

File No. 180738

Committee Item No. 11

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 25, 2018

Board of Supervisors Meeting

Date _____

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Completed by: Victor Young Date July 19, 2018

Completed by: _____ Date _____

[Administrative Code - Disclosure of Spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board Elections]

Ordinance amending the Administrative Code to require disclosure of candidate and third-party spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board elections; set late filing fees and penalties for violations; and specify that the Department of Elections shall conduct these elections and Ethics Commission will enforce the related disclosure requirements.; and clarify the confidentiality of eligible voters' names and addresses.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Administrative Code is hereby amended by revising Chapter 16, Article XIII, Sections 16.550, 16.551, 16.553, 16.553-1, 16.553-2, 16.554, ~~16.555, 16.556,~~ 16.557, ~~16.558, 16.560,~~ 16.561, 16.562, 16.563, 16.563-1, 16.564, and by adding Sections 16.553-3, and 16.553-4, 16.557-1, 16.566, to read as follows:

SEC. 16.550. PURPOSE.

(a) The Charter of the City and County of San Francisco provides that the trustees of the Retirement Board, who are entrusted with the administration of the San Francisco City and County Employees' Retirement System ("Retirement System"), shall include three trustees elected from the active and retired members of the Retirement System. As used in this Article XIII, a retired member of the Retirement System shall mean a person who is in receipt of a retirement allowance relating to his or her membership in the ~~Retirement~~ System.

1 (b) The Charter of the City and County of San Francisco provides that the trustees of
2 the Health Service Board, who are entrusted with the administration of the San Francisco City
3 and County Employees' Health Service System ("Health Service System"), shall include four
4 trustees elected from the active and retired members of the Health Service System. For the
5 purposes of a Health Service System election, a retired member of the Health Service System
6 shall mean a person who is a member of the Health Service System retired under the ~~San~~
7 ~~Francisco City and County Employees'~~ Retirement System, State Teachers Retirement System
8 ("STRS"), Public Employees Retirement System ("PERS"), and the surviving spouse of an
9 active employee and the surviving spouse of a retired employee, provided that the surviving
10 spouse and the active or retired employee have been married for a period of at least one year
11 prior to the death of the active or retired employee.

12 (c) The Charter of the City and County of San Francisco provides that the trustees of
13 the Retiree Health Care Trust Fund, who are entrusted with providing a funding source to
14 defray the cost of the City's and Participating Employers' obligations to pay for health
15 coverage for retired persons and their survivors entitled to health care coverage under Charter
16 Section A8.428, shall include two trustees elected from active employees and retired
17 members of the ~~City's~~ Health Service System. One of the elected trustees shall be an active
18 City or Participating Employer employee member and one shall be a retired City or
19 Participating Employer member as of the date of their respective elections. For the purposes of
20 a Retiree Health Care Trust Fund election, an active member of the Health Service System shall mean
21 an active City employee or active employee of a Participating Employer. For the purposes of a
22 Retiree Health Care Trust Fund election, a retired member of the Health Service System shall
23 mean a person who retired from City employment, or from a Participating Employer, and who
24 is a member of the Health Service System retired under the ~~San Francisco City and County~~
25 ~~Employees'~~ Retirement System, ~~the State Teachers Retirement System~~ (STRS), or ~~the Public~~

1 ~~Employees Retirement System (PERS)~~, and the surviving spouse or domestic partner of an active
2 employee and the surviving spouse or domestic partner of a retired employee, provided that
3 the surviving spouse or domestic partner and the active or retired employee have been
4 married for a period of at least one year prior to the death of the active or retired employee.

5 ~~For the purposes of a Retiree Health Care Trust Fund election, an active member of the Health Service~~
6 ~~System shall mean an active City employee or an active employee of a Participating Employer.~~ As
7 used in this section, Participating Employer means the San Francisco Unified School District
8 and the San Francisco Community College District, following a resolution by these employers'
9 respective governing boards to participate in the Retiree Health Care Trust Fund.

10 (d) Retirement System and Health Service System members have an interest in knowing who
11 has spent significant amounts of money to support or oppose candidates for the Retirement Board, the
12 Health Service Board, and the Retiree Health Care Trust Fund Board. In selecting a candidate to
13 represent their interests on these bodies, members will benefit from increased transparency in the
14 election process. Information about the persons or entities who are spending significant funds in
15 support of particular candidates will provide valuable information that will aid members' voting
16 decisions.

17 ~~(d)~~ (e) The failure to abide by election procedure obligations and deadlines in San
18 Francisco Administrative Code Sections ~~16.550-16.565~~ ~~16.550-16.566~~ 16.550-16.565 shall not
19 invalidate an election if the election has been conducted fairly and in substantial compliance
20 with and conformity to the legal requirements.

21 ~~(e)~~ (f) Whenever the term of office of such an elected trustee expires or whenever a
22 vacancy occurs in such an office so that an election is necessary to fill a present or expected
23 vacancy, the following provisions shall govern the election procedure.

