

File No. 160583

Committee Item No. 6

Board Item No. 56

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 14, 2016

Board of Supervisors Meeting

Date July 26, 2016

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
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Completed by: Derek Evans Date July 8, 2016

Completed by: Derek Evans Date July 18, 2016

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

RULES COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Katy Tang, Chair
Rules Committee

FROM: Derek Evans, Assistant Clerk

DATE: July 18, 2016

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 19, 2016

The following file should be presented as a **COMMITTEE REPORT** at the Board Meeting on Tuesday, July 19, 2016. This item was acted upon at the Rules Committee Meeting on Thursday, July 14, 2016, at 11:00 a.m., by the votes indicated.

Item No. 78 File No. 160583

[Charter Amendment - Public Advocate]

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) authorize the Public Advocate to receive and investigate specified whistleblower complaints; 5) provide for the Public Advocate's election, removal, and salary; and, 6) set City policy regarding sufficient funding and minimum staffing for the Office of the Public Advocate; and setting an operative date, at an election to be held on November 8, 2016.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Katy Tang - Aye
Supervisor Eric Mar - No
Supervisor Malia Cohen - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Acting Legislative Deputy Director
Jon Givner, Deputy City Attorney

1 [Charter Amendment - Public Advocate; Department of Police Accountability]

2

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:**

5 **1) create the Office of the Public Advocate; 2) set the Public Advocate’s powers and duties;**

6 **3) authorize the Public Advocate to review the administration of City programs, including**

7 **programs for transmitting information to the public, and to receive, investigate, and**

8 **attempt to resolve complaints regarding City services and programs; 4) authorize the**

9 **Public Advocate to receive and investigate specified whistleblower complaints; 5) provide**

10 **for the Public Advocate’s election, removal, and salary; 6) set City policy regarding**

11 **sufficient funding and minimum staffing for the Office of the Public Advocate; 7) re-name**

12 **the Office of Citizen Complaints (OCC) as the Department of Police Accountability (DPA);**

13 **8) authorize the Public Advocate to appoint the director of DPA; 9) give DPA direct**

14 **authority over its proposed budget; and 10) require DPA to conduct a performance audit**

15 **every two years of how the Police Department has handled claims of officer misconduct**

16 **and use of force; and setting an operative date.**

17

18 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City

19 and County, at an election to be held on November 8, 2016, a proposal to amend the Charter of

20 the City and County by revising Sections 4.127, 6.100, 10.104, 13.101, 13.101.5, 13.102, 15.105,

21 A8.343, A8.409-1, F1.102, F1.107, and F1.114, adding Sections 4.136, 6.107, and Article VIIC,

22 consisting of Sections 8C.101 through 8C.106, and deleting Section F1.108, to read as follows:

23 / / /

24 / / /

1 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
2 **Additions** are *single-underline italics Times New Roman font*.
3 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
4 **Asterisks (* * * *)** indicate the omission of unchanged Charter
5 subsections.

6 **SEC. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.**

7 In addition to the officers required to be elected under other Articles of this Charter, the
8 following shall constitute the elective officers of the City and County: the Assessor-Recorder,
9 City Attorney, District Attorney, Public Defender, Sheriff, ~~and~~ Treasurer, and Public Advocate.
10 Each such officer shall be elected for a four-year term and shall serve full time.

11 The City Attorney shall be licensed to practice law in all courts of the State of California
12 and shall have been so licensed for at least ten years next preceding his or her election. The
13 District Attorney and Public Defender shall each be licensed to practice law in all courts of the
14 State of California and shall have been so licensed for at least five years next preceding his or her
15 election. Such officers shall not engage in the private practice of law during the period they
16 serve as elective officers of the City and County.

17 Subject to the powers and duties set forth in this Charter, the officers named in this
18 section shall have such additional powers and duties prescribed by state laws for their respective
19 office. The terms of office in effect for these officers on the date this Charter is adopted shall
20 continue.

21 **SEC. 6.107. PUBLIC ADVOCATE.**

22 (a) There shall be a Public Advocate for the City and County of San Francisco. The
23 functions, powers, and duties of the Public Advocate are set forth in Article VIII C.

24 (b) The Public Advocate shall appoint a Chief Deputy Public Advocate and at least two
25 Assistant Public Advocates, who shall serve at the pleasure of the Public Advocate, and may

1 have such other staff as provided according to the budgetary and fiscal provisions of the
2 Charter. The position of Chief Deputy Public Advocate shall be exempt from competitive civil
3 service selection, appointment, and removal procedures under Section 10.104(2), and the
4 position of Assistant Public Advocate shall be exempt under Section 10.104(14).

5 (c) The City Attorney shall be the attorney for the Public Advocate.

6 (d) The Public Advocate shall have an office in City Hall.

7 (e) During his or her tenure, the Public Advocate shall not contribute to, solicit
8 contributions to, publicly endorse or oppose or urge the endorsement of or opposition to or
9 otherwise participate in a campaign for a candidate for City elective office, other than himself or
10 herself, or be an officer, director, or employee of or hold a policy-making position in an
11 organization that makes political endorsements regarding candidates for City elective office.

12 (f) No person shall serve as Public Advocate for more than two successive terms. There
13 shall be no limit on the number of non-successive terms that a person may serve as Public
14 Advocate. A part of a term that exceeds two years shall count as full term for these purposes, but
15 the term of the first Public Advocate elected to a shortened term to expire at noon on January 8,
16 2021 under Section 13.101(b)(6) shall not be deemed to be a full term.

17
18 **ARTICLE VIIC: OFFICE OF THE PUBLIC ADVOCATE**

19 **SEC. 8C.101. PUBLIC ADVOCATE—GENERAL POWERS AND DUTIES.**

20 (a) Access to City Records. Except as provided below, the Public Advocate shall have
21 timely access to all records in the possession of City officers and agencies that the Public
22 Advocate deems necessary to complete the investigations, inquiries, and reviews required of him
23 or her by the Charter or other City law, and if necessary may issue subpoenas to enforce his or
24 her right of access to such records. The Public Advocate shall not have a right of access to
5 records the disclosure of which is forbidden by state or federal law, or records protected from

1 disclosure by privileges under federal, state, or local law, or other confidentiality provisions the
2 existence of which is derived from some source of state law other than the Public Records Act,
3 including, but not limited to, criminal investigation and prosecution files. The Public Advocate
4 may not disclose records that the City officer or agency possessing the records may decline to
5 disclose under the Public Records Act and the Sunshine Ordinance, as amended, or any
6 successor legislation, if the officer or agency declines to disclose such records.

7 (b) Access to Third-Party Witnesses and Records. In performing his or her duties, the
8 Public Advocate may administer oaths, take testimony, and, if necessary to complete the
9 investigations, inquiries, and reviews required of him or her by the Charter, issue subpoenas to
10 require witnesses to appear and produce evidence. The Public Advocate may seek enforcement
11 of such subpoenas in the manner prescribed by law.

12 (c) Introduce Legislation. The Public Advocate may introduce legislation at the Board
13 of Supervisors to address any matter within the Public Advocate's jurisdiction. The Public
14 Advocate may not introduce legislation addressing specific contract or personnel decisions
15 unless those contracts or personnel decisions involve the Office of the Public Advocate.

16 (d) Non-Interference. The Public Advocate shall not have any power or authority over,
17 nor shall the Public Advocate dictate, suggest, or interfere with any appointment, promotion,
18 compensation, disciplinary action, contract or requisition for purchase, or other administrative
19 actions or recommendations of an elected official, the Controller, or the City Administrator, or
20 of department heads under the Mayor, the City Administrator or under a board or
21 commission. The Public Advocate shall not have any power or authority over, nor shall the
22 Public Advocate dictate, suggest, or interfere with, any criminal investigation or prosecution.

23 (e) Hearings. The Public Advocate may hold public hearings in the course of fulfilling
24 the requirements of this Article VIIIIC.

1 (f) Confidentiality of Records. The Public Advocate may, to the extent permitted by
2 state law, designate the records of any investigation, including but not limited to information that
3 would reveal the identity of complainants and witnesses, as confidential information. It shall be
4 official misconduct for any person to disclose information about any such investigation, except
5 as necessary to conduct the investigation, or with proper authorization, or as required by law or
6 lawful process. The Public Advocate may disclose confidential information to the District
7 Attorney to initiate or assist in a criminal investigation or prosecution. The unauthorized
8 release of confidential information shall be sufficient grounds for the termination of any
9 employee.

10 (g) Reports. The Public Advocate may issue reports relating to the operations or
11 activities of any City officer or agency, including recommendations for administrative or
12 legislative changes. The Public Advocate may, to the extent permitted by state law, designate
13 any portion of any draft, preliminary, or final report as confidential information. Before making
14 public any portion of any draft, preliminary, or final report, the Public Advocate shall send a
15 copy of the report to any officer, and to the head of any agency, discussed in such report and
16 provide the officer and agency, in writing, with a reasonable deadline for their review and
17 response. The Public Advocate shall include in any report, or portion thereof, that is made
18 public a copy of all such officer and agency responses, after redacting any information
19 contained in such responses that is confidential under state law.

20 (h) Annual Report. Not later than December 1 of each year, the Public Advocate shall
21 present to the Board of Supervisors, the Mayor, the City Administrator, and the Controller a
22 report on the activities of the office during the preceding fiscal year. The report may include:

23 (1) A statistical summary of the complaints received during such fiscal year,
24 categorized by agency, type of complaint, agency response, mode of resolution, and such other
25 factors as the Public Advocate deems appropriate;

1 (2) An analysis of recurring complaints and complaints raising systemic or
2 citywide issues and the Public Advocate's recommendations for administrative, legislative, or
3 budgetary actions to resolve the underlying problems causing the complaints;

4 (3) A summary of the findings and recommendations of the agency program
5 reviews conducted during the fiscal year and a summary of each agency's responses to such
6 findings and recommendations; and

7 (4) Legislative proposals to improve the provision of City services and programs.
8 The Public Advocate may include in this report an assessment of the fiscal implications of
9 any recommendations presented in the report.

