

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Ben Rosenfield, Controller, Office of the Controller  
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector

FROM: Victor Young, Assistant Clerk *Victor Young*  
Rules Committee

DATE: November 26, 2019

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Rules Committee received the following proposed legislation on November 12, 2019:

**File No. 191149**

**Ordinance amending the Administrative Code to establish the Public Bank Planning Task Force to submit to the Board of Supervisors and to the Local Agency Formation Commission business and governance plans for a non-depository Economic Development Financial Institution and for a Public Bank.**

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

c: Todd Rydstrom, Office of the Controller  
Amanda Kahn Fried, Office of the Treasurer and Tax Collector

1 [Administrative Code - Public Bank Planning Task Force]

2  
3 **Ordinance amending the Administrative Code to establish the Public Bank Planning**  
4 **Task Force to submit to the Board of Supervisors and to the Local Agency Formation**  
5 **Commission business and governance plans for a non-depository Economic**  
6 **Development Financial Institution and for a Public Bank.**

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

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

15 Section 1. Chapter 5 of the Administrative Code is hereby amended by adding Article  
16 XVI, consisting of Sections 5.16-1 through 5.16-7, to read as follows:

17 **SEC. 5.16-1. CREATION OF TASK FORCE.**

18 *The Board of Supervisors hereby establishes the Public Bank Planning Task Force (“Task*  
19 *Force”).*

20 **SEC. 5.16-2. FINDINGS AND PURPOSE.**

21 *(a) California Assembly Bill 857, the Public Banking Act, effective January 1, 2020, authorizes*  
22 *local agencies to create public banks for the purposes of achieving cost savings, strengthening local*  
23 *economies, supporting community economic development, and addressing infrastructure and housing*  
24 *needs for localities.*

25 *(b) A San Francisco Public Bank would create a fiscally safe and sound institution to invest*  
*public funds in a manner that aligns with the values and interests of the City, including investments in*

1 City residents, businesses, and sectors that serve the public good and that are underserved or unserved  
2 by the existing financial industry.

3 (c) The City and County of San Francisco has a population of over 800,000 residents who,  
4 through decades of public elections, have repeatedly prioritized local control, transparency, and  
5 economic opportunity as valued pillars of public interest. These interests would be served by  
6 sustainable and responsible community investments that promote economic security, affordability,  
7 environmental sustainability, and general wellbeing for all San Franciscans, guided by the creation of  
8 lending priorities focused on those objectives.

9 (d) The complexity of establishing a public bank requires focused, sustained planning and  
10 interim steps to ensure ongoing viability.

11 (e) This complex task is a valuable one, as City government banking services are provided by  
12 large national banks that invest in sectors that may harm San Francisco residents or contradict the  
13 City's values. These banks continue to resist pressure from national movements to have their  
14 investments reflect values of transparency, environmental responsibility, and social justice, and they  
15 have been criticized for racially-biased predatory lending and foreclosures and for investments in fossil  
16 fuels, weapons, and private prisons.

17 (f) Traditional financial institutions' executive compensation and employee incentive programs  
18 often are dissociated from the external or public effects of their investment policies, in some cases  
19 affecting significant financial harm to customers and shareholders.

20 (g) While a Public Bank will require planning and investment of public funds, it can create  
21 significant long- term benefits for the City, which include allowing local tax dollars to be invested in  
22 local priorities while still ensuring the safety and preservation of capital, liquidity to meet City cash  
23 flow needs, and return on investments.

1            (h) A Public Bank can and should balance both fiscal solvency and investments in residents,  
2 businesses, and sectors that reflect San Francisco values, advancing issues of social, economic, gender,  
3 racial, and environmental equity, among others.

4            (i) The long-term financial and social well-being of the City requires sustainable and equitable  
5 economic growth locally, nationally, and internationally, which in turn requires equitable and  
6 transparent financial investment and opportunity.

7            (j) Increasing interest among municipalities and regions across California and the United  
8 States in public bank formation provided the impetus for Assembly Bill 857's enactment.

9            (k) The Budget and Legislative Analyst of the Board of Supervisors has produced reports  
10 regarding banking, community supportive banking options, and public banking, including on the  
11 following subjects: "Community Supportive Banking Options," September 8, 2011 (Updated);  
12 "Community Supportive Banking Options 2017 Update," November 27, 2017; and "Large Bank Social  
13 Responsibility Screening," May 19, 2017. These reports are on file with the Clerk of the Board of  
14 Supervisors in File No. \_\_\_\_\_.