24 **SEC. 16.551. RETIREMENT BOARD, HEALTH SERVICE BOARD OR RETIREE**
25 **HEALTH CARE TRUST FUND BOARD TO ORDER ELECTIONS.**

1 If a vacancy occurs, or will occur, in the office of an elected trustee prior to the date that
2 the term of that office expires, the Retirement Board, Health Service Board or Retiree Health
3 Trust Fund Board shall order a special election to fill the vacancy for the unexpired portion of
4 the term of office, unless another election to a Retirement Board, Health Service Board or
5 Retiree Health Care Trust Fund Board office is scheduled to be completed within six months
6 after the vacancy has, or shall, occur, in which case the elections shall be combined;
7 provided, however, that a separate special election shall be required if the election which has
8 already been scheduled will occur too soon to nominate and select candidates for the more
9 recent vacancy. Whenever the Retirement Board, Health Service Board or Retiree Health
10 Care Trust Fund Board orders an election, the ~~respective Board shall specify whether the election~~
11 ~~is to be conducted by the~~ the respective Board shall specify whether the Department of Elections
12 or an unbiased independent contractor ("Contractor") shall conduct the election or by an unbiased
13 independent contractor ("Contractor"). Special elections may be held on an expedited basis as
14 determined by the Department of Elections. The first Retiree Health Care Trust Fund Board
15 election shall be a special election conducted by the Department of Elections.

16 **SEC. 16.553. NOTICE TO MEMBERS AND RETIRED MEMBERS; NOMINATION OF**
17 **MEMBERS AND RETIRED MEMBERS.**

18 The Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
19 shall thereafter notify the members ~~and retired members~~ of the Retirement System or Health
20 Service System respectively of the following:

- 21 (a) The necessity for an election;
- 22 (b) The procedure for nomination and selection of candidates to serve on the Board;

23 *and*

24 ~~(c) The candidate and third-party disclosure requirements, set forth in Section 16.553-~~
25 ~~2 and 16.553-3; and~~

1 (c) The disclosure requirements set forth in Sections 16.553-1, 16.553-2, 16.553-3,
2 and 16.553-4; and

3 ~~(e)~~ (d) The dates that ballots may be marked and delivered and the procedure for
4 voting.

5 The period of time during which nominations may be made shall be set by the
6 Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board, but in no
7 event shall be less than 31 days. Any person nominated to serve as a trustee of the
8 Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board shall, on
9 forms provided by the respective Board for this purpose, and by the date set by the respective
10 Board, verify acceptance of the nomination and agree to serve if elected before he or she may
11 be listed as a candidate.

12 In any election for membership on the Retirement Board, Health Service Board or
13 Retiree Health Care Trust Fund Board, when only one candidate has filed nomination papers,
14 the Department of Elections ~~or Contractor~~ or Contractor shall not conduct an election and shall
15 declare the sole candidate to be a member of the Retirement Board, Health Service Board or
16 Retiree Health Care Trust Fund Board.

17 **SEC. 16.553-1. CANDIDATE QUALIFICATION INTENTION STATEMENTS.**

18 Candidates seeking election to the Retirement Board, Health Service Board or Retiree
19 Health Care Trust Fund Board shall file with the Ethics Commission, signed under penalty of
20 perjury, a candidate intention statement in a manner specified, and on a form provided, by the
21 Ethics Commission.

22 ~~(a) **Content and Form of Statement.** Candidates may shall file a candidate~~
23 ~~qualification statement including the name, age and occupation of the candidate and a~~
24 ~~description of no more than 200 words of the candidate's education and qualifications as~~
25 ~~expressed by the candidate. The candidate qualification statement shall also require~~

1 candidates to attest that they have read and understand the procedures and requirements set
2 forth in this Article XIII. To ensure that all statements are filed in a uniform format, the
3 statement shall be in a manner specified, and on a form provided, by the Department of
4 Elections, or Contractor, for this purpose.

5 (b) **Deadline for Submission of Statement.** Candidates who choose to submit shall
6 file a candidate qualification statement shall file the statement with at the date and time
7 established by the Department of Elections, or Contractor, at the date and time established by
8 that department.

9 (c) **Inclusion of Nominators and Supporters.** The candidate qualification statement
10 may, but need not, include the names of some or all of the candidate's nominators. The
11 statement may also include the names of individuals and entities which support the candidate
12 but did not serve as nominators. The names of such supporters shall not be published as part
13 of the candidate's qualification statement unless the candidate provides the supporter's written
14 authorization at the time the statement is submitted to the Director of Elections or Contractor.
15 The authorization shall be in a form prescribed by the Director of Elections or Contractor. If
16 the candidate chooses to include the names of nominators, or other supporters in the
17 candidate qualification statement, these names shall be counted toward the 200 word limit.

18 (d) **Limitations.** The candidate qualification statement shall not include the political
19 party affiliation of the candidate, nor membership or activity in partisan political organizations.

20 (e) **Withdrawal of Statement.** A candidate may withdraw, but not change, his or her
21 candidate qualification statement by filing with the Director of Elections, or Contractor, a
22 signed and sworn statement of withdrawal no later than 5:00 p.m. of the thirtieth day prior to
23 the election.

24 **SEC. 16.553-2. CANDIDATE DISCLOSURE REQUIREMENTS.**

1 (a) Statement of Economic Interests (Form 700). Each candidate for Retirement Board,
2 Health Service Board or Retiree Health Care Trust Fund Board elections shall file, by the date
3 set by the respective Board for verifying acceptance of the nomination filing of a candidate
4 intention statement, a ~~statement~~ Statement of Economic Interests (Form 700) disclosing the
5 information required by the disclosure category for the *elective* office sought by the candidate
6 established in the Conflict of Interest Code. Candidates shall file such statements with the
7 Ethics Commission ~~respective Board on the same forms as used by filers under Section 3.1-100 et seq.~~
8 ~~of the Conflict of Interest Code.~~ This statement shall not be required if the candidate has filed,
9 within the previous 90 days prior to ~~accepting the nomination, a statement at disclosure category~~
10 ~~(1) with the City and County of San Francisco,~~ a statement at disclosure category one with the
11 Ethics Commission.