10 (i) **Outside Experts.** Notwithstanding any other provision of this Charter or any
11 ordinance or regulation of the City, the Public Advocate may contract with outside, independent
12 experts to assist in performing the requirements of this Article VIII C. In doing so, the Public
13 Advocate shall make good faith efforts to comply with the provisions of Chapters 12 et seq. of the
14 Administrative Code, as amended, or any successor legislation, but shall not be subject to the
15 approval processes of other City agencies. The Public Advocate shall submit an annual report
16 to the Board of Supervisors summarizing any contracts issued pursuant to this Section and
17 discussing the Public Advocate's compliance with Chapters 12 et seq. Contracts issued by the
18 Public Advocate pursuant to this Section shall be subject to the requirements of Sections 6.102
19 and 9.118.

20 No outside expert or firm shall be eligible to participate or assist in an audit or
21 investigation of any issue, matter, or question as to which that expert or firm has previously
22 rendered compensated advice or services to any individual, corporation, or other entity, or City
23 official or department. The Public Advocate shall adopt appropriate written regulations
24 implementing this prohibition, and shall incorporate this requirement in all written contracts
25 with outside experts and firms utilized pursuant to this subsection (i).

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SEC. 8C.102. PUBLIC ADVOCATE—REVIEW OF CITY PROGRAMS.

(a) The Public Advocate may review the administration of City programs by City agencies. Such reviews may include, but not be limited to, evaluations of: (1) the distribution of City programs and services throughout the City; (2) the effectiveness of the public information and service complaint programs of City agencies; and (3) the responsiveness of City agencies to individual and group requests for data or information regarding the agencies' structure, activities, and operations. The Public Advocate shall submit any reports documenting or summarizing such reviews to the Board of Supervisors, the Mayor, and the appropriate agency, and shall include in such reports his or her recommendations for addressing the problems identified and, if appropriate, the fiscal implications of such recommendations.

(b) The Public Advocate may review the management and employment practices of City officers and departments, including City policies and MOU provisions, that promote or impede the effective and efficient operation of City government, including management of workers' compensation claims and overtime expenditures.

(c) The Public Advocate may review the City's contracting procedures and compliance with contracting rules and standards.

(d) The Public Advocate may conduct performance audits of City departments, services, programs, and other activities. Nothing in this Section 8C.102 shall affect the powers or duties of the Controller acting as City Services Auditor under Charter Section F1.104, and the Public Advocate may coordinate with the City Services Auditor when both officers decide to conduct a performance audit of the same City department, service, program, or activity.

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/ / /

1 SEC. 8C.103. PUBLIC ADVOCATE—INDIVIDUAL COMPLAINTS.

2 (a) The Public Advocate may receive, investigate, and attempt to resolve complaints
3 from members of the public concerning City services, programs, or activities, except for those
4 that:

5 (1) another City agency is required by law to adjudicate;

6 (2) may be resolved through a grievance mechanism established by collective
7 bargaining agreement or contract; or,

8 (3) involve allegations of conduct that may constitute a violation of criminal law.

9 If the Public Advocate receives a complaint that involves conduct of a City employee that
10 could lead to discipline, the Public Advocate shall consult with and, where appropriate, refer the
11 matter to, the Department of Human Resources. If the Public Advocate receives a complaint that
12 is subject to a procedure described in items (1) or (2) of this subsection (a), the Public Advocate
13 shall advise the complainant of the appropriate procedure for the resolution of such complaint.

14 If the Public Advocate receives a complaint of the type described in item (3) of this subsection,
15 the Public Advocate shall promptly refer the matter in accordance with subsection (c).

16 (b) The Public Advocate shall establish procedures for receiving and processing
17 complaints, responding to complainants, conducting investigations, and reporting findings, and
18 shall inform the public about such procedures. Upon an initial determination that a complaint
19 may be valid or that the Public Advocate is not in a position to judge whether it may be valid, the
20 Public Advocate shall refer the complaint to the appropriate agency for resolution. If such
21 agency does not resolve the complaint in a manner that is satisfactory to the Public Advocate
22 within a reasonable time, the Public Advocate may conduct an investigation and make specific
23 recommendations to the agency for resolution of the complaint. If, within a reasonable time
24 after the Public Advocate has completed an investigation and submitted recommendations to the
25 agency, such agency has failed to respond to the recommendations in a manner that is

1 satisfactory to the Public Advocate, the Public Advocate may issue a report to the Board of
2 Supervisors, the Mayor, and the agency. Such report shall describe the conclusions of the
3 investigation and make such recommendations for administrative, legislative, or budgetary
4 action, together with their fiscal implications, as the Public Advocate deems necessary to resolve
5 the complaint or to address the underlying problems discovered in the investigation. In
6 exercising its functions under this subsection (b), the Public Advocate may treat related
7 complaints together.

8 (c) If the Public Advocate receives a complaint alleging conduct that may constitute a
9 violation of conflict of interest or governmental ethics laws, he or she shall promptly refer the
10 complaint to the Ethics Commission and the City Attorney. If the Public Advocate receives a
11 complaint alleging conduct that may constitute a violation of criminal law, he or she shall
12 promptly refer the complaint and information in his or her possession regarding the alleged
13 violation to the District Attorney.

14 If during the conduct of any investigation, inquiry, or review authorized by this
15 Section 8C.103, the Public Advocate discovers that the matter involves conduct that may
16 constitute a violation of conflict of interest or governmental ethics laws, he or she shall take no
17 further action but shall promptly refer the matter to the Ethics Commission and the City
18 Attorney. If during the conduct of any investigation, inquiry, or review authorized by this
19 Section, the Public Advocate discovers that the matter involves conduct that may constitute a
20 violation of criminal law, he or she shall take no further action but shall promptly refer the
21 matter and information in his or her possession to the District Attorney.

22 Before making a determination whether alleged conduct may constitute a violation of
23 conflict of interest or governmental ethics laws, the Public Advocate shall consult with the City
24 Attorney. Before making a determination whether alleged conduct may constitute a violation of
5 criminal law, the Public Advocate shall consult with the District Attorney.

1
2 **SEC. 8C.104. PUBLIC ADVOCATE—WHISTLEBLOWERS.**

3 (a) The Public Advocate shall have the authority to receive complaints by members of
4 the public concerning: incorrect, unreasonable, or unfair decisions or rulings of City officers or
5 agencies; inconsistent enforcement, or failure to enforce, laws, rules, or regulations; poor or
6 inadequate service delivery or treatment; poor communication, including unreasonably long
7 response or wait times and unreasonable response delays; or inequitable or inefficient provision
8 of City services. The Public Advocate shall investigate and otherwise attempt to resolve such
9 individual complaints except for those that:

10 (1) another City agency is required by federal, state, or local law to adjudicate,

11 (2) may be resolved through a grievance mechanism established by collective
12 bargaining agreement or contract,

13 (3) involve allegations of conduct that may constitute a violation of criminal law,

14 (4) are assigned to the Controller under Section F1.107; or

15 (5) are subject to an investigation by the District Attorney, the City Attorney, or
16 the Ethics Commission, where either official or the Commission states in writing that
17 investigation by the Public Advocate would substantially impede or delay his, her, or its own
18 investigation of the matter.

19 If the Public Advocate receives a complaint described in items (1), (2), (3), or (4) of this
20 subsection (a), the Public Advocate shall advise the complainant of the appropriate procedure
21 for the resolution of such complaint.

22 (b) If the Public Advocate receives a complaint alleging conduct that may constitute a
23 conflict of interest or governmental ethics law, he or she shall promptly refer the complaint to
24 the Ethics Commission and the City Attorney. If the Public Advocate receives a complaint
25 alleging conduct that may constitute a violation of criminal law, he or she shall promptly refer

1. the complaint and information regarding the alleged violation to the District Attorney. Nothing
2. in this Section 8C.104 shall preclude the Public Advocate from investigating whether any alleged
3. criminal conduct also violates any civil or administrative law, statute, ordinance, resolution, or
4. regulation.

5. Within 10 working days after receipt of the complaint and information, the City Attorney
6. or the District Attorney shall inform the Public Advocate in writing regarding whether either
7. office has initiated or intends to pursue an investigation of the matter. If either office informs the
8. Public Advocate in writing that the office will pursue the case, the Public Advocate shall
9. suspend its own investigation.

10. Before making a determination whether alleged conduct may constitute a violation of
11. conflict of interest or governmental ethics laws, the Public Advocate shall consult with the City
12. Attorney. Before making a determination whether alleged conduct may constitute a violation of
13. criminal law, the Public Advocate shall consult with the District Attorney.

14.
15. **SEC. 8C. 105. PUBLIC ADVOCATE—CUSTOMER SERVICE PLANS.**

16. The Public Advocate shall assess the progress of City departments' compliance with
17. Charter Section 16.120 and any implementing ordinances requiring City departments to prepare
18. effective customer service plans. The Public Advocate shall make recommendations to
19. departments to improve the effectiveness of such plans, or to the Mayor and the Board of
20. Supervisors regarding improvements in such plans generally. The Public Advocate shall report
21. to the Board of Supervisors and Mayor the failure of any department to comply substantially
22. with the Public Advocate's recommendations regarding customer service plans.

23.
24. / / /

25. / / /

1 **SEC. 8C.106. PUBLIC ADVOCATE—POLICY REGARDING FUNDING AND STAFFING.**

2 The voters declare that it shall be the policy of the City and County of San Francisco to
3 provide sufficient funding and administrative support for the Office of the Public Advocate to
4 perform its functions, and recommend that the Office have at least one staff member per
5 Supervisory district to perform constituent services and at least one staff member per
6 Supervisory district to perform investigations. The Public Advocate may request a
7 determination from the Ethics Commission whether the Office's funding is sufficient for these
8 purposes.

