkarimi@sfgov.org>,
<Sean.Elsbernd@sfgov.org>
Date: 05/19/2011 12:35 PM
Subject: RE: Oppose Charter Amendment Allowing BOS Repeal of Voter-Approved Initiatives [BOS File No.
110401]

Supervisor Wiener:

Thank you for taking the time to write your reply to my concerns. I appreciate the clarification that you provided for me (and, I just noticed, the entire BOS), and I now understand that your legislation will not affect Charter Amendments, bonds, or taxes. That is good news.

I am obviously not a constitutional – or even a City Charter – scholar. I try to read the Voter Pamphlets and the arguments and understand issues. But I have a few other concerns, which I hope you (or your staff, as I expect you are a bit busy today) can answer:

I am not sure how the public is going to be protected by this legislation when an approved initiative can be changed to meet the desires of a new BOS. The legislation states: (2)(iv) Any amendments made under subsection (ii) or (iii) must further the purposes of the initiative, and any ordinance amending an initiative shall include findings identifying those purposes and stating how the amendments further the purposes of the initiative. This seems like an area which allows for a lot of variation in interpretations. What recourse is there for the public if they do not agree with the “findings” and the statement of how the amendments “further the purpose of the initiative?” Do we then have to introduce and pass another initiative?

The legislation states that “The proposed Charter amendment would apply to all ordinances and declarations of policy previously approved by the voters, including those adopted before November 8, 2011.” This is very broad. Who could possibly review all of the legislation covered by this statement and understand the implications? How do we evaluate the impact of this change?

Thank you again for your reply.

Katherine Howard

San Francisco

From: Scott.Wiener@sfgov.org [mailto:Scott.Wiener@sfgov.org]

Sent: Wednesday, May 18, 2011 4:41 PM

To: kathyhoward@earthlink.net

Cc: boardofsupervisors@sfgov.org; Board.of.Supervisors@sfgov.org; Carmen Chu;
David.Campos@sfgov.org; David.Chiu@sfgov.org; Eric.L.Mar@sfgov.org; Supervisor Jane Kim;
John.Avalos@sfgov.org; Supervisor Malia Cohen; Supervisor Mark Farrell; Ross Mirkarimi;
Sean.Elsbernd@sfgov.org

Subject: Re: Oppose Charter Amendment Allowing BOS Repeal of Voter-Approved Initiatives [BOS File No. 110401]

Ms. Howard, the proposed charter amendment would not allow the Board to repeal ordinances that were placed on the ballot by signature petition. Repeal (with a super-majority after 3 years and with a majority after 7 years) would be permitted only for ordinances placed on the ballot by the Board or Mayor. The rules on amendments would be the same for regardless of how placed on the ballot. This is a limited measure that will not impact most ballot measures, given that most ballot measures are charter amendments, bonds, or taxes. It's a modest first step toward addressing one of the major challenges facing our state (and city), namely, the lack of flexibility of elected officials to govern in an increasingly complex world.

Scott Wiener
Member, San Francisco Board of Supervisors
District 8
(415) 554-6968

***If you would like to receive my monthly email newsletter and periodic email announcements, please email Adam Taylor (adam.taylor@sfgov.org) and request that he add you. I do not provide my email list to anyone else, and I rarely send out more than 1-2 emails a month.

***To receive more regular updates, you can follow me on Facebook by "liking" my fan page. You can also follow me on Twitter @sdwiener.

From: "Kathy Howard" <kathyhoward@earthlink.net>
To: <boardofsupervisors@sfgov.org>
Cc: <Board.of.Supervisors@sfgov.org>, <David.Campos@sfgov.org>, <David.Chiu@sfgov.org>, <Eric.L.Mar@sfgov.org>, <John.Avalos@sfgov.org>, "Ross Mirkarimi" <Ross.Mirkarimi@sfgov.org>, "Supervisor Jane Kim" <Jane.Kim@sfgov.org>, "Supervisor Malia Cohen" <Malia.Cohen@sfgov.org>, "Carmen Chu" <Carmen.Chu@sfgov.org>, <Sean.Elsbernd@sfgov.org>, "Supervisor Mark Farrell" <Mark.Farrell@sfgov.org>, <Scott.Wiener@sfgov.org>
Date: 05/18/2011 01:05 PM
Subject: Oppose Charter Amendment Allowing BOS Repeal of Voter-Approved Initiatives [BOS File No. 110401]

Supervisor,

I oppose this charter amendment.

Paid lobbyists are in City Hall every day, working to influence legislation and other decisions. Most people do not have the time or resources to do that kind of lobbying. The inability to find a sponsor (or a group of sponsors) on the BOS results in citizens going directly to the ballot. However, putting a measure on the ballot is extremely difficult for the average citizen. After it is on the ballot, supporting the measure and getting the word out about it can be both challenging and expensive. If the issue is important to a lot of people, then it is worth it. It gives the average citizen the opportunity to put issues before the people, who can then vote 'yes' or 'no'.