12 (b) Reporting by Candidates.

13 (1) Initial Statement of Organization. Any candidate for the Retirement
14 Board, Health Service Board or Retiree Health Care Trust Fund Board shall file an initial
15 statement of organization with the Ethics Commission.

16 (A) Campaign Bank Account. Upon the filing of an initial statement of
17 organization, the candidate shall establish or identify one campaign bank account at an office
18 of a financial institution located in San Francisco. All contributions made to the candidate, or
19 to a person on behalf of the candidate, shall be deposited in the account. All expenditures
20 made by the candidate in support of his or her election to the Retirement Board, Health
21 Service Board or Retiree Health Care Trust Fund Board shall be made from the account.

22 (2) Semiannual Statements. Candidates shall file semiannual statements that
23 comply with the requirements of California Government Code Section 84211 each year no
24 later than July 31 for the period ending June 30, and no later than January 31 for the period
25 ending December 31.

1 **(3) Preelection Statements.** Candidates shall file preelection statements that
2 comply with the requirements of California Government Code Section 84211 and San
3 Francisco Campaign and Governmental Conduct Code Section 1.135.

4 **(4) Late Contribution Reports.** Any candidate that receives a late contribution
5 shall file a late contribution report within 24 hours of receiving the late contribution. For
6 purposes of this Section 16.553-2, "late contribution" shall mean a contribution, including a
7 loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made during
8 the period beginning 90 days before the first day on which ballots may be submitted to the
9 Department of Elections and ending on the last day on which ballots may be submitted to the
10 Department of Elections or Contractor. The candidate shall report his or her full name and
11 street address, the date and amount of the late contribution, and whether the contribution was
12 made in the form of a loan. The candidate shall also report the full name of the contributor,
13 his or her street address, occupation, and the name of his or her employer, or if self-
14 employed, the name of the business.

15 **(5) Termination Statements.** Candidates shall be responsible for filing the
16 above statements, until they file a termination statement with the Ethics Commission that
17 indicates they are no longer holding office and have no further financial activity to disclose.

18 **(6) Forms and Filing.** The Ethics Commission shall specify the forms
19 candidates shall use to file the above statements and the manner in which candidates shall
20 file those statements.

21 **(c) Campaign Advertisements.**

22 **(1) Filing Requirements.** Candidates that pay for campaign advertisements
23 shall, within five working days after the distribution of the advertisement, file a copy of the
24 advertisement and an itemized disclosure statement with the Ethics Commission. Within the
25 final 16 days before the election, candidates that pay for advertisements shall file a copy of

1 the advertisement and the itemized disclosure statement within 48 hours of the date of the
2 distribution of the advertisement.

3 If the advertisement is a telephone call, the candidate shall file a copy of the
4 script and, if the communication is recorded, the recording shall also be provided. If the
5 advertisement is audio or video, the candidate shall file a copy of the script and an audio or
6 video file.

7 (2) Disclaimers. Mass mailings, door hangers, flyers, posters, oversized
8 campaign buttons, bumper stickers, or print advertisements shall include the following
9 disclaimer statements, printed in at least 12-point font: "Paid for by _____ (insert the
10 name of the filer)." and "Financial disclosures are available at sfethics.org."

11 ~~(b) Spending by Candidates.~~

12 ~~(1) Disclosure. Whenever a candidate for the Retirement Board, Health~~
13 ~~Service Board or Retiree Health Care Trust Fund Board spends \$500 or more on~~
14 ~~communications, including but not limited to any broadcast, electronic, social media or~~
15 ~~telephone communication, and any printed mailing, flyer, door hanger, pamphlet, brochure,~~
16 ~~card, sign, or billboard, with persons eligible to participate in elections for the Retirement~~
17 ~~Board, Health Service Board or Retiree Health Care Trust Fund Board, the candidate shall file~~
18 ~~disclosure statements that include:~~

19 ~~(A) a copy of the communication(s);~~

20 ~~(B) the amount the candidate spent on creating and distributing the~~
21 ~~communication(s);~~

22 ~~(C) the source of the candidate's funds spent on creating and distributing~~
23 ~~the communication(s); and~~

24 ~~(D) the vendor(s) used to create or distribute the communication(s).~~

1 (2) ~~Filing of Disclosures.~~ Candidates shall file the disclosure statements
2 required under this subsection 16.553-2(b) with the Ethics Commission. Candidates shall file
3 these statements within 72 hours of distributing such communications, except that in the 14
4 days prior to the first date on which ballots may be marked and delivered, and continuing
5 through the entire period in which ballots may be marked and delivered, candidates shall file
6 the required disclosure statements within 24 hours of distributing these communications.