9
10 **SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.**

11 All employees of the City and County shall be appointed through competitive
12 examination unless exempted by this Charter. The following positions shall be exempt from
13 competitive civil service selection, appointment and removal procedures, and the person serving
14 in the position shall serve at the pleasure of the appointing authority:

15 * * * *

16 2. All elected officers of the City and County and their chief deputies or chief assistants;

17 * * * *

18 14. The law librarian, assistant law librarians, bookbinder of the Law Library,
19 purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime
20 Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic
21 Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employees'
22 Employee's Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of
23 the Arboretum and Botanical Garden, Director of Employee Relations, Health Service
24 Administrator, Executive Assistant to the Human Services Director, Assistant Public Advocate,
25 and any other positions designated as exempt under the 1932 Charter, as amended;

1 * * * *

2
3 **SEC. 13.101. TERMS OF ELECTIVE OFFICE.**

4 (a) Except in the case of an appointment or election to fill a vacancy, the term of office
5 of each elected officer shall commence at ~~12:00~~ noon on the eighth day of January following the
6 date of the election.

7 (b) Subject to the applicable provisions of Section 13.102, the elected officers of the City
8 and County shall be elected as follows:

9 (1) At the general municipal election in 1995 and every fourth year thereafter, a
10 Mayor, a Sheriff and a District Attorney shall be elected.

11 (2) At the general municipal election in 1996 and every fourth year thereafter,
12 four members of the Board of Education and four members of the Governing Board of the
13 Community College District shall be elected.

14 (3) At the general municipal election in 2013, and at the general municipal
15 election in 2015 and every fourth year thereafter, a City Attorney and a Treasurer shall be
16 elected. Notwithstanding any other provision of this Charter including Section 6.100, the term of
17 office for the person elected City Attorney or Treasurer at the general municipal election in 2013
18 shall be two years.

19 (4) At the general municipal election in 2006 and every fourth year thereafter, an
20 Assessor-Recorder and Public Defender shall be elected.

21 (5) At the general municipal election in 1998 and every fourth year thereafter,
22 three members of the Board of Education and three members of the Governing Board of the
23 Community College District shall be elected.

24 (6) At the first Citywide general or special municipal election occurring after
25 January 1, 2017, a Public Advocate shall be elected. Thereafter, at the general municipal

1 election in 2020 and every fourth year thereafter, the Public Advocate shall be elected.
2 Notwithstanding any other provision of this Charter including Section 6.100, the term of office
3 for the person elected Public Advocate at the first Citywide general or special municipal election
4 after January 1, 2017, shall expire at noon on January 8, 2021.

5 (7) ~~(6)~~ The election and terms of office of members of the Board of Supervisors
6 shall be governed by Section 13.110.

7
8 **SEC. 13.101.5. VACANCIES.**

9 (a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender,
10 Sheriff, Treasurer, or Member of the Board of Supervisors, Board of Education, or Governing
11 Board of the Community College District becomes vacant because of death, resignation, recall,
12 permanent disability, or the inability of the respective officer to otherwise carry out the
13 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy
14 under this Charter and state laws. If the office of Public Advocate becomes vacant because of
15 death, resignation, recall, permanent disability, or the inability of the incumbent to otherwise
16 carry out the responsibilities of the office, the Chief Deputy Public Advocate shall serve as
17 Public Advocate until a successor is selected pursuant to subsection (c).

18 (b) If the Office of Mayor becomes vacant because of death, resignation, recall,
19 permanent disability, or the inability to carry out the responsibilities of the office, the President
20 of the Board of Supervisors shall become Acting Mayor and shall serve until a successor is
21 appointed by the Board of Supervisors by motion.

22 (c) Any person filling a vacancy pursuant to subsection (a) or (b) of this Section shall
23 serve until a successor is selected at the next election occurring not less than 120 days after the
24 vacancy, at which time an election shall be held to fill the unexpired term, provided that (1) if an
25 election for the vacated office is scheduled to occur less than one year after the vacancy, the

1 appointee shall serve until a successor is selected at that election or (2) if an election for any seat
2 on the same board as the vacated seat is scheduled to occur less than one year but at least 120
3 days after the vacancy, the appointee shall serve until a successor is selected at that election to
4 fill the unexpired term.

5 ~~(d) If no candidate receives a majority of the votes cast at an election to fill a vacated~~
6 ~~office, the two candidates receiving the most votes shall qualify to have their names placed on~~
7 ~~the ballot for a municipal runoff election at the next regular or otherwise scheduled election~~
8 ~~occurring not less than five weeks later. If an instant runoff election process is enacted for the~~
9 ~~offices enumerated in this Section, that process shall apply to any election required by this~~
10 ~~Section.~~

11
12 **SEC. 13.102. INSTANT RUNOFF ELECTIONS; RANKED-CHOICE VOTING**
13 **ELECTIONS.**

14 (a) For the purposes of this Section section: (1) a candidate shall be deemed "continuing"
15 if the candidate has not been eliminated from further rounds of tabulation; (2) a ballot shall be
16 deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not
17 included counted in further stages of the tabulation, if all of the choices have been eliminated or
18 there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to
19 two or more candidates, the ballot shall be declared exhausted when such multiple rankings are
20 reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be
21 transferred to that voter's next ranked choice.

22 (b) The Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder,
23 Public Defender, Public Advocate, and members of the Board of Supervisors shall be elected
24 using a ranked-choice, ~~or "instant runoff,"~~ ballot. The ballot shall allow voters to rank a number
25 of choices in order of preference equal to the total number of candidates for each office;

1 provided, however, that if the voting system, vote tabulation system, or similar or related
2 equipment used by the City and County cannot feasibly accommodate choices equal to the total
3 number of candidates running for each office, then the Director of Elections may limit the
4 number of choices a voter may rank to no fewer than three. The ballot shall in no way interfere
5 with a voter's ability to cast a vote for a write-in candidate.

6 (c) If a candidate receives a majority of the first choices, that candidate shall be declared
7 elected. If no candidate receives a majority, the candidate who received the fewest first choices
8 shall be eliminated from further rounds of tabulation and each vote cast for that candidate shall
9 be transferred to the next ranked candidate on that voter's ballot. If, after this transfer of votes,
10 any candidate has a majority of the votes from the continuing ballots, that candidate shall be
11 declared elected.

12 (d) If no candidate receives a majority of votes from the continuing ballots after a
13 candidate has been eliminated from further rounds of tabulation and his or her votes have been
14 transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the
15 continuing ballots shall be eliminated from further rounds of tabulation. All votes cast for that
16 candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot.
17 This process of eliminating candidates from further rounds of tabulation and transferring their
18 votes to the next-ranked continuing candidates shall be repeated until a candidate receives a
19 majority of the votes from the continuing ballots.

20 (e) If the total number of votes of the two or more candidates credited with the lowest
21 number of votes is less than the number of votes credited to the candidate with the next highest
22 number of votes, those candidates with the lowest number of votes shall be eliminated from
23 further rounds of tabulation simultaneously and their votes transferred to the next-ranked
24 continuing candidate on each ballot in a single counting operation.

25 (f) A tie between two or more candidates shall be resolved in accordance with State law.

1 (g) The Department of Elections shall conduct a voter education campaign to familiarize
2 voters with the ranked-choice ~~or, "instant runoff,"~~ method of voting.

3 (h) Any voting system, vote tabulation system, or similar or related equipment acquired
4 by the City and County shall have the capability to accommodate this system of ranked-choice,
5 ~~or "instant runoff,"~~ balloting.

6 ~~(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal
7 election in November 2002 and all subsequent elections. If the Director of Elections certifies to
8 the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not
9 be ready to implement ranked-choice balloting in November 2002, then the City shall begin
10 using ranked choice, or "instant runoff," balloting at the November 2003 general municipal
11 election.~~

12 ~~If ranked choice, or "instant runoff," balloting is not used in November of 2002, and no
13 candidate for any elective office of the City and County, except the Board of Education and the
14 Governing Board of the Community College District, receives a majority of the votes cast at an
15 election for such office, the two candidates receiving the most votes shall qualify to have their
16 names placed on the ballot for a runoff election held on the second Tuesday in December of
17 2002.~~

18
19 **SEC. 15.105. SUSPENSION AND REMOVAL.**

20 (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer other
21 than the Mayor, and any member of the Airport Commission, Asian Art Commission, Civil
22 Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority
23 Board of Directors, Health Commission, Human Services Commission, Juvenile Probation
24 Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public
25 Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees,

1 ~~Taxi Commission~~, War Memorial and Performing Art Center Board of Trustees, Board of
2 Education or Community College Board is subject to suspension and removal for official
3 misconduct as provided in this section. Such officer may be suspended by the Mayor and the
4 Mayor shall appoint a qualified person to discharge the duties of the office during the period of
5 suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission
6 and Board of Supervisors thereof in writing and the cause thereof, and shall present written
7 charges against such suspended officer to the Ethics Commission and Board of Supervisors at or
8 prior to their next regular meetings following such suspension, and shall immediately furnish a
9 copy of the same to such officer, who shall have the right to appear with counsel before the
10 Ethics Commission in his or her defense.

11 The Ethics Commission shall hold a hearing not less than five days after the filing of
12 written charges. After the hearing, the Ethics Commission shall transmit the full record of the
13 hearing to the Board of Supervisors with a recommendation as to whether the charges should be
14 sustained. If, after reviewing the complete record, the charges are sustained by not less than a
15 three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be
16 removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30
17 days after the receipt of the record from the Ethics Commission, the suspended officer shall
18 thereby be reinstated.

19 Notwithstanding any other provision of this Section 15.105, the Mayor may file written
20 charges of official misconduct against the Public Advocate and those charges shall be heard and
21 acted on by the Ethics Commission and the Board of Supervisors in the same manner as other
22 charges of official misconduct, but the Mayor shall have no power to suspend the Public
23 Advocate prior to the determination of those charges by the Board of Supervisors.

24 * * * *
25

1 **SEC. 4.127. POLICE DEPARTMENT.**

2 The Police Department shall preserve the public peace, prevent and detect crime, and
3 protect the rights of persons and property by enforcing the laws of the United States, the State of
4 California and the City and County.

5 The Chief of Police may appoint and remove at pleasure special police officers.

6 The Chief of Police shall have all powers which are now or that may be conferred upon a
7 sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the
8 public peace or organized resistance against the laws or public authority.

