

1 [Modifying election procedures and deadlines for a June 2, 2009 election.]

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3 **Emergency ordinance (1) finding that an emergency exists for purposes of Charter**
4 **Section 2.107; (2) modifying various election procedures and deadlines for a June 2,**
5 **2009 special election; and (3) identifying the proposed revenue measures that would be**
6 **submitted using the modified procedures.**

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

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

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12 Section 1. **Finding of Emergency Under Charter Section 2.107.**

13 Section 2.107 of the San Francisco Charter authorizes the City to pass emergency
14 ordinances to address public emergencies threatening life, health, or property, or to provide
15 for the uninterrupted operation of any City department required to comply with time limitations
16 established by law.

17 The Board of Supervisors hereby finds that an actual emergency exists that requires
18 the passage of this emergency ordinance, based on the following:

19 1. The fiscal crisis impacting the nation and the state has affected San Francisco as
20 well. The City has been hit by a sudden and precipitous drop in local revenues—revenues
21 from the real estate transfer tax alone are expected to drop almost 50 percent below the
22 adopted budget levels.

23 2. As a result of these conditions, the Mayor's Office has projected a General Fund
24 deficit of \$575.6 million for Fiscal Year 2009-10, a loss of roughly half of the City's
25 discretionary spending as compared to funds available for discretionary spending in Fiscal

1 Year 2008-09. This deficit would severely harm public health and human service programs in
2 particular, since the departments delivering those programs are among those most dependent
3 on the General Fund. Unless the City can replace this funding, the health, safety, and welfare
4 of the vulnerable segments of the population will be put at risk.

5 3. The City has already made significant cuts in government spending, including the
6 elimination or postponement of programs, lay-offs of nearly 400 City employees, and
7 elimination of over 300 vacant positions. But adoption of most new revenue sources, such as
8 taxes, requires voter approval.

9 4. The next regularly-scheduled City election is not until November 2009, nearly
10 halfway through the next fiscal year and too late to address the projected deficit.

11 5. In response to this situation, the Board of Supervisors intends to call a special
12 election for June 2, 2009, to submit a number of proposed revenue measures to the voters, so
13 that the Board and the Mayor will know before the commencement of Fiscal Year 2009-10
14 whether the voters have approved the revenue measures. But in order to conduct an election
15 on such shortened notice, the City must modify certain election procedures and deadlines as
16 set forth in this ordinance.

17 6. The Board of Supervisors therefore finds that an emergency exists for purposes of
18 Charter Section 2.107. This emergency ordinance will ensure that the City is able to submit
19 and the voters are able to consider revenues measures designed to avoid the impending
20 deficit threatening the public health, safety, and welfare.

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1 Section 2. **Measures Covered by the Modified Election Procedures.**

2 The election procedures modified in Section 3 of this ordinance shall apply to any or all
3 of the following measures, or substantially similar measures, submitted by the full Board of
4 Supervisors to the voters at a special election on June 2, 2009:

5 1. A possible increase in the sales tax, the increase not to exceed 0.5% for a total tax
6 rate of 9%, and including a possible dedication of the proceeds of the tax increase to
7 emergency health and human services and to public protection;

8 2. A possible increase in the payroll tax, the increase not to exceed 0.2% for a total tax
9 rate of 1.7%, and including a possible dedication of the proceeds of the tax increase to
10 emergency health and human services and to public protection;

11 3. A possible new residential utilities users tax, not to exceed 7.5%, and including a
12 possible dedication of the proceeds of the tax increase to emergency health and human
13 services and to public protection;

14 4. A possible increase in the commercial utilities users tax, the increase not to exceed
15 2.5% for a total tax rate of 10%, and including a possible dedication of the proceeds of the tax
16 increase to emergency health and human services and to public protection;

17 5. A possible new parcel tax, not to exceed \$300 for a residential parcel and \$1,000 for
18 other parcels;

19 6. A possible new gross receipts tax on residential rental income, not to exceed
20 0.127%, and including a possible dedication of the proceeds of the tax increase to emergency
21 health and human services and to public protection;

22 7. A possible new gross receipts tax on commercial rental income, not to exceed
23 0.127%, and including a possible dedication of the proceeds of the tax increase to emergency
24 health and human services and to public protection;

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1 8. A possible new gross receipts tax on all commercial transactions, not to exceed
2 0.1%, and including a possible dedication of the proceeds of the tax increase to emergency
3 health and human services and to public protection;

4 9. A possible new surcharge on the parking tax, the surcharge not to exceed 5% for a
5 total tax rate of 30%, the proceeds of the surcharge going to the General Fund;

6 10. A possible amendment to Charter Section 9.113.5, allowing the City to appropriate
7 up to 100% of the current balance in the Rainy Day Reserve, not to exceed 20% of the
8 projected deficit, in years in which a budgetary deficit of \$250 million or more is projected;
9 and,

10 11. A possible new charter amendment that would cap all set-asides at their Fiscal
11 Year 2008-2009 levels, allow the City to reduce its contributions during budgetary shortfalls,
12 and provide that year-end surpluses be returned to the General Fund.