15            (l) In 2017, in response to Resolution No. 152-17 urging the formation of a Municipal Bank  
16 Feasibility Task Force to research the viability and advisability of a Public Bank, Treasurer Jose  
17 Cisneros formed such a group. After 18 months of work, it produced a report entitled, "Municipal  
18 Bank Feasibility Task Force Report," dated March 2019, which analyzed three models: (1) a lending  
19 entity focused on investments in affordable housing and small business lending to achieve community  
20 goals; (2) a bank that performs the City's cash management and other banking needs, allowing the City  
21 to divest from large commercial banks; and (3) a bank that combines these functions. A copy of said  
22 report is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

23            **SEC. 5.16-3. DEFINITIONS.**

24            For the purposes of this Article XVI, the following terms shall have the following meanings:  
25

1           “Economic Development Financial Institution” (EDFI) means a non-depository lending  
2 corporation that is wholly-owned by the City.

3           “Local Enterprise” means small businesses, nonprofits, cooperatives, and community land  
4 trusts that operate primarily in San Francisco.

5           “Public Bank” means a “public bank” as defined by California Government Code Section  
6 57600(b)(1), as may be amended from time to time.

7           **SEC. 5.16-4. POWERS AND DUTIES OF THE TASK FORCE.**

8           (a) Not later than June 30, 2020, the Task Force shall submit to the Board of Supervisors and  
9 to the Local Agency Formation Commission a business and governance plan for establishing and  
10 operating an EDFI, which shall address the EDFI’s planned lending services, prioritizing investment in  
11 affordable housing production and preservation, Local Enterprise, and public infrastructure;  
12 organization and management; financial projections; and funding requirements; and which may  
13 include recommendations for modifications of City laws and regulations.

14           (b) Not later than December 31, 2020, the Task Force shall submit to the Board of Supervisors  
15 and to the Local Agency Formation Commission a business and governance plan for the EDFI to  
16 become a Public Bank, which shall:

17           (1) meet the elements required in a business plan to be submitted as part of a public  
18 bank license application to the California Department of Business Oversight;

19           (2) include a study that meets the requirements of California Government Code Section  
20 57606(a) for state-chartered public banks and, at the discretion of the Task Force, may address the  
21 elements set forth in California Government Code Section 57606(b);

22           (3) incorporate the following time objectives: the EDFI applying for a public bank  
23 license within three years of its establishment, and becoming operational as a Public Bank within five  
24 years of its establishment; the Public Bank providing comprehensive banking services to the City within  
25 five years of its becoming operational;

1                   (4) establish lending priorities that promote economic security, affordability,  
2 environmental sustainability, and general wellbeing for all San Franciscans, which shall:

3                   (A) prioritize investment in affordable housing production and preservation,  
4 Local Enterprise, and public infrastructure;

5                   (B) evaluate implementing additional lending programs investing in public  
6 lands, zero-emission renewable energy systems, energy efficiency upgrades, student loans, and  
7 sustainable food systems; and

8                   (C) prohibit lending that contradicts with the City's values, which shall include  
9 prohibiting predatory lending and lending for fossil fuels, tobacco, firearms, weapons, market-rate  
10 housing, and prisons and detention centers;

11                   (5) recommend a governance and regulatory structure of a Public Bank that  
12 encompasses compliance with legal requirements, ethical standards, lending priorities, and standards  
13 for transparency, community oversight, and accountability;

14                   (6) make recommendations for modifications of City laws and regulations, which may  
15 include draft legislation or regulations;

16                   (7) make recommendations whether to establish and operate the Public Bank in  
17 partnership with other California cities, counties, or other local agencies, or to include other  
18 California cities, counties, or other local agencies in the capitalization or as customers of the Public  
19 Bank; and

20                   (8) address any other matter the Task Force deems appropriate.

21                   (c) The Task Force may in its discretion incorporate the analysis of the Municipal Bank  
22 Feasibility Task Force Report into the plans required under subsections (a) and (b).