9 * * * *

10 ~~OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police~~
11 ~~Commission as the director of the Office of Citizen Complaints, subject to confirmation by the~~
12 ~~Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the~~
13 ~~Board fails to act on the appointment within 30 days, the appointment shall be deemed approved.~~
14 ~~In the event the office is vacant, until the mayor makes an appointment and that appointment is~~
15 ~~confirmed by the Board, the Police Commission shall appoint an interim director who shall~~
16 ~~serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil~~
17 ~~service requirements of this Charter. The director shall never have been a uniformed member or~~
18 ~~employee of the department. The director of the Office of Citizen Complaints shall be the~~
19 ~~appointing officer under the civil service provisions of this Charter for the appointment, removal~~
20 ~~or discipline of employees of the Office of Citizen Complaints.~~

21 ~~The Police Commission shall have the power and duty to organize, reorganize and~~
22 ~~manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter,~~
23 ~~the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1,~~
24 ~~1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line~~
25 ~~investigator for every 150 sworn members. Whenever the ratio of investigators to police officers~~

1 ~~specified by this section is not met for more than 30 consecutive days, the director shall have the~~
2 ~~power to hire, and the City Controller must pay, temporary investigators to meet such staffing~~
3 ~~requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have~~
4 ~~previously served as a uniformed member of the department. Subject to rule of the Police~~
5 ~~Commission, the director of the Office of Citizen Complaints may appoint part-time hearing~~
6 ~~officers who shall be exempt from the civil service requirements of this Charter. Compensation~~
7 ~~of the hearing officers shall be at rates recommended by the Commission and established by the~~
8 ~~Board of Supervisors or by contract approved by the Board of Supervisors.~~

9 ~~Complaints of police misconduct or allegations that a member of the Police Department~~
10 ~~has not properly performed a duty shall be promptly, fairly and impartially investigated by staff~~
11 ~~of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all~~
12 ~~complaints of police misconduct, or that a member of the Police Department has not properly~~
13 ~~performed a duty, except those complaints which on their face clearly indicate that the acts~~
14 ~~complained of were proper and those complaints lodged by other members of the Police~~
15 ~~Department. The Office of Citizen Complaints shall use its best efforts to conclude investigations~~
16 ~~of such complaints and, if sustained, transmit the sustained complaint to the Police Department~~
17 ~~within nine (9) months of receipt thereof by the Office of Citizen Complaints. If the Office of~~
18 ~~Citizen Complaints is unable to conclude its investigation within such nine-month period, the~~
19 ~~director of the Office of Citizen Complaints, within such nine-month period, shall inform the~~
20 ~~Chief of Police of the reasons therefor and transmit information and evidence from the~~
21 ~~investigation as shall facilitate the Chief's timely consideration of the matter. The Office of~~
22 ~~Citizen Complaints shall recommend disciplinary action to the Chief of Police on those~~
23 ~~complaints that are sustained. The director of the Office of Citizen Complaints, after meeting and~~
24 ~~conferring with the Chief of Police or his or her designee, may verify and file charges with the~~
25 ~~Police Commission against members of the Police Department arising out of sustained~~

1 ~~complaints; provided, that the director may not verify and file such charges for a period of 60~~
2 ~~days following the transmittal of the sustained complaint to the Police Department unless the~~
3 ~~director issues a written determination that the limitations period within which the member or~~
4 ~~members may be disciplined under Government Code Section 3304, as amended from time to~~
5 ~~time or any successor provisions thereto, may expire within such 60-day period and either (i) the~~
6 ~~Chief of Police fails or refuses to file charges with the Police Commission arising out of the~~
7 ~~sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and~~
8 ~~confer with the director on the matter, or (iii) other exigent circumstances necessitate that the~~
9 ~~director verify and file charges to preserve the ability of the Police Commission to impose~~
10 ~~punishment pursuant to Section 18.343. The director of the Office of Citizen Complaints shall~~
11 ~~schedule hearings before hearing officers when such is requested by the complainant or a~~
12 ~~member of the department and, in accordance with rules of the Commission, such a hearing will~~
13 ~~facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the~~
14 ~~Office of Citizen Complaints shall in the same manner investigate and make recommendations to~~
15 ~~the Chief of Police regarding complaints of misconduct by patrol special police officers and their~~
16 ~~uniformed employees.~~

17 ~~Nothing herein shall prohibit the Chief of Police or a commanding officer from~~
18 ~~investigating the conduct of a member of the department under his or her command, or taking~~
19 ~~disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted;~~
20 ~~and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of~~
21 ~~Police and the Police Commission by other provisions of this Charter.~~

22 ~~The Office of Citizen Complaints shall prepare in accordance with rules of the~~
23 ~~Commission monthly summaries of the complaints received and shall prepare recommendations~~
24 ~~quarterly concerning policies or practices of the department which could be changed or~~
25 ~~amended to avoid unnecessary tension with the public or a definable segment of the public while~~

1 ~~insuring effective police services. The Office of Citizen Complaints shall prepare a report for the~~
2 ~~President of the Board of Supervisors each quarter. This report shall include, but not be limited~~
3 ~~to, the number and type of complaints filed, the outcome of the complaints, and a review of the~~
4 ~~disciplinary action taken. The President of the Board of Supervisors shall refer this report to the~~
5 ~~appropriate committee of the Board of Supervisors charged with public safety responsibilities.~~
6 ~~Said committee may issue recommendations as needed.~~

7 ~~In carrying out its objectives the Office of Citizen Complaints shall receive prompt and~~
8 ~~full cooperation and assistance from all departments, officers and employees of the City and~~
9 ~~County which shall promptly produce all records requested by the Office of Citizen Complaints~~
10 ~~except for records the disclosure of which to the Office of Citizen Complaints is prohibited by~~
11 ~~law. The director may also request and the Chief of Police shall require the testimony or~~
12 ~~attendance of any member of the Police Department to carry out the responsibilities of the Office~~
13 ~~of Citizen Complaints.~~

14 * * * *

15 POLICE STAFFING. The police force of the City and County shall at all times consist
16 of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department shall
17 be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure may be
18 adjusted pursuant to Section 16.123.

19 All officers and employees of the City and County are directed to take all acts necessary
20 to implement the provisions of this section. The Board of Supervisors is empowered to adopt
21 ordinances necessary to effectuate the purpose of this section including but not limited to
22 ordinances regulating the scheduling of police training classes eases.

23 * * * *

24 / / /
25

1 **SEC. 4.136. DEPARTMENT OF POLICE ACCOUNTABILITY.**

2 (a) There shall be under the Police Commission a Department of Police Accountability
3 ("DPA").

4 (b) Until the first Public Advocate assumes office following the first election described in
5 Section 13.101(b)(6), the Mayor shall appoint a nominee of the Police Commission as the
6 Director of DPA, subject to confirmation by the Board of Supervisors. Thereafter, whenever the
7 office of Director becomes vacant, the Public Advocate shall appoint a nominee of the Police
8 Commission as the Director of DPA, subject to confirmation by the Board of Supervisors. The
9 Director shall serve at the pleasure of the Police Commission. If the Board of Supervisors fails
10 to act on the appointment within 30 days, the appointment shall be deemed approved. In the
11 event the office is vacant, until the appointing authority described in this subsection (b) makes an
12 appointment and that appointment is confirmed by the Board, the Police Commission shall
13 appoint an interim Director who shall serve at the pleasure of the Police Commission. The
14 appointment of the Director shall be exempt from the civil service requirements of this Charter.
15 The Director shall never have been a uniformed member or employee of the Police Department.
16 The Director shall be the appointing officer under the civil service provisions of this Charter for
17 the appointment, removal, or discipline of employees of DPA.

18 (c) The Police Commission shall have the power and duty to organize, reorganize, and
19 manage DPA. Subject to the civil service provisions of this Charter, DPA shall include
20 investigators and hearing officers. The staff of DPA shall consist of no fewer than one line
21 investigator for every 150 sworn members. Whenever the ratio of investigators to police officers
22 specified by this subsection (b) is not met for more than 30 consecutive days, the Director shall
23 have the power to hire, and the City Controller must pay, temporary investigators to meet such
24 staffing requirements. No full-time or part-time employee of DPA shall have previously served
25 as a uniformed member of the Police Department. Subject to rules of the Police Commission, the

1 Director may appoint part-time hearing officers who shall be exempt from the civil service
2 requirements of this Charter. Compensation of the hearing officers shall be at rates
3 recommended by the Commission and established by the Board of Supervisors or by contract
4 approved by the Board of Supervisors.

5 (d) DPA shall promptly, fairly, and impartially investigate all complaints regarding
6 police use of force, misconduct, or allegations that a member of the Police Department has not
7 properly performed a duty, except those complaints which on their face clearly indicate that the
8 acts complained of were proper and those complaints lodged by other members of the Police
9 Department.

10 DPA shall use its best efforts to conclude investigations of such complaints and, if
11 sustained, transmit the sustained complaint to the Police Department within nine months of
12 receipt thereof by DPA. If DPA is unable to conclude its investigation within such nine-month
13 period, the Director, within such nine-month period, shall inform the Chief of Police of the
14 reasons therefor and transmit information and evidence from the investigation as shall facilitate
15 the Chief's timely consideration of the matter.

16 (e) DPA shall recommend disciplinary action to the Chief of Police on those complaints
17 that are sustained. The Director, after meeting and conferring with the Chief of Police or his or
18 her designee, may verify and file charges with the Police Commission against members of the
19 Police Department arising out of sustained complaints; provided, that the Director may not
20 verify and file such charges for a period of 60 days following the transmittal of the sustained
21 complaint to the Police Department unless the Director issues a written determination that the
22 limitations period within which the member or members may be disciplined under Government
23 Code Section 3304, as amended from time to time or any successor provisions thereto, may
24 expire within such 60-day period and (1) the Chief of Police fails or refuses to file charges with
25 the Police Commission arising out of the sustained complaint, (2) the Chief of Police or his or

1 her designee fails or refuses to meet and confer with the Director on the matter, or (3) other
2 exigent circumstances necessitate that the Director verify and file charges to preserve the ability
3 of the Police Commission to impose punishment pursuant to Section A8.343.