7 **SEC. 16.553-3. THIRD-PARTY DISCLOSURE REQUIREMENTS.**

8 **(a) Reporting by Third Parties.**

9 **(1) Initial Statement of Organization.** Any person or entity that makes
10 independent expenditures totaling \$1,000 or more in a calendar year to support or oppose
11 candidate(s) for the Retirement Board, Health Service Board or Retiree Health Care Trust
12 Fund Board, or makes contributions totaling \$1,000 or more to a candidate or a committee
13 required to file under this subsection (a)(1), shall file an initial statement of organization with
14 the Ethics Commission. For the purposes of this Section 16.553-3, an "independent
15 expenditure" shall mean an expenditure made in connection with a communication which
16 expressly advocates the election or defeat of a clearly identified candidate for the Retirement
17 Board, Health Service Board or Retiree Health Care Trust Fund Board but which is not made
18 to or at the behest of the affected candidate or committee.

19 **(A) Campaign Bank Account.** Upon the filing of an initial statement of
20 organization, the filer shall establish or identify one campaign bank account at an office of a
21 financial institution located in San Francisco. All contributions made to the filer, or to a person
22 on behalf of the filer, shall be deposited in the account. Any funds spent in support of or
23 opposition to the election of the candidate shall be deposited in the account prior to
24 expenditure. All expenditures made by the filer in support of or opposition to the election of
25 the candidate shall be made from the account.

1 (2) Semiannual Statements. Any person or entity subject to subsection (a)(1),
2 shall file semiannual statements each year no later than July 31 for the period ending June
3 30, and no later than January 31 for the period ending December 31.

4 (3) Preelection Statements. Any person or entity subject to subsection (a)(1)
5 shall file preelection statements that comply with the requirements of California Government
6 Code Section 84211 and San Francisco Campaign and Governmental Conduct Code Section
7 1.135.

8 (4) Late Independent Expenditure Reports. If any person or entity required
9 to file an initial independent expenditure campaign statement under subsection (a)(1) makes
10 independent expenditures that total \$1,000 or more during the period beginning 90 days
11 before the first day on which ballots may be submitted to the Department of Elections and
12 ending on the last day on which ballots may be submitted to the Department of Elections or
13 Contractor, such person or entity shall file a late independent expenditure report. Filers shall
14 file late independent expenditure reports within 24 hours of making such independent
15 expenditures.

16 (5) Termination Statements. Any person or entity required to file an initial
17 independent expenditure campaign statement under subsection (a)(1) shall be responsible for
18 filing the above statements and reports, until they file a termination statement with the Ethics
19 Commission that indicates they have no further financial activity to disclose.

20 (6) Forms and Filing. The Ethics Commission shall specify the forms persons
21 subject to this subsection (a) shall use to file the above statements and the manner in which
22 they shall file those statements.

23 (b) Campaign Advertisements.
24
25

1 (1) Filing Requirements. Persons required to file late independent
2 expenditure reports under subsection (a)(4) shall also file with the Ethics Commission on the
3 same date a copy of the associated advertisement(s), and

4 (A) if the advertisement is a telephone call, a copy of the script and, if the
5 communication is recorded, the recording shall also be provided; or

6 (B) if the advertisement is audio or video, a copy of the script and an
7 audio or video file shall be provided.

8 (2) Disclaimers. Mass mailings, door hangers, flyers, posters, oversized
9 campaign buttons, bumper stickers, or print advertisements shall include the following
10 disclaimer statements, printed in at least 12-point font: "Paid for by _____ (insert the
11 name of the filer)." and "Financial disclosures are available at sfethics.org."

12 (3) Exception. Employee organizations that represent employees who are
13 eligible to benefit from the Retirement System, Health Service System or Retiree Health Care
14 Trust Fund, are subject to the disclosure and disclaimer requirements established by
15 subsections (b)(1) and (b)(2); provided that, an employee organization whose
16 communications are directed solely to its own members shall not be required to disclose
17 copies of those communications or include any disclaimers.

18 ~~(a) Disclosure. Whenever any person or entity, other than a candidate, spends \$500~~
19 ~~or more on communications featuring a candidate, including but not limited to any broadcast,~~
20 ~~electronic, social media or telephone communication, and any printed mailing, flyer, door-~~
21 ~~hanger, pamphlet, brochure, card, sign, or billboard, with persons eligible to participate in~~
22 ~~elections for the Retirement Board, Health Service Board or Retiree Health Care Trust Fund~~
23 ~~Board, that person or entity shall file disclosure statements that include:~~

1 ~~(1) the person or entity's contact information, including the person's name or the~~
2 ~~name of the entity's representative, the person or representative's telephone number, and the~~
3 ~~person or representative's e-mail address;~~

4 ~~(2) a copy of the communication(s);~~

5 ~~(3) the amount the person or entity spent on creating and distributing the~~
6 ~~communication(s);~~

7 ~~(4) the source of the person's or entity's funds spent creating and distributing~~
8 ~~the communication(s); and~~

9 ~~(5) the vendor(s) used to create or distribute the communication(s).~~

10 ~~(b) **Filing of Disclosures.** Persons or entities shall file the statements required by this~~
11 ~~Section 16.553-3 with the Ethics Commission. These persons or entities shall file the required~~
12 ~~disclosure statements within 72 hours of distributing such communications, except that in the~~
13 ~~14 days prior to first date on which ballots may be marked and delivered, and continuing~~
14 ~~through the entire period in which ballots may be marked and delivered, persons and entities~~
15 ~~shall file the required disclosure statements within 24 hours of distributing these~~
16 ~~communications.~~