23                   **SEC. 5.16-5. MEMBERSHIP.**

24                   (a) The Task Force shall consist of nine members as follows:

1                   (1) Seats 1-3 shall be held by technical experts in financial institutions, each of whom  
2 shall have expertise in at least one of the following: Community Development Financial Institutions;  
3 credit unions, as defined in Section 165 of the California Financial Code; small banks or intermediate  
4 small banks, as defined in Section 25.12(u) of Title 12 of the Code of Federal Regulations; bank or  
5 lending entity formation or business planning; or financial institution regulatory compliance.

6                   (2) Seats 4-7 shall be held by community representatives, each of whom shall have a  
7 commitment to economic, gender, and racial justice; a commitment to serving low-income  
8 communities, communities of color, and immigrant communities; and expertise in at least one of the  
9 following: affordable housing financing or policy; Local Enterprise lending; consumer or student  
10 lending; or environmental justice, with expertise in areas such as zero-emission renewable energy  
11 sources, energy efficient building design, or sustainable food systems.

12                   (3) Seat 8 shall be held by the Controller or the Controller's designee.

13                   (4) Seat 9 shall be held by the Treasurer or the Treasurer's designee.

14                   (b) The Board of Supervisors shall appoint Seats 1-7.

15                   **SEC. 5.16-6. ORGANIZATION AND OPERATIONS.**

16                   (a) The Task Force shall convene within 30 days of the effective date of this Article XVI and  
17 shall meet at least once per month.

18                   (b) Subject to the fiscal and budgetary provisions of the Charter, the Treasurer's Office shall  
19 designate staff to provide administrative and clerical support for the Task Force for the preparation of  
20 the plan required under such subsection (a) of Section 5.16-4.

21                   (c) Subject to the fiscal, budgetary, and civil service provisions of the Charter, the Treasurer's  
22 Office may hire and make available to the Task Force an outside consultant or consultants with  
23 expertise in drafting business plans for the establishment of California non-depository lending entities  
24 to draft the plan required under subsection (a) of Section 5.16-4 under the direction and for the  
25 approval of the Task Force.

1           (d) Subject to the fiscal and budgetary provisions of the Charter, the Local Agency Formation  
2 Commission shall designate staff to provide administrative and clerical support for the Task Force for  
3 the preparation of the plan required under subsection (b) of Section 5.16-4.

4           (e) Subject to the fiscal, budgetary, and civil service provisions of the Charter, the Local  
5 Agency Formation Commission may hire and make available to the Task Force an outside consultant  
6 or consultants with expertise in drafting business plans for the establishment of California banks,  
7 community engagement, or the establishment of public governance models to draft the plan required  
8 under subsection (b) of Section 5.16-4 under the direction and for the approval of the Task Force.

9           (f) The Task Force may request information from other technical advisors as needed, such as  
10 experts in municipal ownership and financing, student lending, affordable housing, sustainable  
11 agriculture loans, renewable energy, or public infrastructure.

12           (g) Members appointed to Seats 1-7 shall serve at the pleasure of the Board of Supervisors and  
13 may be removed by the Board at any time. Each member in Seats 1-7 may remain on the Task Force  
14 until its termination under Section 5.16-7, unless removed by the Board. Any vacancy in Seats 1-7  
15 shall be filled by the Board.

16           (h) Designees in Seats 8 and 9 are members of the Controller's Office and Treasurer's Office  
17 respectively and serve in lieu of the Controller and Treasurer respectively. The Controller, as to Seat  
18 8, and the Treasurer, as to Seat 9, may change the designee at any time or serve in the seat at any time.

19           (i) Service in Seats 1-7 shall be voluntary. Members appointed to Seats 1-7 shall serve without  
20 compensation from the City. Members serving in Seats 8 and 9 shall receive their regular salaries for  
21 time spent on the Task Force because they are serving in an official capacity as representatives of their  
22 departments.

23           (j) The Task Force shall elect a Chairperson and Vice Chairperson from its members.  
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1            (k) All recommendations of the Task Force shall be made pursuant to a vote or votes of the  
2 Task Force.

3            **SEC. 5.16-7. SUNSET DATE.**

4            This Article XVI shall expire by operation of law, and the Task Force shall terminate, eighteen  
5 months from the Article's effective date. Upon expiration of this Article, the City Attorney shall cause it  
6 to be removed from the Administrative Code.

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

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

15 By:

  
16 LISA POWELL  
17 Deputy City Attorney

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