4 (f) The Director shall schedule hearings before hearing officers when such is requested
5 by the complainant or a member of the Police Department and, in accordance with rules of the
6 Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors
7 may provide by ordinance that DPA shall in the same manner investigate and make
8 recommendations to the Chief of Police regarding complaints of misconduct by patrol special
9 police officers and their uniformed employees.

10 (g) Nothing herein shall prohibit the Chief of Police or a commanding officer from
11 investigating the conduct of a member of the Police Department under his or her command, or
12 taking disciplinary or corrective action, otherwise permitted by this Charter, when such is
13 warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in
14 the Chief of Police and the Police Commission by other provisions of this Charter.

15 (h) DPA shall prepare in accordance with rules of the Commission monthly summaries
16 of the complaints received and shall prepare recommendations quarterly concerning policies or
17 practices of the Police Department which could be changed or amended to avoid unnecessary
18 tension with the public or a definable segment of the public while insuring effective police
19 services.

20 (i) DPA shall prepare a report for the President of the Board of Supervisors each
21 quarter. This report shall include, but not be limited to, the number and type of complaints filed,
22 the outcome of the complaints, and a review of the disciplinary action taken. The President of
23 the Board of Supervisors shall refer this report to the appropriate committee of the Board of
24 Supervisors charged with public safety responsibilities. Said committee may issue
25 recommendations as needed.

1 (j) In carrying out its objectives, including the preparation of recommendations
2 concerning departmental policies or practices referenced above, the investigations referenced
3 above, and the audits noted below, DPA shall receive prompt and full cooperation and
4 assistance from all departments, officers, and employees of the City and County, which shall,
5 unless prohibited by state or federal law, promptly produce all records and information
6 requested by DPA, including but not limited to (1) records relevant to Police Department
7 policies or practices, (2) personnel and disciplinary records of Police Department employees,
8 (3) criminal investigative and prosecution files, and (4) all records to which the Police
9 Commission has access, regardless of whether those records pertain to a particular complaint.
10 The DPA shall maintain the confidentiality of any records and information it receives to the
11 extent required by state or federal law governing such records or information. The Director may
12 also request and the Chief of Police shall require the testimony or attendance of any member of
13 the Police Department to carry out the responsibilities of DPA. Nothing in this Section 4.136 is
14 intended or shall be construed to interfere with the duties of the Sheriff or the District Attorney
15 under state law, including their constitutional and statutory powers and duties under
16 Government Code Section 25303, as amended from time to time or any successor provisions
17 thereto, or other applicable state law or judicial decision.

18 (k) Every two years, DPA shall conduct a performance audit or review of police officer
19 use of force and how the Police Department has handled claims of officer misconduct. DPA
20 shall also have the authority to conduct performance audits or reviews of whether Police
21 Department personnel and management have complied with federal and state law, City
22 ordinances and policies, and Police Department policies. The Director shall have the discretion
23 to determine the frequency, topics, and scope of such performance audits or reviews. To the
24 extent permitted by law, DPA shall also allow public access to information on the progress and
25

1 disposition of claims of misconduct or use of force, and the results of the performance audits and
2 reviews conducted by DPA.

3 (1) The DPA budget shall be separate from the budget of the Police Department.

4 Notwithstanding Section 4.102(3), the Director shall submit DPA's proposed annual or two-year
5 budget directly to the Mayor.

6
7 **SEC. A8.343. FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE**
8 **DEPARTMENTS.**

9 Members of the uniformed ranks of the fire or the police department guilty of any
10 offense or violation of the rules and regulations of their respective departments, shall be liable to
11 be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by
12 suspension for not to exceed three months, or by dismissal, after trial and hearing by the
13 commissioners of their respective departments; provided, however, that the chief of each
14 respective department for disciplinary purposes may suspend such member for a period not to
15 exceed 10 days for violation of the rules and regulations of his department. Any such member so
16 suspended shall have the right to appeal such suspension to the fire commission or to the police
17 commission, as the case may be, and have a trial and hearing on such suspension. Written notice
18 of appeal must be filed within 10 days after such suspension and the hearing of said appeal must
19 be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or
20 alter the finding of the chief, it shall order that the member affected be paid salary for the time of
21 the suspension received or altered. In the event the chief should exercise such power of
22 suspension, the member involved shall not be subject to any further disciplinary action for the
23 same offense; provided, that where the Department of Police Accountability Office of Citizen
24 Complaints has sustained a complaint and recommended discipline in excess of a 10-day
25 suspension, the Chief of Police may not exercise his or her power of suspension under this

1 section without first meeting and conferring with the director of the Department of Police
2 Accountability Office of Citizen Complaints and affording the director an opportunity to verify
3 and file charges with the Police Commission pursuant to Section 4.136 4.127. If the director of
4 the Department of Police Accountability Office of Citizen Complaints verifies and files charges,
5 the Police Commission shall conduct a trial and hearing thereon, and the Chief of Police may not
6 suspend the member pending the outcome of the Police Commission proceedings on the charges
7 except as provided in Section A8.344.

8 Subject to the foregoing, members of the uniformed ranks of either department shall not
9 be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for
10 cause, nor until after a fair and impartial trial before the commissioners of their respective
11 departments, upon a verified complaint filed with such commission setting forth specifically the
12 acts complained of, and after such reasonable notice to them as to time and place of hearings as
13 such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear
14 personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the
15 attendance of all witnesses necessary for his defense.

16
17 **SEC. A8.409-1. EMPLOYEES COVERED.**

18 * * * *

19 Except as otherwise provided by this Charter, the Civil Service Commission shall set the
20 wages and benefits of all elected officials of the City and County of San Francisco as follows:
21 The Commission shall conduct a salary survey of the offices of chief executive officer, county
22 counsel, district attorney, public defender, assessor-recorder, treasurer, and sheriff, in the
23 counties of Alameda, Contra Costa, Marin, San Mateo, and Santa Clara. The Commission shall
24 then average the salaries for each of those offices to determine respectively the base five-year
25

1 salaries for the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder,
2 Treasurer, and Sheriff.

3 If any of the aforementioned counties do not have an office of public defender, that
4 county shall be omitted from the salary survey for purposes of determining the base five-year
5 salary of the Public Defender. Among the aforementioned counties, any freestanding county
6 assessor's office or any county office in which the assessor's function is combined with other
7 county functions, shall be deemed comparable to the office of Assessor-Recorder for purposes of
8 determining the base five-year salary of the Assessor-Recorder. If any of the aforementioned
9 counties do not have a comparable county office of treasurer, the county office whose functions
10 most closely resemble the Treasurer's functions in San Francisco shall be deemed comparable to
11 the office of Treasurer for purposes of determining the base five-year salary of the Treasurer.

12 The initial base five-year salary determination for the respective salaries of the Mayor,
13 City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff
14 shall apply to the period from July 1, 2007 through June 30, 2012. Subsequent base five-year
15 salary determinations for those offices shall apply to subsequent five-year periods, for example,
16 July 1, 2012 through June 30, 2017.

17 For the second, third, fourth, and fifth years of the period for which any base five-year
18 salary has been set, the Commission shall annually adjust the respective salaries of the Mayor,
19 City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff, to
20 account for upward annual movement in the Consumer Price Index during the prior calendar
21 year; provided, that whenever the upward movement in the Consumer Price Index during the
22 prior calendar year exceeds 5%, the cost-of-living adjustment shall not be the actual increase in
23 the Consumer Price Index for the prior calendar year but instead shall be 5%. The annual cost-
24 of-living adjustment shall take effect July 1 of the second, third, fourth, and fifth years of the
25 period for which the base five-year salary has been set.

1 The Civil Service Commission shall set the salary of the Public Advocate every five years
2 based on a salary survey of comparable offices, or using such other methodology as the
3 Commission deems appropriate.

4 Except as noted below, in setting the initial and subsequent base five-year salary
5 determinations for the offices of Mayor, City Attorney, District Attorney, Public Defender,
6 Assessor-Recorder, Treasurer, and Sheriff, the Commission may not reduce the respective
7 salaries of any of those offices. If implementation of the process for setting the base five-year
8 salary would otherwise result in a salary reduction for any of those offices, the base five-year
9 salary for the affected office or offices shall be the existing salary for the office.

10 If the City and County of San Francisco and employee organizations agree to amend the
11 compensation provisions of existing memoranda of understanding to reduce costs, the
12 Commission shall review and amend the respective salaries of the Mayor, City Attorney, District
13 Attorney, Public Defender, Assessor-Recorder, Treasurer, ~~and~~ Sheriff, and Public Advocate as
14 necessary to achieve comparable cost savings in the affected fiscal year or years.

15 The Commission shall annually set the benefits of elected officials, to take effect July 1
16 of each year. Benefits of elected officials may equal but may not exceed those benefits provided
17 to any classification of miscellaneous officers and employees as of July 1 of each year, except,
18 after January 7, 2012, the City and County shall not pay the required employee contributions of
19 said officials into the San Francisco Employees' Retirement System trust fund or into the Retiree
20 Health Care Trust Fund.

21 In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor
22 may create, for employees designated as management, a management compensation package that
23 recognizes and provides incentives for outstanding managerial performance contributing to
24 increased productivity and efficiency in the work force. In formulating such a package, the
25

1 Mayor shall take into account data developed in conjunction with the civil service commission
2 regarding the terms of executive compensation in other public and private jurisdictions.

3
4 **F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.**

5 (a) The Services Audit Unit shall conduct annually a performance audit of the City's
6 street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:

7 (1) Include quantifiable, measurable, objective standards for street, sidewalk, and
8 park maintenance, to be developed in cooperation and consultation with the Department of
9 Public Works and the Recreation and Park Department;

10 (2) Based upon such measures, report on the condition of each geographic
11 portion of the City;

12 (3) To the extent that standards are not met, assess the causes of such failure and
13 make recommendations of actions that will enhance the achievement of those standards in the
14 future;

15 (4) Ensure that all bond funds related to streets, parks and open space are spent in
16 strict accordance with the stated purposes and permissible uses of such bonds, as approved by the
17 voters.

