

File No. 110023

Committee Item No. 8
Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 5/5/11

Board of Supervisors Meeting

Date 5/24/11

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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OTHER

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Completed by: Linda Wong

Date 5/2/11

Completed by: L.W.

Date 5/19/11

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

1 [Campaign and Governmental Conduct Code – Allowing a Former Appointed Mayor to Obtain
2 City Employment]

3 **Ordinance amending the San Francisco Campaign and Governmental Conduct Code**
4 **Section 3.234 to allow an appointed former Mayor to obtain full-time City employment**
5 **within one year after leaving office.**

6 NOTE: Additions are single-underline italics Times New Roman;
7 deletions are ~~strike-through italics Times New Roman~~.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strikethrough-normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
11 amended by amending Section 3.234, to read as follows:

12 SEC. 3.234. POST-EMPLOYMENT RESTRICTIONS.

13 (a) All Officers and Employees.

14 (1) Permanent Restriction on Representation in Particular Matters.

15 (A) Prohibition. No former officer or employee of the City and County, after the
16 termination of his or her service or employment with the City, shall, with the intent to influence,
17 act as agent or attorney, or otherwise represent, any other person (except the City and
18 County) before any court, or before any state, federal, or local agency, or any officer or
19 employee thereof, by making any formal or informal appearance or by making any oral,
20 written, or other communication in connection with a particular matter:

21 (i) in which the City and County is a party or has a direct and substantial interest;

22 (ii) in which the former officer or employee participated personally and substantially as
23 a City officer or employee; and

24 (iii) which involved a specific party or parties at the time of such participation.

1 (B) Restriction on assisting others. No former officer or employee of the City and
2 County, after the termination of his or her service or employment with the City, shall aid,
3 advise, counsel, consult or assist another person (except the City and County) in any
4 proceeding in which the officer or employee would be precluded under Subsection (A) from
5 personally appearing.

6 (C) Exception for testimony. The prohibitions in Subsections A and B do not prohibit a
7 former officer or employee of the City and County from testifying as a witness, based on the
8 former officer's or employee's personal knowledge, provided that no compensation is received
9 other than the fees regularly provided for by law or regulation of witnesses.

10 (2) One-Year Restriction on Communicating with Former Department. No current or
11 former officer or employee of the City and County, for one year after termination of his or her
12 service or employment with any department, board, commission, office or other unit of the
13 City, shall, with the intent to influence a government decision, communicate orally, in writing,
14 or in any other manner on behalf of any other person (except the City and County) with any
15 officer or employee of the department, board, commission, office or other unit of government,
16 for which the officer or employee served.

17 (3) Employment with Parties that Contract with the City. No current or former officer or
18 employee of the City shall be employed by or otherwise receive compensation from a person
19 or entity that entered into a contract with the City within the preceding 12 months where the
20 officer or employee personally and substantially participated in the award of the contract.

21 (b) Mayor, Members of the Board of Supervisors, and their Senior Staff Members.

22 (1) One year restriction on communicating with City departments. For purposes of the
23 one-year restriction under Subsection (a)(2), the "department" for which a former Mayor, a
24 former member of the Board of Supervisors, or a former senior staff member to either the
25

1 Mayor or a member of the Board of Supervisors served shall be the City and County and the
2 prohibition in Subsection (a)(2) shall extend to communications with:

3 (A) a board, department, commission or agency of the City and County;

4 (B) an officer or employee of the City and County;

5 (C) an appointee of a board, department, commission, agency, officer, or employee of
6 the City and County; or

7 (D) a representative of the City and County.

8 For the purposes of this subsection, "a former senior staff member to either the Mayor
9 or a member of the Board of Supervisors" means an individual employed in any of the
10 following positions at the time the individual terminated his or her employment with the City:
11 the Mayor's Chief of Staff, the Mayor's Deputy Chief of Staff, a Legislative Aide to a member
12 of the Board of Supervisors or a position that the Ethics Commission determines by regulation
13 is an equivalent position based on an analyses of the functions and duties of the position.