Most people cannot go through this process every few years. Giving the BOS the right to undo all of that work is really stacking the deck in favor of the more powerful and well-financed groups in our City. The citizen's power is in our vote. Please do not take that away.

Katherine Howard

SF, CA



File 110401 Please vote NO to Wiener's Charter Amendment to dilute voter initiatives

Board of Supervisors to: Linda Wong

05/19/2011 02:54 PM

From: David Tornheim <DavidTornheim@hotmail.com>
To: Scott Wiener <Scott.Wiener@sfgov.org>, Sean Elsbernd <Sean.Elsbernd@sfgov.org>, "Jane Kim (D6 Supervisor)" <Jane.Kim@sfgov.org>, Maila Cohen <Malia.Cohen@sfgov.org>, Carmen Chu <Carmen.Chu@sfgov.org>, Clerk BoardofSupervisors <board.of.supervisors@sfgov.org>, David Campos <David.Campos@sfgov.org>, David Chiu <David.Chiu@sfgov.org>, Eric Mar <Eric.L.Mar@sfgov.org>, John Avalos <John.Avalos@sfgov.org>, Mark Farrell <Mark.Farrell@sfgov.org>, Ross Mirkarimi <Ross.Mirkarimi@sfgov.org>
Date: 05/18/2011 07:17 PM
Subject: Please vote NO to Wiener's Charter Amendment to dilute voter initiatives
Sent by: <dat_room@hotmail.com>

Dear Supervisors:

I am strongly OPPOSED to Supervisor Wiener's Legislation to curb ballot initiatives and thereby democracy. The whole purpose of ballot initiatives is to address the problems of elected officials who are unduly influenced by lobbying and campaign contributions and not directly accountable to voters after election. I'm sorry if Supervisor Wiener finds that obtaining permission from voters before changing what the voters have insisted upon is "cumbersome." Disregarding ballot initiatives under the guise that the voters' wishes are "outdated" is a ruse to cover Supervisors' alternative agenda shifting the decision-making to them and is an unacceptable usurpation of power. Please vote NO.

-David Tornheim
1890 Grove St. #5
San Francisco, CA 94117-1249
(415) 668-2353



Item 6 on today's Rules agenda - yikes

Karen Babbitt

to:

Jane Kim, Mark Farrell, Sean Elsbernd

05/19/2011 01:17 PM

Cc:

linda.wong, April.Veneracion, Matthias.Mormino, Olivia.Scanlon, Alexander.Volberding,
Catherine.Stefani, Margaux.Kelly, John Avalos

Show Details

Hi Supervisors,

I'm writing to ask that you please vote no on Scott Wiener's proposed charter amendment (Item 6 on the Rules committee agenda): Allowing Amendments to or Repeals of Initiative Ordinances and Declarations of Policy.

Among other things, I don't believe that increased "flexibility" is worth subverting the will of the voters.

<http://www.sfexaminer.com/local/2011/04/proposal-would-let-supes-repeal-ballot-measures>

Thanks,

Karen Babbitt

1070 Church St. #315

SF, CA 94114



Published on *San Francisco Examiner* (<http://www.sfexaminer.com>)

[Home](#) > [Proposal would let supes repeal San Francisco ballot measures](#)

Proposal would let supes repeal San Francisco ballot measures

[Comments \(0\)](#)

 [Supervisor Scott Wiener \(Courtesy photo\)](#)

The Board of Supervisors could change or even repeal voter-approved ordinances, years after their initial passage, under a charter amendment Supervisor Scott Wiener introduced Tuesday for the November ballot.

Wiener said he is proposing the measure in response to criticism about the number of ballot measures, such as, "Why can't the Board of Supervisors do its job and pass legislation without asking us to pass it for you?"

If approved, he said it would reduce the number of ballot measures and make "government more flexible."

Supervisor John Avalos was critical of the proposal. "I'm not sure what problem Supervisor Wiener is trying to solve with such a cumbersome piece of legislation," Avalos said, and then drew references to the William S. Burroughs novel "Naked Lunch." "Democracy can be sloppy. I like my lunch to come naked. Like a reality sandwich."

Under Wiener's proposal, after a measure is approved no changes could be made for three years. Then for the next four years, changes could be made with a two-thirds vote by the board. Then after seven years, a simple majority-vote could change or repeal the measure.

The board could not repeal measures placed on the ballot through a petition, but could amend them, under the proposal.

Wiener's proposal accompanied his introduction of a ballot measure that he said was a good example of why the system needed change. The measure, recommended by the Ethics Commission, would require monthly reporting of political consultant activity, not quarterly.