18 Outside of the audit process, the City departments charged with cleaning and maintaining
19 streets, sidewalks, and parks shall remain responsible for addressing individual complaints
20 regarding specific sites, ~~although the Controller may receive and investigate such complaints~~
21 ~~under Section F1.107.~~

22 (b) In addition, all City agencies engaged in street, sidewalk, or park maintenance shall
23 establish regular maintenance schedules for streets, sidewalks, parks and park facilities, which
24 shall be available to the public and on the department's website. Each such department shall
25 monitor compliance with these schedules, and shall publish regularly data showing the extent to

1 which the department has met its published schedules. The City Services Audit Unit shall audit
2 each department's compliance with these requirements annually, and shall furnish
3 recommendations for meaningful ways in which information regarding the timing, amount and
4 kind of services provided may be gathered and furnished to the public.

5
6 **F1.107. CITIZENS' COMPLAINTS; WHISTLEBLOWERS.**

7 (a) The Controller shall have the authority to receive and investigate individual
8 complaints concerning: the misuse of City funds by officers or employees; the use of City
9 equipment or time for personal purposes; the purchase of unneeded supplies or equipment;
10 nonperformance, or inadequate performance of, contractually-required services; or, improper or
11 wasteful activities by City officers or employees. the quality and delivery of government
12 services, wasteful and inefficient City government practices, misuse of City government funds,
13 and improper activities by City government officers and employees. When appropriate, the
14 Controller shall investigate and otherwise attempt to resolve such individual complaints except
15 for those which:

- 16 (1) another City agency is required by federal, state, or local law to adjudicate,
17 (2) may be resolved through a grievance mechanism established by collective
18 bargaining agreement or contract,
19 (3) involve allegations of conduct which may constitute a violation of criminal
20 law,
21 (4) are assigned to the Public Advocate under Section 8C.104; or
22 (5) (4) are subject to an existing, ongoing investigation by the District Attorney,
23 the City Attorney, or the Ethics Commission, where either official or the Commission states in
24 writing that investigation by the Controller would substantially impede or delay his, her, or its
25 own investigation of the matter.

1 If the Controller receives a complaint described in items (1), (2), (3), or (4) of this
2 paragraph, the Controller shall advise the complainant of the appropriate procedure for the
3 resolution of such complaint.

4 (b) If the Controller receives a complaint alleging conduct that may constitute a violation
5 of criminal law or a governmental ethics law, he or she shall promptly refer the complaint
6 regarding criminal conduct to the District Attorney or other appropriate law enforcement agency
7 and shall refer complaints regarding violations of governmental ethics laws to the Ethics
8 Commission and the City Attorney. Nothing in this Section shall preclude the Controller from
9 investigating whether any alleged criminal conduct also violates any civil or administrative law,
10 statute, ordinance, or regulation.

11 (c) Notwithstanding any provision of this Charter, including, but not limited to
12 Section C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the
13 Controller shall administer a whistleblower and citizen complaint hotline telephone number and
14 website and, together with the Public Advocate, publicize the hotline and website through press
15 releases, public advertising, and communications to City employees. The Controller shall
16 receive and track calls and emails related to complaints about the quality and delivery of
17 government services, wasteful and inefficient City government practices, misuse of government
18 funds and improper activities by City government officials, employees and contractors and shall
19 route these complaints to the appropriate agency subject to subsection (a) of this Section. The
20 Board of Supervisors shall enact and maintain an ordinance protecting the confidentiality of
21 whistleblowers, and protecting City officers and employees from retaliation for filing a
22 complaint with, or providing information to, the Controller, Ethics Commission, District
23 Attorney, City Attorney or a City department or commission about improper government activity
24 by City officers and employees. The City may incorporate all whistleblower functions set forth
25 in this Charter or by ordinances into a unified City call center, switchboard, or information

1 number at a later time, provided the supervision of the whistleblower function remains with the
2 Controller and its responsibilities and function continue unabridged.

3 (d) The Controller shall on a quarterly basis prepare summaries of all complaints
4 received by the Controller's whistleblower program and transmit those summaries to the Public
5 Advocate. The Public Advocate shall review the summaries by complaint type, department
6 involved, and other factors to identify trends in complaints and prepare recommendations for the
7 improvement of City controls and services. To the extent permitted by state law, the City shall
8 keep these summaries confidential.

9 (e) The Public Advocate and the Controller may from time to time and by written
10 agreement shift between themselves jurisdictional responsibilities for investigation and reporting
11 types of whistleblower complaints established in the Charter. The Public Advocate and the
12 Controller shall submit a copy of any such agreement to the Mayor and the Board of
13 Supervisors, and make the agreement available to the public.

14
15 ~~**F1.108. CUSTOMER SERVICE PLANS.**~~

16 ~~The Controller shall assess the progress of City departments' compliance with Charter~~
17 ~~Section 16.120 and any implementing ordinances requiring City departments to prepare effective~~
18 ~~customer service plans. The Controller shall make recommendations to departments to improve~~
19 ~~the effectiveness of such plans. The Controller shall report to the Board of Supervisors and~~
20 ~~Mayor the failure of any department to comply substantially with the Controller's~~
21 ~~recommendations regarding customer service plans.~~

22
23 ~~**SEC. F1.114. OPERATIVE DATE; SEVERABILITY.**~~

24 ~~(a) This charter amendment shall be operative on July 1, 2004. This amendment shall~~
25 ~~not affect the term or tenure of the incumbent Controller.~~

LEGISLATIVE DIGEST

(Third Draft, 7/19/2016)

[Charter Amendment - Public Advocate; Department of Police Accountability]

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: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) authorize the Public Advocate to receive and investigate specified whistleblower complaints; 5) provide for the Public Advocate's election, removal, and salary; 6) set City policy regarding sufficient funding and minimum staffing for the Office of the Public Advocate; 7) re-name the Office of Citizen Complaints (OCC) as the Department of Police Accountability (DPA); 8) authorize the Public Advocate to appoint the director of DPA; 9) give DPA direct authority over its proposed budget; and 10) require DPA to conduct a performance audit every two years of how the Police Department has handled claims of officer misconduct and use of force; and setting an operative date.

Existing Law

Public Advocate. The City currently does not have a particular official or central office responsible for overseeing how City departments interact with the public. The Controller reviews some City programs and services and runs the City's whistleblower program.

Office of Citizen Complaints. The City has an Office of Citizen Complaints ("OCC"), which is a separate department under the Police Commission. The OCC investigates complaints of misconduct and neglect of duty by police officers, and may, in certain circumstances, file disciplinary charges against the officers. The Mayor appoints a Director of the OCC from nominees selected by the Police Commission, and the Board of Supervisors confirms the Mayor's appointment.

Under the City Charter, individual departments propose budgets, which are then submitted to the Mayor, who prepares a City-wide budget for consideration and approval by the Board of Supervisors. If a department is overseen by a commission, the commission must review and approve the department's proposed budget. The OCC's budget is part of the budget for the Police Department as a whole and is reviewed and approved by the Police Commission.

Amendments to Current Law

The proposal is a charter amendment that would (1) create the Office of the Public Advocate, (2) re-name the "Office of Citizen Complaints" as the "Department of Police Accountability," and (3) make other changes.

Public Advocate. The Public Advocate would review the administration of City programs, including the distribution of programs and services throughout the City, the effectiveness of the public information and service complaint programs of City agencies, and the responsiveness of City agencies to individual and group requests for data or information regarding the agencies' structure, activities, and operations. The Public Advocate would also review the management and employment practices of City officers and departments, including City policies and MOU provisions that promote or impede the effective and efficient operation of City government, and would review the City's contracting procedures and practices. And the Public Advocate would investigate and attempt to resolve complaints from members of the public concerning City services and programs. The proposal would eliminate some corresponding functions of the Controller.

The Public Advocate could introduce legislation at the Board of Supervisors to address any matter within the Public Advocate's jurisdiction.

The proposal would authorize the Public Advocate to receive and investigate confidential whistleblower complaints concerning: incorrect, unreasonable, or unfair decisions or rulings of City officers or agencies; inconsistent enforcement, or failure to enforce, laws, rules or regulations; poor or inadequate service delivery or treatment; poor communication, including unreasonably long response or wait times and unreasonable response delays; or inequitable or inefficient provision of City services. The Controller would continue to receive and investigate confidential whistleblower complaints concerning: the misuse of City funds by officers or employees; the use of City equipment or time for personal purposes; the purchase of unneeded supplies or equipment; nonperformance, or inadequate performance of, contractually-required services; or, improper or wasteful activities by City officers or employees.

The Public Advocate could not interfere with specific contract or personnel decisions or other administrative actions, or with criminal investigations or prosecutions. And during his or her tenure, the Public Advocate could not contribute to, or publicly endorse or oppose, a candidate for City elective office, or be an officer, director, or employee of an organization that makes political endorsements regarding candidates for City elective office.

The Public Advocate would be elected at a Citywide election, using ranked-choice voting, and serve a four-year term. The first Public Advocate would be elected at the first general or special municipal election occurring after January 1, 2017, and would serve a shortened term. Then, beginning with the general municipal election in 2020, the Public Advocate would be elected every four years. No person could serve as Public Advocate for more than two successive terms.

The Mayor could file written charges of official misconduct against the Public Advocate and those charges would be heard and acted on by the Ethics Commission and the Board of Supervisors in the same manner as other charges of official misconduct, but the Mayor would have no power to suspend the Public Advocate prior to the determination of those charges by the Board of Supervisors.

The Civil Service Commission would set the salary of the Public Advocate every five years based on a salary survey of comparable offices, or using such other methodology as the Commission deemed appropriate.

The proposal would make it City policy to provide sufficient funding and administrative support for the Office of the Public Advocate to perform its functions, and to authorize the Office to have at least one staff member per Supervisorial district to perform constituent services and at least one staff member per Supervisorial district to perform investigations. The Public Advocate could request an advisory opinion from the Ethics Commission whether the City was providing the Office with sufficient funding to perform its duties.