17 ~~(c) **Exception.** Employee organizations that represent employees who are eligible to~~
18 ~~benefit from the Retirement System, Health Service System or Retiree Health Care Trust~~
19 ~~Fund, are subject to the disclosure requirements established by subsections (a) and (b);~~
20 ~~provided that, an employee organization whose communications are directed solely to its own~~
21 ~~members shall not be required to disclose copies of those communications.~~

22 ~~**SEC. 16.553-4. TRAININGS; AUDITS; ENFORCEMENT AND PENALTIES;**~~

23 ~~**SUBPOENAS.**~~

24 ~~**(a) Training for Candidates.** Every candidate for Retirement Board, Health Service~~
25 ~~**Board or Retiree Health Care Trust Fund Board shall attend a training program conducted or**~~

1 sponsored by the Ethics Commission within one year prior to any election for the office sought
2 by the candidate.

3 (b) Audits; Retention of Records. The Executive Director of the Ethics Commission
4 may initiate audits of any candidate or any person who made independent expenditures in
5 support of or opposition to any candidate. All candidates and persons who are required to file
6 statements under Sections 16.553-1, 16.553-2, and 16.553-3 shall maintain detailed
7 accounts, records, bills, and receipts as necessary to prepare those statements for a period of
8 four years following the election for which they filed those statements.

9 (c) Enforcement and Penalties.

10 (1) Administrative Enforcement. Any person who intentionally or negligently
11 violates Sections 16.553-1, 16.553-2, and 16.553-3 shall be liable in an administrative
12 proceeding before the Ethics Commission held pursuant to the Charter for any penalties
13 authorized therein.

14 (2) Statute of Limitations. Ethics Commission investigations must be
15 commenced within four years after the date on which the violation occurred.

16 (3) Late Filing Fees.

17 (A) Late Fee. In addition to any other penalty, any person who files a
18 paper copy of any statement required by Sections 16.553-1, 16.553-2, and 16.553-3 after the
19 deadline imposed by this Chapter shall be liable in the amount of \$10 per day after the
20 deadline until the statement is filed.

21 (B) Limitation on Liability. Liability imposed by subsection (c)(2)(A)
22 shall not exceed the cumulative amount stated in the late statement, or \$100, whichever is
23 greater.

1 (C) Reduction or Waiver. The Executive Director may reduce or waive
2 a fee imposed by this subsection if the Commission determines that the late filing was not
3 willful and that enforcement will not further the purposes of this Chapter.

4 (4) Provision of False or Misleading Information to the Ethics

5 Commission; Withholding of Information. Any person who knowingly or willfully furnishes
6 false or fraudulent evidence, documents, or information to the Ethics Commission under this
7 Chapter, or misrepresents any material fact, or conceals any evidence, documents, or
8 information, or fails to furnish to the Ethics Commission any records, documents, or other
9 information required to be provided under this Chapter shall be subject to the penalties
10 provided in this subsection 16.553-4(c).

11 (d) Subpoenas. The Executive Director of the Ethics Commission may issue
12 subpoenas in furtherance of her duties under the Chapter including, but not limited to, audits
13 and enforcement of its provisions.

14 **SEC. 16.554. NOTICE TO DEPARTMENT OF ELECTIONS OR CONTRACTOR.**

15 The Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
16 shall notify the Department of Elections ~~or Contractor~~ or Contractor at least 120 days prior to
17 the first day that ballots may be marked and delivered (hereafter referred to as the "First
18 Voting Day") that an election shall be held.

19 **SEC. 16.557. DELIVERY OF BALLOTS AND NAMES OF ELIGIBLE VOTERS TO**
20 **DEPARTMENT OF ELECTIONS ~~OR CONTRACTOR~~ OR CONTRACTOR.**

21 The Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
22 shall furnish the Department of Elections ~~or Contractor~~ or Contractor with the names of the
23 eligible nominees at least 35 days prior to the First Voting Day.

24 The Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
25 shall also furnish the Department of Elections ~~or Contractor~~ or Contractor with a list of the

1 members and retired members of the Retirement System or Health Service System
2 respectively eligible to vote ("voters") in the election at the same time that it furnishes the
3 names of the eligible nominees. A supplemental list shall be furnished to the Department of
4 Elections ~~or Contractor~~ or Contractor within two days of the First Voting Day, which list shall
5 provide the names of eligible voters not included on the original list. These lists shall be in the
6 format required by the Department of Elections ~~or Contractor~~ or Contractor. These lists shall
7 include the last known addresses for the members and retired members. For the active
8 members, at the election of the entity conducting the election the department address shall be
9 provided as an alternative.

10 Upon request, the City's Health Service System shall provide all information to
11 ~~Contractor, or Contractor,~~ or Contractor, or the Department of Elections, necessary to conduct the Retiree
12 Health Care Trust Fund Board nomination and election process including, but not limited to,
13 information regarding voter lists, voter contact information and Health Service System
14 membership status.