"There are 21 states that allow for voter adopted ordinances. Of those, we are the only one that prohibits the legislature from subsequently making changes," Wiener said.

jsabatini@sfexaminer.com

[Local](#) [ballot](#) [Board of Supervisors](#) [John Avalos](#) [san francisco](#) [Scott Wiener](#)

Source URL: <http://www.sfexaminer.com/local/2011/04/proposal-would-let-supes-repeal-ballot-measures>

C: BOS-11
orig- File #110401
COB

FROM:
Mary Miles (SB #230395)
Attorney at Law
for Coalition for Adequate Review
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 MAY 18 PM 12:11
PC

TO:
Angela Calvillo, Clerk, President David Chiu, and
Members of the San Francisco Board of Supervisors
City Hall, #1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

DATE: May 18, 2011

BY HAND DELIVERY and by e-mail to: board.of.supervisors@sfgov.org; ;
John.Avalos@sfgov.org; David.Campos@sfgov.org; David.Chiu@sfgov.org;
Carmen.Chu@sfgov.org; Malia.Cohen@sfgov.org; Sean.Elsbernd@sfgov.org;
Mark.Farrell@sfgov.org; Jane.Kim@sfgov.org; Eric.L.Mar@sfgov.org;
Ross.Mirkarimi@sfgov.org; scott.wiener@sfgov.org; angela.calvillo@sfgov.org
and Attn: Rules Committee Members, Sean Elsbernd, Mark Farrell, and Jane Kim

Re: BOARD OF SUPERVISORS File No. 110401 [Charter Amendment – Allowing Amendments to or Repeals of Initiative Ordinances and Declarations of Policy] Rules Committee Agenda of May 19, 2011, Item No. 6

PUBLIC COMMENT

This is public comment on the proposed Charter amendment allowing the Board of Supervisors and/or Mayor to amend or repeal initiative ordinances and declarations of policy passed by voters. The proposed Charter Amendment is scheduled for hearing before the Rules Committee on May 19, 2011, Item No. 6.

The proposed Charter amendment claims that the constitutional right to voter initiatives is a “cumbersome system” that only “encourages more and more initiatives” and should be removed from the voters by enabling the Board of Supervisors and/or Mayor to repeal and amend voter-approved initiatives and to legislate expiration dates for voter-approved initiative measures.

The proposed amendment violates the spirit and letter of the California Constitution, which states: “All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.” (Cal. Const. art. II, §1) This power is not a right *granted* to the people, but is a “power *reserved by them.*” (*DeVita v. County of Napa* [“*DeVita*”] (1995) 9 Cal.4th 763,775-776, emphasis added; and *see*, United States Constitution, Preamble) Courts liberally construe this power to protect the right of the people to local initiative or referendum. (*DeVita, supra*, 9 Cal.4th at p. 776)

No authority permits the Board of Supervisors and/or the Mayor to repeal, amend, or place time-based expirations on ballot initiatives passed by the voters. To do so would negate the powers vested in the people by the Constitution.

In fact, the California Elections Code section 9125 expressly provides that no initiative measure can be repealed “except by a vote of the people, unless provision is otherwise made in the original [initiative] ordinance.” In affirming the force of this provision, the California Supreme Court has explained that Elections Code section 9125 “has its roots in the constitutional right of the electorate to initiative, ensuring that successful initiatives will not be undone by subsequent hostile boards of supervisors.” (*DeVita, supra*, 9 Cal. 4th at p. 788, 797) The Court emphatically declined to place limitations on the right to voter initiative, even though “*all* initiatives place limits on a government body’s capacity to legislate in areas that are otherwise statutorily authorized, some of those limitations quite severe.” (*Id.*, emphasis in original)

The proposed Charter Amendment is also preempted under the California Constitution article XI section 7, since it conflicts with state law, the California Constitution, and the United States Constitution. Both proposing this Charter Amendment and voting for it are violations of ethical duties that subject a public official to discipline and/or removal from office for willful misconduct, including failure to perform duties in compliance with the law. (SF Charter §15.105)

The Board should decisively reject the proposed Charter amendment as an unprincipled attempt to usurp the fundamental rights of the electorate that are the foundation of democratic government.

Please place a copy of this Comment in all applicable files.

