

LEGISLATIVE DIGEST

(Amendment of the Whole, dated 10/26/2011)

[Administrative Code - Financial Policy Regarding Selected Nonrecurring Revenues]

Ordinance amending the San Francisco Administrative Code by amending Section 10.60 and adding Section 10.61, to adopt a binding financial policy under Charter Section 9.120 providing that selected nonrecurring revenues may only be spent on nonrecurring expenditures.

Existing Law

Current law generally does not limit how the City may spend otherwise-unrestricted revenues based on whether the revenues are of a recurring or non-recurring nature. Charter Section 9.113.5 ("the Rainy Day Reserve") does limit the appropriation and spending of certain "excess revenues," defined as General Fund revenues that exceed the prior year's level by more than five percent. Administrative Code Section 10.60 also makes it binding City policy to deposit 75 percent of revenues from the sale of land or other fixed assets in the City's Budget Stabilization Reserve.

Amendments to Current Law

The proposal is an ordinance that would amend the Administrative Code to provide that the City could only spend Selected Nonrecurring Revenues on Nonrecurring Expenditures.

"Selected Nonrecurring Revenues " would consist of:

- A General Fund prior year-end unassigned fund balance, before deposits to the Rainy Day Reserve or Budget Stabilization Reserve, in excess of the average of the preceding five years;
- The General Fund share of revenues from prepayments provided under long-term leases, concessions, or contracts after accounting for any Charter-mandated revenue transfers, set-asides, or deposits to reserves;
- Otherwise unrestricted revenues from legal judgments and settlements; and,

- Otherwise unrestricted revenues from the sale of land or other fixed assets.

"Nonrecurring Expenditures" would mean "expenditures or other uses that do not create liability for or expectation of substantial ongoing costs." Examples of Nonrecurring Expenditures would include:

- Discretionary funding of reserves;
- Acquisition of capital equipment;
- Capital projects included in the City's capital plans;
- Development of affordable housing;
- Discretionary prepayment of pension, debt, or other long term obligations; or,
- Repayments to the Rainy Day Reserve or Budget Stabilization Reserve required when, because the City collected more revenues than anticipated in the budget, the City was no longer authorized to make budgeted withdrawals from those reserves.

The Controller would certify whether the proposed uses of Selected Nonrecurring Revenues were Nonrecurring Expenditures, and his or her determination would be final. But the City could use Selected Nonrecurring Revenues for ordinary operating expenses if that use was authorized by an ordinance approved by the Mayor and passed by a two-thirds' vote of the Board of Supervisors. The City could also suspend the requirements of the policy for the current or upcoming fiscal year by a resolution adopted by a two-thirds' vote of the Board of Supervisors.

The proposal would also amend the provisions of Administrative Code Section 10.60 addressing the deposit of a portion of the proceeds of land sales into the Budget Stabilization Reserve to make those revenues subject to the new policy instead.

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Controller, Mayor Lee, President Chiu
BOARD OF SUPERVISORS

Background Information

Proposition A, adopted by the voters in November 2009, added Section 9.120 to the City Charter. Section 9.120 requires the Controller to propose, and the Mayor and the Board of Supervisors to adopt, long-range financial policies for the City. The policies must be in the form of ordinances approved by the Mayor and passed by a two-thirds' vote of the Board of Supervisors. The proposal would be such an ordinance.

The City may not adopt a budget that the Controller determines is inconsistent with any of the provisions of such an ordinance. Upon a two-thirds' vote, the Board of Supervisors by resolution may suspend, in whole or in part, a financial policy ordinance, including the proposal, for the succeeding fiscal year.

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This amendment of the whole, dated 10/26/2011, makes two clarifications to the legislation on file, dated 9/13/2011.

First, it amends the ordinance to provide that the General Fund prior year-end fund balance would be determined, for purposes of identifying Selected Nonrecurring Revenues, before any deposits are made to the Rainy Day Reserve or the Budget Stabilization Reserve.

Second, it adds as an additional example of a Nonrecurring Expenditure, repayments to the Rainy Day Reserve or Budget Stabilization Reserve required when, because the City collected more revenues than anticipated in the budget, the City is no longer authorized to make budgeted withdrawals from those reserves.