15 **~~SEC. 16.557-1. CONFIDENTIALITY OF NAMES AND ADDRESSES OF ELIGIBLE~~**
16 **~~VOTERS.~~**

17 ~~The disclosure of the names, addresses, and other personal information of eligible~~
18 ~~voters in the custody and control of the Department of Elections shall not be subject to the~~
19 ~~California Elections Code, including Section 2194. Any potential disclosure of names,~~
20 ~~addresses, and other personal information of eligible voters shall be subject to the California~~
21 ~~Public Records Act (California Government Code Section 6250, et seq.) and the San~~
22 ~~Francisco Sunshine Ordinance (Administrative Code Section 67.1, et seq.).~~

23 **SEC. 16.561. DUTIES OF ELECTION OFFICERS.**

24 Each Election Officer shall:
25

1 (a) Prior to the date that ballots are delivered, inform the department or employee
2 responsible for distributing paychecks to employees of the department of the dates during
3 which ballots are to be distributed to employees and of the responsibility of the Payroll
4 Department to make arrangements to distribute a ballot ~~with each paycheck~~ by a date that will
5 allow each voter at least three days to mark and deliver the ballot;

6 (b) Upon receipt of the ballots, coordinate his or her efforts and those of the Payroll
7 Department to insure that the ballots are ready to be distributed ~~along with paychecks~~ by a
8 date that will allow each voter at least three days to mark and deliver the ballot;

9 (c) Provide notice to employees who are in the Retirement System or Health Service
10 System but would not be likely to receive ballots ~~along with their paychecks~~, such as
11 employees on the temporary payroll, that ballots are available;

12 (d) Provide ballots to employees ~~who did not, or would not, receive them along with~~
13 ~~their paychecks~~ pursuant to the procedure established by the Department of Elections ~~or~~
14 ~~Contractor~~ or Contractor;

15 (e) Establish and maintain a collection procedure so that employees have a
16 convenient method of returning ballots, which method shall, where possible, make use of at
17 least one container in which ballots can be placed; and

18 (f) Return the ballots which have been received or otherwise collected according to the
19 collection procedure established by such officer to the Department of Elections ~~or Contractor~~
20 or Contractor, either personally or by the inter-office mail system, in a timely manner so that
21 the ballots will be delivered to the Department of Elections ~~or Contractor~~ or Contractor by the
22 date established by the Retirement Board, the Health Service Board or Retiree Health Care
23 Trust Fund Board as the final date for such delivery.

24 **~~SEC. 16.562. DUTY OF PAYROLL DEPARTMENT.~~**
25

1 The Payroll Department shall provide cooperation and assistance in sorting the ballots
2 or performing other tasks necessary to insure that the ballots are distributed along with
3 paychecks by a date that will allow each voter at least three days to mark and deliver the
4 ballot.

5 **SEC. 16.563. COUNTING OF BALLOTS AND CERTIFICATION OF NEW TRUSTEE.**

6 (a) The Department of Elections ~~or Contractor~~ or Contractor shall thereafter count the
7 ballots in such a manner that the identity of the individual casting any particular ballot will not
8 be disclosed. Each ballot shall be counted so long as it has been properly marked, signed
9 and delivered. The Department of Elections ~~or Contractor~~ or Contractor shall certify the new
10 Health Service Board or Retiree Health Care Trust Fund Board trustee.

11 (b) Within five days of the close of voting and prior to certification, the Retiree Health
12 Care Trust Fund Board secretary shall attest to the Department of Elections ~~or contractor~~ or
13 Contractor that there is one retired member trustee and one active member trustee candidate
14 to fill the two elected Retiree Health Care Trust Fund Board trustee positions. For purposes of
15 Retiree Health Care Trust Fund Board elections, the date of the election shall be the day the
16 election is certified by the Department of Elections ~~or Contractor~~ or Contractor. In the event
17 that the active member candidate with the highest number of votes is no longer an active
18 member on the day the election is certified, the Department of Elections or Contractor shall
19 certify the active member candidate with the next highest number of votes. In the event that
20 the retired member candidate with the highest number of votes is no longer a retired member
21 on the day the election is certified, the Department of Elections or Contractor shall certify the
22 retired member candidate with the next highest number of votes.

23 (c) Within five days of the close of voting and prior to certification, the Executive
24 Director of the Retirement System shall attest to the Department of Elections ~~or Contractor~~ or
25 Contractor whether there is a retired member serving as trustee on the Retirement Board:

1 (i) (1) If, at that time, there is no retired member serving as trustee, the
2 Department of Elections ~~or Contractor~~ or Contractor shall certify the individual receiving the
3 highest number of votes as the newly elected trustee of the Retirement Board.

4 (ii) (2) If, at that time, there is a retired member serving as trustee, the
5 Department of Elections ~~or Contractor~~ or Contractor shall certify the member (not a retired
6 member) receiving the highest number of votes as the newly elected trustee of the Retirement
7 Board.

8 Where there is no vacancy, the Department of Elections ~~or Contractor~~ or Contractor
9 shall certify the new Retirement Board trustee as close to the expiration of the term as
10 reasonably possible.

11 **SEC. 16.563-1. CHANGE IN STATUS FOR ELECTED RETIREE HEALTH CARE**
12 **TRUST FUND BOARD MEMBERS.**

13 (a) If, after a Retiree Health Care Trust Fund Board election has been certified by the
14 Department of Elections ~~or the Contractor~~ or the Contractor, the active Retiree Health Care
15 Trust Fund Board member retires, then that Board member's seat shall be deemed vacant
16 and shall remain vacant until the Board can hold a special election under Section 16.551.

