

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Nicole Elliott, Mayor's Office  
Jon Givner, Office of the City Attorney  
John Arntz, Director, Department of Elections  
Ed Reiskin, Municipal Transportation Agency

FROM: *DE* Derek Evans, Clerk, Rules Committee  
Board of Supervisors

DATE: June 3, 2016

SUBJECT: CHARTER AMENDMENT INTRODUCED  
November 8, 2016, Election

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The Board of Supervisors' Rules Committee has received the following Charter Amendment for the November 8, 2016, Election, introduced by Supervisor Yee on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.4.

**File No. 160589 Charter Amendment - Municipal Transportation Agency -  
Appointments to Board of Directors and Budget Process**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to split the power to make appointments to the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors between the Mayor and the Board of Supervisors, to lower the vote by which the Board of Supervisors may reject the SFMTA Budget from seven to six, and to make related changes implementing these amendments, at an election to be held on November 8, 2016.

Please review and submit any reports or comments to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7702 or email: [derek.evans@sfbgov.org](mailto:derek.evans@sfbgov.org). To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Janet Martinsen, Municipal Transportation Agency  
Kate Breen, Municipal Transportation Agency  
Dillon Auyoung, Municipal Transportation Agency  
Roberta Boomer, Municipal Transportation Agency

1 [Charter Amendment - Municipal Transportation Agency - Appointments to Board of Directors  
2 and Budget Process]

3 **Describing and setting forth a proposal to the voters, at an election to be held on**  
4 **November 8, 2016, to amend the Charter of the City and County of San Francisco to split**  
5 **the power to make appointments to the San Francisco Municipal Transportation Agency**  
6 **(SFMTA) Board of Directors between the Mayor and the Board of Supervisors, to lower**  
7 **the vote by which the Board of Supervisors may reject the SFMTA Budget from seven to**  
8 **six, and to make related changes implementing these amendments.**

9  
10 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City  
11 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of  
12 the City and County by revising Sections 8A.102 and 8A.106, to read as follows:

13 NOTE: **Unchanged Charter text and uncodified text** are in plain font.  
14 **Additions** are *single-underline italics Times New Roman font*.  
15 **Deletions** are ~~*strike-through italics Times New Roman font*~~.  
16 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Charter  
17 subsections.

17 **SEC. 8A.102. GOVERNANCE AND DUTIES.**

18 (a) The Agency shall be governed by a board of seven directors *nominated and appointed*  
19 *under this subsection (a).*~~*appointed by the Mayor and conformed after public hearing by the*~~  
20 ~~*Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the*~~  
21 ~~*Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors*~~  
22 ~~*shall act on those initial appointments no later than March, 1, 2000 or those appointments shall*~~  
23 ~~*be deemed confirmed.*~~

24 *(1) The Mayor shall nominate four members to the Board of Directors. The*  
25 *Board of Supervisors shall appoint the other three members of the Board of Directors. Each of*

1 the Mayor's nominations shall be subject to confirmation by the Board of Supervisors, and shall  
2 be the subject of a public hearing and vote within 60 days. If the Board of Supervisors fails to act  
3 on a mayoral nomination within 60 days of the date the nomination is transmitted to the Clerk of  
4 the Board of Supervisors, the nominee shall be deemed confirmed.

5 (2) At least four of the directors must be regular riders of the Municipal Railway,  
6 and must continue to be regular riders during their terms. Each of the The directors must possess  
7 significant knowledge of, or professional experience in, one or more of the fields of government,  
8 finance, or labor relations. Taken as a whole, the Board of Directors must reflect the diverse  
9 population and communities of interest served by the Municipal Transportation Agency, both in  
10 terms of demographic characteristics and in terms of the multiple modes of transportation  
11 provided, governed, regulated, or affected by the work of the Agency. At least ~~two~~ one of the  
12 Mayor-appointed directors and one of the Board of Supervisors-appointed directors must  
13 possess significant knowledge of, or professional experience in, the field of public transportation.  
14 At least two of the Mayor-appointed Directors and two of the Board of Supervisors-appointed  
15 Directors must be regular riders of the Municipal Railway or regular users of paratransit  
16 services and must continue to be regular riders or regular users during their terms. During their  
17 terms, all of the other directors shall be required to ride the Municipal Railway or use paratransit  
18 services on the average of once a week.

19 (3) In order to stagger the terms of members of the Board of Directors, three  
20 members shall initially serve two-year terms, and four members shall initially serve four-year  
21 terms. The initial two- and four-year terms of office shall be instituted as follows:

22 (A) The respective terms of office of members appointed under the  
23 provisions of this subsection (a) as enacted by the voters on November 2, 1999 as part of  
24 Proposition E, who hold office on July 1, 2017, shall expire at noon on that date. The four  
25 members appointed by the Mayor and the three members appointed by the Board of Supervisors

1 under the provisions of this subsection (a) as enacted by the voters on November 8, 2016, as  
2 part of Proposition \_\_\_\_\_ shall succeed to said offices at that time.