DATED: May 18, 2011



Mary Miles



File No. 110401: Oppose Charter Amendment That Allows Voter-approved Initiatives

Board of Supervisors to: Sean Elsbernd, Mark Farrell, Jane Kim,
Linda Wong

05/18/2011 05:25 PM

From: ":\)" <gumby5@att.net>
To: "Sean Elsbernd" <Sean.Elsbernd@sfgov.org>, "Mark Farrell" <Mark.Farrell@sfgov.org>, "Jane Kim" <Jane.Kim@sfgov.org>
Cc: <board.of.supervisors@sfgov.org>
Date: 05/18/2011 05:16 PM
Subject: File No. 110401: Oppose Charter Amendment That Allows Voter-approved Initiatives

Dear Supervisors Elsbernd, Farrell and Kim,
It is with regret that I will not be able to attend the May 19, 2011, 1:30pm, hearing on Supervisor Wiener's legislation introduced on April 5, 2011.
In its current draft, I cannot support this very general piece of legislation.
The purpose of this legislation is not clear except that the digest states that we have a "cumbersome system" of voter-approved initiatives which "encourages more and more initiatives to address technical glitches, unforeseen consequences..."
I think the very specificity that is lacking in Supervisor Wiener's proposed legislation will lead to the very "unforeseen" consequences it is looking to avoid.
And, having what's been passed by the voters be amended or overturned seems like a bad form of government by the people and for the people.
Please oppose this legislation.
Thank you.
Rose Hillson
Member, Jordan Park Improvement Association



Fw: PUBLIC COMMENT, BOS 110401
Rick Caldeira to: Linda Wong
Cc: Angela Calvillo

05/19/2011 08:01 AM

file

----- Forwarded by Angela Calvillo/BOS/SFGOV on 05/18/2011 07:30 PM -----

From: "Mary Miles" <page364@earthlink.net>
To: <board.of.supervisors@sfgov.org>, "John Avalos" <John.Avalos@sfgov.org>, "David Campos" <David.Campos@sfgov.org>, "David Chiu" <David.Chiu@sfgov.org>, "Carmen Chu" <Carmen.Chu@sfgov.org>, <Malia.Cohen@sfgov.org>, "Sean Elsbernd" <Sean.Elsbernd@sfgov.org>, <Mark.Farrell@sfgov.org>, <Jane.Kim@sfgov.org>, "Eric L. Mar" <Eric.L.Mar@sfgov.org>, "Ross Mirkarimi" <Ross.Mirkarimi@sfgov.org>, <scott.wiener@sfgov.org>, "Angela Calvillo" <angela.calvillo@sfgov.org>
Date: 05/18/2011 06:06 PM
Subject: PUBLIC COMMENT, BOS 110401

FROM:

Mary Miles (SB #230395)
Attorney at Law
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310

TO: board.of.supervisors@sfgov.org; John.Avalos@sfgov.org; David.Campos@sfgov.org;
David.Chiu@sfgov.org; Carmen.Chu@sfgov.org; Malia.Cohen@sfgov.org;
Sean.Elsbernd@sfgov.org; Mark.Farrell@sfgov.org; Jane.Kim@sfgov.org;
Eric.L.Mar@sfgov.org; Ross.Mirkarimi@sfgov.org; scott.wiener@sfgov.org;
angela.calvillo@sfgov.org

DATE: May 18, 2011

Re: Board of Supervisors File No. 110401 [Charter Amendment -- Allowing Amendments to or Repeals of Initiative Ordinances and Declarations of Policy]
Rules Committee Agenda of May 19, 2011, Item No. 6

Your attention is requested to the attached Public Comment on the above-referenced Item.

Thank you.



Mary Miles 5-18-11 BOS WIENER COMMENT-FILED.pdf

FROM:
Mary Miles (SB #230395)
Attorney at Law
for Coalition for Adequate Review
364 Page St., #36
San Francisco, CA 94102
(415) 863-2310

TO:
Angela Calvillo, Clerk, President David Chiu, and
Members of the San Francisco Board of Supervisors
City Hall, #1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

DATE: May 18, 2011

BY HAND DELIVERY and by e-mail to: board.of.supervisors@sfgov.org; ;
John.Avalos@sfgov.org; David.Campos@sfgov.org; David.Chiu@sfgov.org;
Carmen.Chu@sfgov.org; Malia.Cohen@sfgov.org; Sean.Elsbernd@sfgov.org;
Mark.Farrell@sfgov.org; Jane.Kim@sfgov.org; Eric.L.Mar@sfgov.org;
Ross.Mirkarimi@sfgov.org; scott.wiener@sfgov.org; angela.calvillo@sfgov.org
and Attn: Rules Committee Members, Sean Elsbernd, Mark Farrell, and Jane Kim

**Re: BOARD OF SUPERVISORS File No. 110401 [Charter Amendment – Allowing
Amendments to or Repeals of Initiative Ordinances and Declarations of Policy]
Rules Committee Agenda of May 19, 2011, Item No. 6**

PUBLIC COMMENT

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2011 MAY 18 PM 12:11
pc

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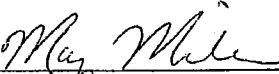
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Mary Miles