14 (2) City service.

15 (A) Except as provided in Subsection (B), no ~~No~~ former Mayor or member of the Board of
16 Supervisors shall be eligible for a period of one year after the last day of service as Mayor or
17 member of the Board of Supervisors, for appointment to any full time, compensated
18 employment with the City and County. This restriction shall not apply to a former Mayor or
19 Supervisor elected to an office of the City and County, appointed to fill a vacancy in an
20 elective office of the City and County, or appointed to a board or commission in the executive
21 branch.

22 (B) Notwithstanding the one-year restriction in Subsection (A), a former Mayor who was
23 appointed to that office under Charter Section 13.101.5 to fill a vacancy shall be eligible for
24 appointment to any City employment, provided that (i) the former Mayor did not file a declaration of
25 candidacy for election to the office of Mayor after being appointed to that office, (ii) the former Mayor

1 was employed by the City immediately prior to assuming the office of Mayor, and (iii) the salary in the
2 first year of the new employment shall not exceed the salary received by the former Mayor in the City
3 employment that he or she held immediately prior to assuming office as Mayor.

4 (c) Waiver.

5 (1) At the request of a current or former City employee or officer, the Ethics
6 Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) if the
7 Commission determines that granting a waiver would not create the potential for undue
8 influence or unfair advantage.

9 (2) At the request of a current or former City employee or officer, the Ethics
10 Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) for members of
11 City boards and commissions who, by law, must be appointed to represent any profession,
12 trade, business, union or association.

13 (3) At the request of a former City officer or employee, the Ethics Commission may
14 waive the prohibition in Subsection (a)(3) if the Commission determines that imposing the
15 restriction would cause extreme hardship for the City officer or employee.

16 (4) The Ethics Commission may adopt regulations implementing these waiver
17 provisions.

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

20 By:


21 JON GIVNER
22 Deputy City Attorney

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24
25
Supervisors
BOARD OF SUPERVISORS

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LEGISLATIVE DIGEST

[Campaign and Government Conduct Code - Allowing former appointed Mayor to obtain City employment]

Ordinance amending San Francisco Campaign and Governmental Conduct Code Section 3.234 to allow an appointed former Mayor to obtain full-time City employment within one year after leaving office.

Existing Law

Under current law, a person who has served as Mayor, whether by election or appointment, may not be appointed to any full-time compensated employment with the City for one year after the last date of service as Mayor.

Amendments to Current Law

This legislation would provide an exception to the ban against the appointment of a former Mayor to full-time employment with the City for one year after the last day service as Mayor. The exception would only apply if all four of the following conditions are met:

- 1) the Mayor was appointed as Mayor under Charter Section 13.101.5 to fill a vacancy,
- 2) the Mayor did not subsequently file a declaration of candidacy for election to keep the office,
- 3) immediately prior to assuming the office of Mayor, the Mayor was a City employee, and
- 4) the salary in the first year of the new, post-Mayor position cannot exceed the salary received in the former, pre-Mayor position.

Background Information

The version of this legislation introduced on January 11, 2011 would have allowed an appointed Mayor to return to City employment without any restriction on the salary in the new position. This substitute legislation adds the restrictions above numbered (3) and (4).

The proposal amends Article III, Chapter 2 of the Campaign & Governmental Conduct Code (the "Government Ethics Ordinance" or "GEO"). The GEO, which was originally approved by the voters, expressly authorizes amendment by the Board of Supervisors only if:

- 1) the amendment furthers the purposes of the GEO;

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- 2) the amendment is approved by the members of the Ethics Commission by a four-fifths vote;
- 3) the legislation is made available for public review for at least 30 days before consideration by any committee of the Board of Supervisors ; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

See S.F. Campaign and Governmental Conduct Code § 3.204.

The Ethics Commission approved this version of the legislation by a 5-0 vote on April 11, 2011.

