

[Public Advocate]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 6.100 and adding Section 6.108 to create the Public Advocate.

The Board of Supervisors hereby submits to the qualified voters of said City and County at an election to be held on November 5, 2002, a proposal to amend the Charter of said City and County by amending Section 6.100 and adding Section 6.108.

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

Sec. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.

In addition to the officers required to be elected under other Articles of this Charter, the following shall constitute the elective officers of the City and County: the Assessor-Recorder, City Attorney, District Attorney, *Public Advocate*, Public Defender, Sheriff and Treasurer. Each such officer shall be elected for a four-year term and shall serve full time.

The City Attorney shall be licensed to practice law in all courts of the state of California and shall have been so licensed for at least ten years next preceding his or her election. The District Attorney and Public Defender shall each be licensed to practice law in all courts of the state of California and shall have been so licensed for at least five years next preceding his or her election. Such officers shall not engage in private practice of law during the period they serve as elective officers of the City and County.

Subject to the powers and duties set forth in this Charter, the officers named in this section shall have such additional powers and duties prescribed by state laws for their respective office. The terms of office in effect for these officers on the date this Charter is adopted shall continue.

SEC. 6.108. PUBLIC ADVOCATE

The Public Advocate shall:

- (1) Review complaints of a recurring and multi-neighborhood or Citywide nature relating to City services or programs, and make proposals to improve the City's response to the complaints.
- (2) Receive individual complaints concerning City services and other administrative actions of City agencies and investigate and otherwise attempt to resolve such individual complaints except for those which (i) another City agency is required by law to adjudicate, (ii) may be resolved through a grievance mechanism established by collective bargaining agreement or contract, or (iii) involve allegations of conduct which may constitute a violation of criminal law or a governmental ethics law. If the Public Advocate receives a complaint described in items (i), (ii) or (iii) of this paragraph, the Public Advocate shall advise the complainant of the appropriate procedure for the resolution of such complaint.
- (3) Except for those matters which involve conduct which may constitute a violation of criminal law or a governmental ethics law, the Public Advocate may, on the request of a resident, taxpayer, neighborhood organization, elected official, or his or her own motion, inquire into any alleged failure of a City officer or agency to comply with any provision of the Charter. If as a result of such inquiry, the Public Advocate concludes that there is any substantial failure to comply with any provision of the Charter, he or she shall submit a preliminary report documenting the conclusions of the inquiry to the officer or officers and the head of each agency involved. Within a reasonable time after submitting such preliminary report, the Public Advocate shall issue a final report to the Board of Supervisors, mayor, and agency documenting the conclusions of the inquiry.
- (4) Serve as a non-voting ex-officio member of the Board of Supervisors, City commissions and committees of the Board of Supervisors, and may introduce legislation to improve

City programs and services and make government more efficient. The Public Advocate may attend closed sessions of the Board, commission or committee, except those closed sessions pertaining to personnel matters, and except those closed sessions of the Ethics Commission pertaining to investigations of the Public Advocate. The Public Advocate may, by written authority filed with the appropriate Board, commission or committee, designate any two officers or employees appointed by the Public Advocate to exercise the powers specified in this subsection. Either such officer or employee, so designated, may act in the place of the Public Advocate on the Board, commission or committee whenever the Public Advocate is absent from a meeting of the Board, commission or committee for any reason whatever.

- (5) Establish programs and initiatives to assist traditionally underserved communities gain access to government.
- (6) Administer the Department of Neighborhood Empowerment provided for in Section 16.121.
- (7) Have timely access to all records and documents which the Public Advocate deems necessary to complete the investigations, inquiries and reviews required by this Section. If a City agency does not comply with the Public Advocate's request for such records and documents, the Public Advocate may request that the Supervisor of Records require the production of such records and documents. The provisions of this subsection shall not apply to those records and documents of City agencies for which a claim of privilege may properly be raised or which are prepared or maintained by the District Attorney or the Ethics Commission for use in any investigation authorized by State law or the Charter.
- (8) If the Public Advocate receives a complaint alleging conduct which may constitute a violation of criminal law or a governmental ethics law, he or she shall promptly refer the complaint regarding criminal conduct to the District Attorney or other appropriate

law enforcement agency and shall refer the complaint regarding governmental ethics to the Ethics Commission. If during the conduct of any investigation, inquiry, or review authorized by this subsection, the Public Advocate discovers that the matter involves conduct which may constitute a violation of criminal law or a governmental ethics law, he or she shall take no further action but shall promptly refer the matter regarding criminal conduct to the District Attorney or other appropriate law enforcement agency and shall promptly refer the matter regarding governmental ethics to the Ethics Commission. All complaints received and any investigative file prepared or maintained by the Public Advocate regarding matters covered by this subsection, shall be confidential to the extent permitted by State law.

- (9) Before making public any portion of any draft, preliminary or final report relating to the operations or activities of a City officer or agency, the Public Advocate shall send a copy of the draft report to any such officer, and to the head of any agency, discussed in such report and provide the officer and agency, in writing, with a reasonable deadline for their review and response. The Public Advocate shall include in any report, or portion thereof, which is made public a copy of all such officer and agency responses.
- (10) The Public Advocate may hold public hearings in the course of fulfilling the requirements of this section provided that a complete transcript of any such hearings shall be made available for public inspection free of charge within sixty days after the hearing. The Public Advocate shall also provide a copy of any requested pages of such transcript at a reasonable fee to cover copying and, if relevant, mailing costs.
- (11) Not later than the thirty-first day of October of each year, the Public Advocate shall present to the Board of Supervisors a report on the activities of the office during the preceding fiscal year. The report shall include: (1) a statistical summary of the complaints received during such fiscal year, categorized by agency, type of complaint, agency response, mode of resolution, and such other factors as the Public Advocate

deems appropriate; (2) an analysis of recurring complaints and the Public Advocate's recommendations for administrative, legislative or budgetary actions to resolve the underlying problems causing the complaints; (3) a summary of the findings and recommendations of the agency program reviews conducted during the fiscal year and a summary of the agency responses to such findings and recommendations; (4) a summary of the Charter requirements which, in the opinion of the Public Advocate are not being implemented by the City agencies and officers subject to them, including a description of the nature and extent of the failure to comply and a summary of the responses of the agencies or officers to the Public Advocate's conclusions; and (5) a summary of improvements in Charter compliance since the Public Advocate's last annual report. The Public Advocate shall include an assessment of the fiscal implications of any recommendations presented in this report.

(12) The Public Advocate shall be elected for a four year term. The first election for Public Advocate shall take place at the General Municipal Election in November, 2003.

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

By: _____
JULIE A. MOLL
Deputy City Attorney