Department of Police Accountability. The proposal would change the name of the "Office of Citizen Complaints" to the "Department of Police Accountability" or "DPA". The proposal would also move the provisions governing the DPA from within current Charter Section 4.127 ("Police Department") to a new, free-standing Charter Section 4.136 ("Department of Police Accountability"). The DPA would still be overseen by the Police Commission. The Public Advocate would appoint a Director of DPA from nominees selected by the Police Commission, and the Board of Supervisors would have to confirm the appointment made by the Public Advocate.

The proposal would clarify the DPA's access to relevant City records, and require the DPA to conduct a performance audit every two years analyzing police use of force and how the Police Department has handled claims of officer misconduct. To the extent permitted by law, the DPA would allow public access to information on the progress and disposition of claims of misconduct or use of force, and the results of the performance audits and reviews conducted by DPA.

The proposal would provide that the DPA budget would be prepared and submitted separately from the Police Department budget, and that the DPA budget would not need Police Commission review or approval. Instead, the DPA Director would submit the proposed budget directly to the Mayor for inclusion in the Mayor's proposed budget for the City.

Additional Provisions. The proposal would also make conforming changes in other Charter sections and correct and up-date additional provisions. The provisions relating to the election of the Public Advocate and to the DPA would become operative on the effective date of the charter amendment. All other provisions would become operative at the date and time that the first Public Advocate takes office.

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Third Draft, Public Advocate Charter Amendment (File No. 160583)

(1) Amend proposed Section 6.107 to delete subsection (g):

SEC. 6.107. PUBLIC ADVOCATE.

(a) There shall be a Public Advocate for the City and County of San Francisco. The functions, powers, and duties of the Public Advocate are set forth in Article VIII C.

(b) The Public Advocate shall appoint a Chief Deputy Public Advocate and at least two Assistant Public Advocates, who shall serve at the pleasure of the Public Advocate, and may have such other staff as provided according to the budgetary and fiscal provisions of the Charter. The position of Chief Deputy Public Advocate shall be exempt from competitive civil service selection, appointment, and removal procedures under Section 10.104(2), and the position of Assistant Public Advocate shall be exempt under Section 10.104(14).

(c) The City Attorney shall be the attorney for the Public Advocate.

(d) The Public Advocate shall have an office in City Hall.

(e) During his or her tenure, the Public Advocate shall not contribute to, solicit contributions to, publicly endorse or oppose or urge the endorsement of or opposition to or otherwise participate in a campaign for a candidate for City elective office, other than himself or herself, or be an officer, director, or employee of or hold a policy-making position in an organization that makes political endorsements regarding candidates for City elective office.

(f) No person shall serve as Public Advocate for more than two successive terms. There shall be no limit on the number of non-successive terms that a person may serve as Public Advocate. A part of a term that exceeds two years shall count as full term for these purposes, but the term of the first Public Advocate elected to a shortened term to expire at noon on January 8, 2021 under Section 13.101(b)(6) shall not be deemed to be a full term.

(g) No person shall be eligible to serve as Public Advocate who in the last four years held the office of Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor-Recorder, or Public Defender.

(2) Add an amendment to current Section 4.127 to authorize the Public Advocate to appoint the Director of the Office of Citizen Complaints:

SEC. 4.127. POLICE DEPARTMENT.

The Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California and the City and County.

* * * *

OFFICE OF CITIZEN COMPLAINTS. The Public Advocate Mayor shall appoint a nominee of the Police Commission as the director of the Office of Citizen Complaints, subject to confirmation by the Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the Board fails to act on the appointment within 30 days, the appointment shall

be deemed approved. In the event the office is vacant, until the mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim director who shall serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil service requirements of this Charter. The director shall never have been a uniformed member or employee of the department. The director of the Office of Citizen Complaints shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal or discipline of employees of the Office of Citizen Complaints.

* * * *

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CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

June 29, 2016

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

RE: File 160583 – Charter amendment establishing an elected Office of the Public Advocate

Dear Ms. Calvillo,

Should the proposed charter amendment be approved by the voters, in my opinion, it would result in a significant increase in the cost of government.

Beginning in fiscal year 2017-18, there would be a new cost of approximately \$2.4 million annually under a budget set-aside required to fund a new Office of the Public Advocate, and this cost would increase or decrease at the same rate as the City budget going forward.

The proposed amendment would also move three existing functions from other City departments and place them under the Public Advocate. These are; the Office of Citizen Complaints which investigates citizen complaints regarding the Police, the Office of Labor Standards Enforcement which enforces and investigates complaints regarding violations of the City's wage and other labor laws, and the Controller's Whistleblower Program which investigates complaints regarding any misuse of public resources. Taken together, these functions are now budgeted at approximately \$12.8 million. The overall budget for the Office of the Public Advocate including the new set-aside and the budget requirements based on existing functions would be approximately \$15.2 million annually.

The proposed amendment requires a citywide special election in November 2017 at which the Public Advocate would be elected for an initial two year term. Thereafter, the Office of the Public Advocate would be included in the citywide four year election cycle beginning in November 2020 and would serve four year terms. The additional citywide special election would have a one-time cost of approximately \$4 million in the fiscal year 2017-18 budget.

The new required budget set-aside for the Public Advocate is set at three one-hundredths of one percent (0.03%) of the City budget, approximately \$2.4 million as of fiscal year 2016-2017. The amendment also reduces the existing budget set-aside of the Controller's City Services Auditor approved by voters in 2003 from two tenths of one percent (0.2%) to (0.1914%), a change equal to approximately \$688,000 as of the current budget.

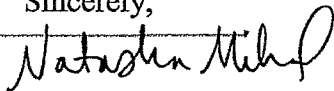
The proposed new Office of the Public Advocate would have a variety of powers to review, investigate and make recommendations regarding the City's public information programs, complaint resolution processes, and its management, contracting and employment practices. The authority and responsibility to perform these functions currently exists in various City departments. The proposed amendment does not substantially change these existing responsibilities. The Public Advocate would have the authority to introduce legislation.

The salary for the new Public Advocate would be set at the average of the other citywide elected officials—approximately \$216,000 annually based on current rates.

This proposed amendment is not in compliance with a non-binding, voter-adopted city policy regarding set-asides. The policy seeks to limit set-asides which reduce General Fund dollars that could otherwise be allocated by the Mayor and the Board of Supervisors in the annual budget process.

Note that the proposed amendment would change the budget, powers and duties of the Controller's Office, which has prepared this statement.

Sincerely,



for Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.

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

June 2, 2016

File No. 160583

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On May 24, 2016, Supervisors Campos introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election:

File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Derek Evans".

By: Derek Evans, Assistant Clerk
Rules Committee

Attachment

c: John Rahaim, Director, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Environmental Planner
Jeanie Poling, Environmental Planner

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

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

June 2, 2016

File No. 160583

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On May 24, 2016, Supervisors Campos introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election:

File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Derek Evans".

By: Derek Evans, Assistant Clerk
Rules Committee

Attachment

c: John Rahaim, Director, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Environmental Planner
Jeanie Poling, Environmental Planner

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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: Nicole Elliott, Mayor's Office
Jon Givner, Office of the City Attorney
John Arntz, Director, Department of Elections
Joyce Hicks, Office of Citizen Complaints
Patrick Mulligan, Office of Labor Standards Enforcement
Toney Chaplin, Police Department
George Gascon, District Attorney
LeeAnn Pelham, Ethics Commission

FROM: ~~06~~ Derek Evans, Clerk, Rules Committee
Board of Supervisors

DATE: June 2, 2016

SUBJECT: CHARTER AMENDMENT INTRODUCED
November 8, 2016, Election

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

File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

Please review and submit any reports ~~7698~~ comments you want to include with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7702 or email: 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: Donna Levitt, Office of Labor Standards Enforcement
Christine Fountain, Police Department
Rachael Kilshaw, Police Department
Shaista Shaikh, Ethics Commission


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: Ben Rosenfield, City Controller

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

DATE: June 2, 2016

SUBJECT: LEGISLATION INTRODUCED - CHARTER AMENDMENT

The Board of Supervisors Rules Committee has received the following legislation, introduced by Supervisor Campos on May 24, 2016. This matter is being referred to you in accordance with Rules of Order 2.22.3.

File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

Please review and submit your written statement pursuant to the Charter 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@sfgov.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: Todd Rydstrom, Office of the City Controller
Maura Lane, Office of the City Controller

Evans, Derek

From: pmonette-shaw <Pmonette-shaw@earthlink.net>
ent: Tuesday, July 05, 2016 4:50 PM
to: Tang, Katy (BOS); Mar, Eric (BOS); Cohen, Malia (BOS); Evans, Derek
Cc: Farrell, Mark (BOS); Peskin, Aaron (BOS); Breed, London (BOS); Kim, Jane (BOS); Yee, Norman (BOS); Wiener, Scott; Campos, David (BOS); Avalos, John (BOS); Calvillo, Angela (BOS)
Subject: Support for Public Advocate Charter Change

July 5, 2016

Rules Committee

San Francisco Board of Supervisors

The Honorable Katy Tang, Supervisor, San Francisco Board of Supervisors, Chair, Rules Committee

The Honorable Eric Mar, Supervisor, San Francisco Board of Supervisors, Member, Rules Committee

The Honorable Malia Cohen, Supervisor, San Francisco Board of Supervisors, Member, Rules Committee

1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Support for Public Advocate Charter

Change

Dear Rules Committee Members,

I urge the Rules Committee to unanimously forward a recommendation to the full Board of Supervisors to place the Public Advocate Charter change on November's ballot.

It's high time San Francisco join cities like New York City, Portland, Toronto and Seattle, along with other jurisdictions around the world, to create a Public Advocate position to serve as an Ombudsperson for everyday San Franciscans. Aren't we supposed to be a City that takes the lead in these sort of endeavors?

If New York City's Public Advocate saved \$170 million in 2015 alone, I'm sure a public Advocate in San Francisco could accomplish similar results here.

As a writer who has focused on public accountability from City Hall for a good number of years, I strongly support creating a Public Advocate position in San Francisco to counteract the lack of accountability and transparency from San Francisco's career politicians,

I am especially supportive of the provision in this Charter change to have the Public Advocate appoint the director of the Office of Citizens Complaints, something that is desperately needed to remove OCC from out of the complete control of SFPD.