3 (B) The Secretary of the Board of the Municipal Transportation Agency  
4 shall determine by lot which two of the four mayoral appointees shall serve an initial two-year  
5 term, and shall determine by lot which one of the three appointees of the Board of Supervisors  
6 shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All  
7 subsequent terms shall be four years.

8 Directors shall serve four-year terms, provided, however, that two of the initial  
9 appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two  
10 for terms ending March 1, 2002, and one for a term ending March 1, 2001. Initial terms shall be  
11 designated by the Mayor.

12 (4) No person may serve more than three terms as a director, making no  
13 distinction between two- and four-year terms. For purposes of this subsection (a)(4), service for  
14 a part of a term that is more than half the period of the term shall count as a term, and service  
15 that is half or less than half of the period of a term shall not count as a term; provided, however,  
16 that service of any part of a term that ended on July 1, 2017, under subsection (a)(3)(A) shall not  
17 count as a term. A director may be removed only for cause pursuant to Article XV.

18 (5) The directors shall annually elect a chair. The chair shall serve as chair at the  
19 pleasure of the directors.

20 (6) Directors shall receive reasonable compensation for attending meetings of the  
21 Agency which shall not exceed the average of the two highest compensations paid to the  
22 members of any board or commission with authority over a transit system in the nine Bay Area  
23 counties.

24 (7) Members of the Board of Directors may be removed by the appointing officer  
25 only pursuant to Section 15.105.

1                   (8) Appointments to the Board of Directors for any period of time before noon on  
2 July 1, 2017, shall be governed by the provisions of this subsection (a) as enacted by the voters  
3 on November 2, 1999, as part of Proposition E.

4                   \*    \*    \*    \*

5                   (h) Except as provided in this Article, the Agency shall be subject to the provisions of  
6 this Charter applicable to boards, commissions, and departments of the City and County,  
7 including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 6.102, 9.118, ~~16.100~~, and A8.346.  
8 Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency.

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10 **SEC. 8A.106. BUDGET.**

11                   The Agency shall be subject to the provisions of Article IX of this Charter except:

12                   (a) No later than May 1 of each even-numbered year, after professional review, public  
13 hearing, and ~~after~~ receiving the recommendations of the Citizens' Advisory Council, the Agency  
14 shall submit its proposed budget with annual appropriation detail in a form approved by the  
15 Controller for each of the next two fiscal years to the Mayor and the Board of Supervisors for  
16 their review and consideration. The Agency shall propose a budget that is balanced without the  
17 need for additional funds over the Base Amount, but may include fare increases and decreases,  
18 and reductions or abandonment of service. The Mayor shall submit the budget to the Board of  
19 Supervisors, without change. Should the Agency request additional general fund support over the  
20 Base Amount, it shall submit an augmentation request for those funds in the standard budget  
21 process and subject to normal budgetary review and amendment under the general provisions of  
22 Article IX.

23                   (b) At the time the budget is adopted, the Agency shall certify that the budget is adequate  
24 in all respects to make substantial progress towards meeting the performance standards  
25 established pursuant to Section 8A.103 for the fiscal year covered by the budget.

1 (c) No later than August 1, the Board of Supervisors may allow the Agency's budget to  
2 take effect without any action on its part or it may reject but not modify the Agency's budget by a  
3 ~~seven-elevenths'~~ simple majority vote. Any fare change, route abandonment, or revenue measure  
4 proposed in the budget shall be considered accepted unless rejected by a ~~seven-elevenths'~~ simple  
5 majority vote on the entire budget. Should the Board reject the budget, ~~it shall~~

6 (1) The Board shall adopt findings to support its decision.

7 (2) The Board shall make additional interim appropriations to the Agency ~~from~~  
8 ~~the Municipal Transportation Fund~~ sufficient to ~~permit the Agency to~~ maintain all operations at  
9 the level provided by the Agency as of June 30 of the prior fiscal year, given costs applicable on  
10 or after July 1 as certified by the Controller through the extended interim period until a budget is  
11 adopted. Interim appropriations to the Agency shall be made first from any balance available in  
12 the Municipal Transportation Fund and, thereafter, from the general revenues of the City.

13 (3) The Agency shall respond to the findings adopted by the Board of Supervisors  
14 and shall resubmit a budget to the Mayor and the Board of Supervisors. Within 30 days of the  
15 transmittal of the Agency's resubmitted budget to the Clerk of the Board of Supervisors, the  
16 Board of Supervisors may reject but not modify the Agency's budget by a simple majority vote,  
17 and if the Board does not reject the resubmitted budget within that time, the resubmitted budget  
18 shall take effect. Any request for appropriation of General Fund revenues in excess of the Base  
19 Amount shall be approved, modified, or rejected under the general provisions of Article IX.

20 (d) No later than May 1 of each odd-numbered year, the Agency shall submit any budget  
21 amendment that may be required to increase appropriations over those approved in the two year  
22 budget or as may be required by law, provided that such budget amendment shall establish a  
23 detailed plan with appropriation detail only for those anticipated revenues and expenditures  
24 exceeding those approved in the two year budget or as otherwise required by law. The Agency  
25 may submit to the Board of Supervisors such additional budget amendments or modifications

1 during the term of the budget, including but not limited to amendments reflecting fare changes,  
2 route abandonments and revenue measures, as may be required in the discretion of the Agency.  
3 The Board of Supervisors may allow any budget amendment to take effect without any action on  
4 its part or it may reject but not modify the budget amendment by a *simple majority seven-*  
5 *elevenths'* vote taken within 30 days after its submission to the Board of Supervisors.

6 (e) Any request for appropriation of General Fund revenues in excess of the Base  
7 Amount shall be approved, modified, or rejected under the general provisions of Article IX.

8 (f) Notwithstanding any other provisions of this Charter or requirements of the Annual  
9 Salary Ordinance, the Controller may authorize the Agency to move funds within its budget and  
10 hire personnel without specific Controller approval so long as the Agency's periodic and  
11 verifiable projections of spending by the Agency show the Controller that the Agency's spending  
12 will be within the approved budget. However, should the projections show that the Agency  
13 spending is likely to exceed its budget, the Controller may impose appropriate controls in his or  
14 her discretion to keep the Agency within budget.

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16 **SEC. 15.105. SUSPENSION AND REMOVAL.**

17 (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and  
18 any member of the Airport Commission, Asian Art Commission, Civil Service Commission,  
19 Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors,  
20 Health Commission, Human Services Commission, Juvenile Probation Commission, *Municipal*  
21 *Transportation Agency Board of Directors*, Port Commission, Public Utilities Commission,  
22 Recreation and Park Commission, Fine Arts Museums Board of Trustees, *Taxi Commission*, War  
23 Memorial and Performing Art Center Board of Trustees, Board of Education or Community  
24 College Board is subject to suspension and removal for official misconduct as provided in this  
25 section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified

1 person to discharge the duties of the office during the period of suspension. Upon such  
2 suspension, the Mayor shall immediately notify the Ethics Commission and Board of  
3 Supervisors thereof in writing and the cause thereof, and shall present written charges against  
4 such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their  
5 next regular meetings following such suspension, and shall immediately furnish a copy of the  
6 same to such officer, who shall have the right to appear with counsel before the Ethics  
7 Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five  
8 days after the filing of written charges. After the hearing, the Ethics Commission shall transmit  
9 the full record of the hearing to the Board of Supervisors with a recommendation as to whether  
10 the charges should be sustained. If, after reviewing the complete record, the charges are  
11 sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the  
12 suspended officer shall be removed from office; if not so sustained, or if not acted on by the  
13 Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission,  
14 the suspended officer shall thereby be reinstated.

15 (b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD  
16 OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, MUNICIPAL  
17 TRANSPORTATION AGENCY, AND ENTERTAINMENT COMMISSION. Members of the  
18 Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections  
19 Commission, the Ethics Commission, the Municipal Transportation Agency Board of Directors,  
20 and the Entertainment Commission may be suspended and removed pursuant to the provisions of

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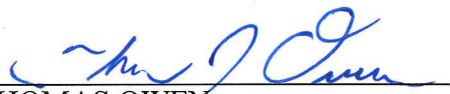


1 subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's  
2 appointees and the appointing authority shall act in place of the Mayor for all other appointees.

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

By:   
THOMAS OWEN  
Deputy City Attorney

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**LEGISLATIVE DIGEST**  
(First Draft - 5/24/2016)

[Charter Amendment - Municipal Transportation Agency - Appointments to Board of Directors and Budget Process]

**Describing and setting forth a proposal to the voters, at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to split the power to make appointments to the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors between the Mayor and the Board of Supervisors, to lower the vote by which the Board of Supervisors may reject the SFMTA Budget from seven to six, and to make related changes implementing these amendments.**

Existing Law

The City's Municipal Transportation Agency (SFMTA) is run by a 7-member Board of Directors. The Mayor appoints all 7 directors, but the Mayor's appointments must be confirmed by the Board of Supervisors.

The SFMTA submits a proposed budget to the Board of Supervisors. The Board may accept or reject, but not modify, the proposed budget. If the Board rejects the proposed budget, it must act by 7 votes. The regular number of votes required for the Board to act is 6 votes.

Amendments to Current Law

The proposal is a Charter amendment that would make two changes to how the SFMTA is run. First, it would split the power to appoint SFMTA Directors between the Mayor and the Board of Supervisors. The Mayor would nominate four members to the Board of Directors, subject to confirmation by the full Board of Supervisors. The Board of Supervisors would nominate three members.

Second, the proposal would change the number of votes needed for the Board of Supervisors to reject the SFMTA's proposed budget from 7 votes to 6 votes. And the proposal would require the Board to adopt findings explaining its decision if it rejected the proposed budget.