17 (b) If, after a Retiree Health Care Trust Fund Board election has been certified by the
18 Department of Elections ~~or the Contractor~~ or the Contractor, the retired Retiree Health Care
19 Trust Fund Board member returns to active status, then that Board member's seat shall be
20 deemed vacant and shall remain vacant until the Board can hold a special election under
21 Section 16.551.

22 **SEC. 16.564. RETIREMENT BOARD, HEALTH SERVICE BOARD OR RETIREE**
23 **HEALTH CARE TRUST FUND BOARD TO REIMBURSE DEPARTMENT OF ELECTIONS.**

24 The Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
25 shall reimburse the Department of Elections for the actual expenses incurred by it in

1 conducting Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
2 elections respectively. ~~The Retirement Board, Health Service Board or Retiree Health Trust Fund~~
3 ~~Board shall pay all Contractor expenses when the respective Board specifies that a Contractor conduct~~
4 ~~a Retirement Board, Health Service Board or Retiree Health Trust Fund Board election. The~~
5 Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board shall pay
6 all Contractor expenses when the respective Board specifies that a Contractor conduct a
7 Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board election.

8 **~~SEC. 16.566. ENFORCEMENT; PENALTIES AND LATE FILING FEES.~~**

9 (a) ~~Enforcement.~~ Any person who believes that a violation of Sections 16.553-2 and
10 16.553-3 has occurred may file a complaint with the Ethics Commission. The Ethics
11 Commission shall investigate such complaints pursuant to its enforcement regulations for
12 complaints filed under Charter Section C3.699-13.

13 (b) ~~Statute of Limitations.~~ Ethics Commission investigations must be commenced
14 within four years after the date on which the violation occurred.

15 (c) ~~Penalties.~~ Any person who intentionally or negligently violates Sections 16.553-2
16 and 16.553-3 shall be liable in an administrative proceeding before the Ethics Commission for
17 an amount up to \$5,000 for each violation.

18 (d) ~~Late Filing Fees.~~

19 (1) ~~Late Fees.~~ In addition to any other penalty, any person who files any
20 statement required by Sections 16.553-2(b) and 16.553-3 after the deadline imposed by these
21 Sections shall be liable in the amount of twenty five dollars (\$25) per day after the deadline
22 until the statement is filed.

23 (2) ~~Limitation on Liability.~~ Liability imposed by subsection (d)(1) shall not
24 exceed the cumulative amount stated in the required disclosure statement, or two hundred
25 fifty dollars (\$250), whichever is greater.

1 ~~(3) Reduction or Waiver. The Executive Director of the Ethics Commission may~~
2 ~~reduce or waive a fee imposed by this subsection if she determines that the late filing was not~~
3 ~~willful and that enforcement will not further the purposes of Sections 16.553 2(b) and 16.553-~~
4 ~~3.~~

5
6 Section 2. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

10
11 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

17
18 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
19 of this ordinance, or any application thereof to any person or circumstance, is held to be
20 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
21 shall not affect the validity of the remaining portions or applications of the ordinance. The
22 Board of Supervisors hereby declares that it would have passed this ordinance and each and
23 every section, subsection, sentence, clause, phrase, and word not declared invalid or

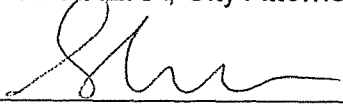
24 //

25 //

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By:


7 ANDREW SHEN
8 Deputy City Attorney

9 n:\vegana\as2018\1700483\01281447.docx

LEGISLATIVE DIGEST
(Revised 06/11/18)

[Administrative Code - Disclosure of Spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board Elections]

Ordinance amending the Administrative Code to require disclosure of candidate and third-party spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board elections; set late filing fees and penalties for violations; and specify that the Ethics Commission will enforce the related disclosure requirements.

Existing Law

Chapter 16, Article XIII of the Administrative Code governs elections for members of the Retirement Board, Health Service Board, and the Retiree Health Care Trust Fund Board (collectively "Boards"). Each Board consists of appointed and elected members. In general, only current and retired City employees can participate in these elections.

Article XIII does not require any reporting of expenditures made in support of or in opposition to candidates seeking election to these Boards.

Amendments to Current Law

The proposed ordinance requires persons seeking election to the Boards to comply with disclosure and disclaimer requirements similar to those that apply to candidates for City elective office:

- filing of candidate intention statements;
- establishing a single bank account for all election-related activity;
- filing of initial statements of organization, semiannual statements, preelection statements, late contribution reports, and termination statements;
- filing of campaign advertisements with the Ethics Commission; and
- including disclaimer statements on those campaign advertisements.

Likewise, the proposed ordinance imposes disclosure and disclaimer requirements on third-parties that support or oppose such candidates:

- establishing a single bank account for all election-related activity;
- filing of initial statements of organization, semiannual statements, preelection statements, late independent expenditure reports, and termination statements;
- filing of campaign advertisements with the Ethics Commission; and
- including disclaimer statements on those campaign advertisements.

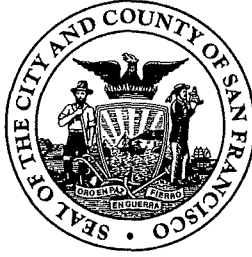
FILE NO. 170738

The proposal would also require candidates seeking election to the Boards to attend trainings to be conducted by the Ethics Commission.

The proposals also provides the Ethics Commission with the authority to conduct audits, impose late filing fees, levy penalties on persons who fail to file the required statements, and issue subpoenas in connection with such audits and enforcement actions.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Jay Huish, Director, Retirement Board
Mitchell Griggs, Acting Director, Health Service System
Mark Morewitz, Health Commission
John Arntz, Director, Department of Elections
Ben Rosenfield, City Controller

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

DATE: June 21, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by the Supervisor Cohen, and assigned under the 30-Day Rule, on June 13, 2017, which is being referred to your department for informational purposes:

File No. 170738

Ordinance amending the Administrative Code to require disclosure of candidate and third-party spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board elections; set late filing fees and penalties for violations; specify that the Department of Elections shall conduct these elections; and clarify the confidentiality of eligible voters' names and addresses.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: derek.evans@sfgov.org.

c: Norm Nickens, Retirement Board
Lani Scott, Health Service Board
Todd Rydstrom, Deputy City Controller
Natasha Mihal, Office of the Controller


BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: LeeAnn Pelham, Executive Director, Ethics Commission

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

DATE: June 22, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by the Supervisor Cohen, and assigned under the 30-Day Rule, on June 13, 2017, which is being referred to your department for informational purposes:

File No. 170738

Ordinance amending the Administrative Code to require disclosure of candidate and third-party spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board elections; set late filing fees and penalties for violations; specify that the Department of Elections shall conduct these elections; and clarify the confidentiality of eligible voters' names and addresses.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: derek.evans@sfgov.org.

c: Kyle Kundert, Ethics Commission

Evans, Derek

From: Patrick Monette-Shaw <pmonette-shaw@earthlink.net>
Sent: Tuesday, September 12, 2017 5:11 PM
To: Safai, Ahsha (BOS); Fewer, Sandra (BOS); Yee, Norman (BOS)
Cc: Cohen, Malia (BOS); Evans, Derek
Subject: Testimony to Rules Committee: Strong Support for Supervisor Malia Cohen's Campaign Finance Disclosure for Retirement Board, Health Services Board and Retiree Health Care Trust Fund Board Elections

Patrick Monette-Shaw

975 Sutter Street, Apt. 6
San Francisco, CA 94109
Phone: (415) 292-6969 • e-mail: pmonette-shaw@earthlink.net

September 12, 2017

Rules Committee
San Francisco Board of Supervisors
The Honorable Ahsha Safai, Chair, Rules Committee
The Honorable Sandra Lee Fewer, Member
The Honorable Norman Yee, Member
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Support for Supervisor**

Cohen's Legislation on Campaign Finance Disclosure

Dear Chair Safai and Rules Committee Members,

I strongly support Supervisor Malia Cohen's proposed Ordinance at agenda item #3 on the Rules Committee's September 13 agenda to require campaign finance disclosure from candidates and their third-party backers of spending in San Francisco Employees' Retirement System Board, Health Service Board, and Retiree Health Care Trust Fund Board elections. This legislation is long overdue. Many heartfelt kudos to Supervisor Cohen for having introduced this legislation!

Leading up to the SFERS Board election last December and January, then-candidate for election "Al" Casciato reportedly noted during an endorsement meeting of the Veteran's Police Officer Association (VPOA) that one organization was donating \$80,000 to his election campaign, and in another venue Casciato reportedly asserted that another organization was going to donate an additional \$100,000.

Candidates for any of these three Boards should not be spending \$180,000 — or more — to in effect buy themselves seats on any of these three Boards, without full campaign finance disclosure requirements. City employees and retirees are not for sale to those who raise the most money to influence the outcome of elections to these three Boards, and we deserve to know who is funding

and contributing to each candidate.

As it turned out, Casciato did not advertise that he was a retired Police Captain, and the 85% of “miscellaneous” (i.e., non-public safety) current and retired City employees had no forewarning that public safety — police and firefighters — were aiming to take control of all three of the elected seats to SFERS Board of Trustees. Now, the miscellaneous members and beneficiaries have no representation on SFERS’ Board and no seat at the table, effectively disenfranchised from representation on the Board.

I urge the Rules Committee to support Supervisor Cohen’s proposed legislation, with the Rules Committee submitting the strongest possibly-worded recommendation to the full Board of Supervisors to pass this Ordinance.

Respectfully submitted,

Patrick Monette-Shaw

Columnist

Westside Observer Newspaper

cc: Supervisor Malia Cohen, District 10
Derek Evans, Rules Committee Clerk

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

FEDERAL SUPERVISORS
 BOARD OF SUPERVISORS
 2017 JUN 13 PM 4:28
 Time stamp
 or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Cohen

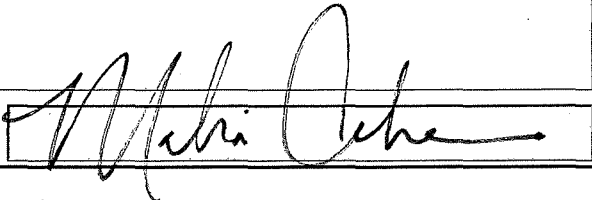
Subject:

Administrative Code - Disclosure of Spending in Retirement Board, Health Service Board and Retiree Health Care Trust Fund Board Elections

The text is listed:

Attached

Signature of Sponsoring Supervisor:



For Clerk's Use Only