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14 Section 3. **Modifications to Election Procedures.**

15 (a) **Thirty-Day Hold.** Notwithstanding the provisions of Municipal Elections Code
16 Section 305(a)(1), the Board of Supervisors may consider the measures identified in Section 2
17 of this ordinance fewer than 30 days after receiving (i) a draft of the proposed measure
18 approved as to form by the City Attorney, and (ii) a legislative digest for the proposed
19 measure prepared by the City Attorney, so long as both the draft and the digest are delivered
20 to the Clerk of the Board at least 72 hours prior to the committee hearing and made available
21 for public review at that time.

22 (b) **Additional Hearings on All Amendments.** Notwithstanding the provisions of
23 Municipal Elections Code Section 305(a)(3), the Board committee hearing a measure
24 identified in Section 2 of this ordinance is not required to notice any and all amendments to
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1 the proposed measure for an additional public hearing, and shall only be required to notice
2 substantive changes for an additional hearing as provided by the notice and agenda
3 requirements of the Brown Act and the Sunshine Ordinance.

4 (c) **Deadlines for Submission of Official Arguments.** Notwithstanding the
5 provisions of Municipal Elections Code Sections 535 *et seq.*, the Director of Elections may
6 modify the deadlines for submission of proponent, opponent, and rebuttal ballot arguments for
7 or against the measures identified in Section 2, and any related deadlines, as the Director
8 deems necessary to allow for the timely and orderly preparation and distribution of the voter
9 information pamphlet for the June 2, 2009 election.

10 (d) **Deadlines for Submission of City Attorney Statement, Ballot Simplification**
11 **Committee Digest, and Controller's Financial Analysis.** Notwithstanding the provisions of
12 Municipal Elections Code Sections 510, 515, and 520, the Director of Elections may modify
13 the deadlines for submission of the City Attorney statement, the Ballot Simplification
14 Committee digest, and the Controller's financial analysis, respectively, for the measures
15 identified in Section 2, as the Director deems necessary to allow for the timely and orderly
16 preparation and distribution of the voter information pamphlet for the June 2, 2009 election.

17 (e) **Deadlines for Public Inspection of Voter Information Pamphlet Materials.**
18 Notwithstanding the provisions of Municipal Elections Code Section 590, the Director of
19 Elections may modify the deadlines for public inspection of the various categories of materials
20 included in the voter information pamphlet for the measures identified in Section 2, as the
21 Director deems necessary to allow for the timely and orderly preparation and distribution of
22 the voter information pamphlet for the June 2, 2009 election, provided that the Director
23 provides for the full 10-day inspection period for all such materials required under California
24 Elections Code Sections 9295 and 13313.

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1 (f) **Elimination of Paid Arguments.** Notwithstanding the provisions of Municipal
2 Elections Code Sections 535(c) and 560, the Director of Elections shall not accept paid
3 arguments for or against the measures identified in Section 2 or include such paid arguments
4 in the voter information pamphlet for those measures. "Paid arguments" shall, for purposes of
5 this Section, include ballot arguments submitted pursuant to Municipal Elections Code
6 Sections 565 and 570 with in-lieu signatures rather than payment of the printing fee.

7 (g) **Notice of Submission of Ballot Arguments.** Notwithstanding the provisions of
8 Municipal Elections Code Sections 525(a), the Director of Elections may waive, in whole or in
9 part, or otherwise modify the requirement that the Director publish notice in the official
10 newspaper on three separate occasions that ballot arguments may be submitted for or against
11 the measures identified in Section 2, as the Director deems necessary to allow for the timely
12 and orderly preparation and distribution of the voter information pamphlet for the June 2, 2009
13 election, provided that the Director provides for the full 10-day inspection period for such ballot
14 arguments required under California Elections Code Sections 9295 and 13313.

15 (h) **Notice of Changes.** The Director of Elections shall publish on the Department of
16 Elections' website notice of all changes in deadlines and other modifications to election
17 procedures that he makes under the authority of this ordinance.

18 (i) **Board Rule 2.28 Regarding Charter Amendments.** The Board of Supervisors
19 waives the application of Board Rule 2.28 to any charter amendments included among the
20 measures identified in Section 2.

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

24 By: _____
25 THOMAS J. OWEN
Deputy City Attorney