My hope is that if Supervisors Kim, Mar and Cohen are not already co-sponsors of this proposed ballot measure, that each of them will quickly sign on to be a co-sponsor.

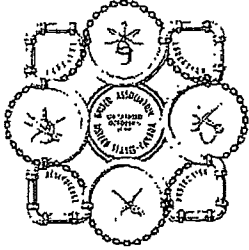
Please advance this out of Rules with a recommendation to the full Board to support this Charter change, and help the full Board place it on the ballot. Let the voters to decide on the merits at the ballot box regarding whether this is a step in the direction they want to see the City adopt to become a more transparent government.

Respectfully submitted,

Patrick Monette-Shaw

Columnist/Reporter

Westside Observer Newspaper



UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES
OF THE PLUMBING AND PIPE FITTING INDUSTRY

LOCAL UNION NO. 38

1621 MARKET STREET • SAN FRANCISCO, CA 94103

June 21, 2016

Supervisor Katy Tang
Rules Committee Member
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Supervisor Eric Mar
Rules Committee Member
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Supervisor Malia Cohen
Rules Committee Member
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Proposal for Position of Public Advocate & Future of Office of Labor Standards Enforcement (OLSE)

Dear Rules Committee Members,

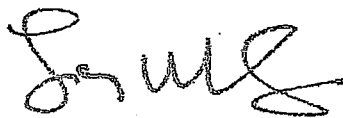
UA Local 38 Plumbers and Pipefitters Union has recently learned more about the proposal for the creation of the position of Public Advocate. After doing so, I felt the need to write to you to explain my concerns.

I feel the creation of a Public Advocate position would create an unnecessary new layer of Government, and the cost to fund such a position will come at the expense of Public Employees, as its funding would come from the General Fund.

To further complicate this idea is the plan to move the Office of Labor Standards Enforcement under the direction of the Public Advocate. As you may or may not know, it was the San Francisco Building Trades Council that was directly responsible for the inception of the (OLSE) to deal with prevailing wage enforcement. To move this office would be a bad idea, as its funding, future and Director would all be in jeopardy.

Once again, I see this as an unnecessary maneuver and I urge you to not support the Public Advocate, as UA Local 38 stands firmly against the proposal.

Sincerely,



LARRY MAZZOLA, JR
Bus.Mgr. & Fin.Secty-Treas.

cc:

Mayor Ed Lee
Naomi Kelly, City Administrator
Hon. Tom Ammiano
Mike Casey, President of SFLC
Mike Theriault, SFBTC
Tim Paulson, SFLC
All Board of Supervisor Members
Pat Mulligan, Director of OLSE
Bob Muscat, Local 21/PEC



United Brotherhood of Carpenters
and Joiners of America
LOCAL UNION NO. 22

June 29, 2016

San Francisco Board of Supervisors
Katy Chang, Chair
Malia Cohen
Eric Mar
Rules Committee, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisors:

Carpenters Local Union 22 has serious concerns with the recently proposed charter amendment which would create the new office of the Public Advocate. In addition, to general questions we share regarding potential budget impacts, expanded bureaucracy and diminished authority of the Mayor and Board of Supervisors, we are principally concerned with the inclusion of the Office of Labor Standards Enforcement within the oversight of this proposed newly elected position.

Sixteen years ago Carpenters Local Union 22 and the San Francisco Building Trades Council aggressively lobbied for the creation of the Office of Labor Standards Enforcement to provide protection to San Francisco workers and to ensure fair and equitable compliance of local labor laws. Since its inception, we have been particularly engaged in the mission of this office, and not coincidentally, all three of its directors have hailed from within our community of trade unions.

It is the opinion of Carpenters Local Union 22 that matters of labor compliance should neither be politicized nor diminished by an electoral process. Worker protections are far too important to allow for potential compromise. With this in mind, we respectfully request that the Office of Labor Standards Enforcement be removed from this charter amendment proposal, such that it would not fall within the purview of the potentially new Public Advocate position.

Thank you for your consideration regarding this matter.

Respectfully

Todd Williams
Senior Field Representative

cc: Supervisor Malia Cohen
Supervisor Eric Mar
Supervisor London Breed, Board President
San Francisco Board of Supervisors
Mayor Ed Lee

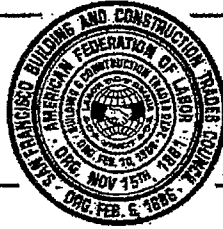
sko/opei-u-3-af-cio (38)

2085 3RD STREET • SAN FRANCISCO, CA 94107
TELEPHONE: (415) 355-1322 • FAX: (415) 355-1422



San Francisco Building and

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SAN FRANCISCO, CA 94109
EMAIL: mike@sfbctc.org



Construction Trades Council

TEL (415) 345-9333

www.sfbuildingtradescouncil.org

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28 June 2016

Katy Tang, Chair
Malia Cohen
Eric Mar
Rules Committee, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, California 94102

Dear Supervisors:

The Board of Business Representatives of the San Francisco Building and Construction Trades Council at its meeting this morning discussed the proposed charter amendment to create a new office of a Public Advocate. They have tasked me with writing to express their concerns.

First, we do not see the necessity or even the utility of such an office. In the current tripartite structure of City government, lines of responsibility and so of accountability are clear. To our understanding, a Public Advocate would constitute a kind of shadow executive branch, and muddle these lines. Moreover, one of the key purposes of district election of Supervisors is to ensure that residents have local advocates who understand their needs. It has long been held up to us as a central principle that district elections are necessary because citywide elections allow for the greater influence of moneyed interests, and so we are entitled to be puzzled and concerned by a proposal for an additional citywide office. For whom, ultimately, will the Public Advocate advocate?

Second, funding for an additional office and its staff will draw resources from other needs of the City. These needs require no enumeration here. We would prefer funding of any of a legion of chronically underfunded but important City functions to the creation of a new bureaucracy.

Finally, and most importantly, we object to placing the Office of Labor Standards Enforcement (OLSE) under the control of the Public Advocate. Sixteen years ago this Council demanded and obtained creation of the OLSE to protect San Francisco workers and ensure fair enforcement of labor laws. I was personally involved in providing it the case that established its effectiveness. We have remained engaged with the office and its mission, and – not coincidentally – all three of its directors have come from our ranks. The effect of removal of the OLSE from the executive branch may ironically be to free a mayor from accountability for worker protection. We ask at minimum that jurisdiction over the OLSE be withdrawn from the proposal for a Public Advocate.

Respectfully yours,

Michael Thériault

cc: Affiliates
Board of Supervisors
Mayor



Evans, Derek

From: Evans, Derek
Sent: Thursday, June 02, 2016 6:35 PM
To: Rosenfield, Ben (CON)
Cc: Rydstrom, Todd (CON); Lane, Maura (CON)
Subject: BOS Referral - File No. 160583 - Charter Amendment - Public Advocate
Attachments: 160583 - Referral - CTRL.pdf

Hello,

On May 24, 2016, Supervisor Campos introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

Please review and submit your written statement pursuant to the Charter to be included with the legislative file.

Regards,

Derek K. Evans


Assistant Clerk, Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Phone: (415) 554-7702 | Fax: (415) 554-5163

Derek.Evans@sfgov.org | www.sfbos.org

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Evans, Derek

From: Evans, Derek
Sent: Thursday, June 02, 2016 6:35 PM
To: Jones, Sarah (CPC)
Cc: Rahaim, John (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Poling, Jeanie (CPC)
Subject: BOS Referral - File No. 160583 - Charter Amendment - Public Advocate (Environmental Review)
Attachments: 160583 - Referral - CEQA.pdf

Hello,

On May 24, 2016, Supervisor Campos introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election.


File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

This legislation is being transmitted to you for environmental review.

Derek K. Evans

Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
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Evans, Derek

From: Evans, Derek
Sent: Thursday, June 02, 2016 6:35 PM
To: Elliott, Nicole (MYR); Givner, Jon (CAT); Arntz, John (REG); Hicks, Joyce (OCC); Mulligan, Pat (ECN); Chaplin, Toney (POL); Gascon, George (DAT); Pelham, LeeAnn (ETH)
Cc: 'Levitt, Donna (ADM)'; Fountain, Christine (POL); Kilshaw, Rachael (POL); Shaikh, Shaista (ETH)
Subject: BOS Referral - File No. 160583 - Charter Amendment - Public Advocate
Attachments: 160583 - Referral - Mandated.pdf

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On May 24, 2016, Supervisor Campos introduced legislation for the following proposed Charter Amendment for the November 8, 2016, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.


File No. 160583 Charter Amendment - Public Advocate

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to: 1) create the Office of the Public Advocate; 2) set the Public Advocate's powers and duties; 3) authorize the Public Advocate to review the administration of City programs, including programs for transmitting information to the public, and to receive, investigate, and attempt to resolve complaints regarding City services and programs; 4) place the Public Advocate in charge of the Office of Labor Standards Enforcement (OLSE), the Office of Citizen Complaints (OCC), and the Controller's whistleblower program; 5) call a special election for November 7, 2017, to elect the first Public Advocate; 6) provide for the Public Advocate's election, removal, and salary; and 7) establish a set-aside of 0.03% of the City's budget, as well as the amounts previously budgeted to OLSE, OCC, and the whistleblower program, to fund the Office of the Public Advocate, and setting an operative date, at an election to be held on November 8, 2016.

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

Regards,

Derek K. Evans
Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7702 | Fax: (415) 554-5163
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Introduction Form

By a Member of the Board of Supervisors or the Mayor

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 [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach 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 a Imperative Form.

Sponsor(s):

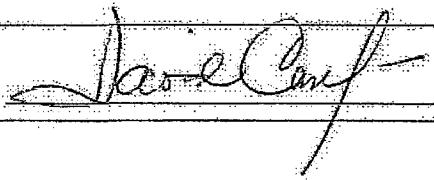
Campos, Avalos, Kim, Mar

Subject:

Public Advocate

The text is listed below or attached:

[]

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: