

FILE NO. 090009

ORDINANCE NO.

1 [Modifying election procedures and deadlines for a June 2, 2009 election.]

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3 **Emergency ordinance (1) finding that an emergency exists for purposes of Charter**  
4 **Section 2.107; (2) modifying various election procedures and deadlines for a June 2,**  
5 **2009 special election; and (3) identifying the proposed revenue measures that would be**  
6 **submitted using the modified procedures.**

7 Note: Additions are *single-underline italics Times New Roman*;  
8 deletions are *strikethrough italics Times New Roman*.  
9 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

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12 Section 1. **Finding of Emergency Under Charter Section 2.107.**

13 Section 2.107 of the San Francisco Charter authorizes the City to pass emergency  
14 ordinances to address public emergencies threatening life, health, or property, or to provide  
15 for the uninterrupted operation of any City department required to comply with time limitations  
16 established by law.

17 The Board of Supervisors hereby finds that an actual emergency exists that requires  
18 the passage of this emergency ordinance, based on the following:

19 1. The fiscal crisis impacting the nation and the state has affected San Francisco as  
20 well. The City has been hit by a sudden and precipitous drop in local revenues—revenues  
21 from the real estate transfer tax alone are expected to drop almost 50 percent below the  
22 adopted budget levels.

23 2. As a result of these conditions, and the City's structural budget deficit, the Mayor's  
24 Office has projected a General Fund deficit of \$575.6 million for Fiscal Year 2009-10, a loss of  
25 roughly half of the City's discretionary spending as compared to funds available for

1 discretionary spending in Fiscal Year 2008-09. This deficit would severely harm public health  
2 and human service programs in particular, since the departments delivering those programs  
3 are among those most dependent on the General Fund. Unless the City can replace this  
4 funding, the health, safety, and welfare of the vulnerable segments of the population will be  
5 put at risk.

6 3. The City has already made significant cuts in government spending, including the  
7 elimination or postponement of programs, lay-offs of nearly 400 City employees, and  
8 elimination of over 300 vacant positions. But adoption of most new revenue sources, such as  
9 taxes, requires voter approval.

10 4. The next regularly-scheduled City election is not until November 2009, nearly  
11 halfway through the next fiscal year and too late to address the projected deficit.

12 5. In response to this situation, the Board of Supervisors intends to call a special  
13 election for June 2, 2009, to submit a number of proposed revenue measures to the voters, so  
14 that the Board and the Mayor will know before the commencement of Fiscal Year 2009-10  
15 whether the voters have approved the revenue measures. But in order to conduct an election  
16 on such shortened notice, the City must modify certain election procedures and deadlines as  
17 set forth in this ordinance.

18 6. State law provides that the last day a charter amendment may be submitted for a  
19 June 2, 2009 election is March 6, 2009. The Director of Elections has determined that the  
20 Department of Elections could conduct a special election on June 2, 2009, without having to  
21 alter or waive the deadlines and requirements set forth in section 500, et seq., of the  
22 Municipal Elections Code, if the Board submitted all of the measures to be considered at that  
23 election no later than the close of business March 6, 2009.

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1           7 6. The Board of Supervisors therefore finds that an emergency exists for purposes of  
2 Charter Section 2.107. This emergency ordinance will ensure that the City is able to submit  
3 and the voters are able to consider revenues measures designed to avoid the impending  
4 deficit threatening the public health, safety, and welfare.

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6           Section 2. **Measures Covered by the Modified Election Procedures.**

7           The election procedures modified in Section 3 of this ordinance shall apply to any or all  
8 of the following measures, or substantially similar measures, submitted by the full Board of  
9 Supervisors to the voters at a special election on June 2, 2009:

10           1. A possible increase in the sales tax, the increase not to exceed 0.5% for a total tax  
11 rate of 9%, and including a possible dedication of the proceeds of the tax increase to  
12 emergency health and human services and to public protection;

13           2. A possible increase in the payroll tax, the increase not to exceed 0.2% for a total tax  
14 rate of 1.7%, and including a possible dedication of the proceeds of the tax increase to  
15 emergency health and human services and to public protection;

16           3. ~~A possible new residential utilities users tax, not to exceed 7.5%, and including a~~  
17 ~~possible dedication of the proceeds of the tax increase to emergency health and human~~  
18 ~~services and to public protection;~~

19           4. ~~A possible increase in the commercial utilities users tax, the increase not to exceed~~  
20 ~~2.5% for a total tax rate of 10%, and including a possible dedication of the proceeds of the tax~~  
21 ~~increase to emergency health and human services and to public protection;~~

22           5. ~~A possible new parcel tax, not to exceed \$300 for a residential parcel and \$1,000 for~~  
23 ~~other parcels;~~

1           6. A possible new gross receipts tax on residential rental income, not to exceed  
2 0.127%, and including a possible dedication of the proceeds of the tax increase to emergency  
3 health and human services and to public protection;

4           47. A possible new gross receipts tax on commercial rental income, not to exceed  
5 0.127%, and including a possible dedication of the proceeds of the tax increase to emergency  
6 health and human services and to public protection;

7           58. A possible new gross receipts tax on all commercial transactions, not to exceed  
8 0.1%, and including a possible dedication of the proceeds of the tax increase to emergency  
9 health and human services and to public protection;

10          ~~9. A possible new surcharge on the parking tax, the surcharge not to exceed 5% for a  
11 total tax rate of 30%, the proceeds of the surcharge going to the General Fund;~~

12          640. A possible amendment to Charter Section 9.113.5, allowing the City to  
13 appropriate up to 100% of the current balance in the Rainy Day Reserve, not to exceed 20%  
14 of the projected deficit, in years in which a budgetary deficit of \$250 million or more is  
15 projected; and,

16          744. A possible new charter amendment that would cap all set-asides at their Fiscal  
17 Year 2008-2009 levels, allow the City to reduce its contributions during budgetary shortfalls,  
18 and provide that year-end surpluses be returned to the General Fund.

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20           **Section 3. Modifications to Election Procedures.**

21           (a) **Deadline for Submission of Measures.** Notwithstanding the provisions of  
22 Municipal Elections Code Section 300, subds. (a) and (b), any measure identified in Section 2  
23 of this ordinance may be submitted by the Board of Supervisors to the Director of Elections no  
24 later than the close of business March 6, 2009 for a June 2, 2009 special election.

1           **(b) (a) Thirty-Day Hold.** Notwithstanding the provisions of Municipal Elections Code  
2 Section 305(a)(1), the Board of Supervisors may consider the measures identified in Section 2  
3 of this ordinance fewer than 30 days after receiving (i) a draft of the proposed measure  
4 approved as to form by the City Attorney, and (ii) a legislative digest for the proposed  
5 measure prepared by the City Attorney, so long as both the draft and the digest are delivered  
6 to the Clerk of the Board at least 72 hours prior to the committee hearing and made available  
7 for public review at that time.

8           **(c) (b) Additional Hearings on All Amendments.** Notwithstanding the provisions of  
9 Municipal Elections Code Section 305(a)(3), the Board committee hearing a measure  
10 identified in Section 2 of this ordinance is not required to notice any and all amendments to  
11 the proposed measure for an additional public hearing, and shall only be required to notice  
12 substantive changes for an additional hearing as provided by the notice and agenda  
13 requirements of the Brown Act and the Sunshine Ordinance.

14           ~~(c) Deadlines for Submission of Official Arguments.~~ Notwithstanding the provisions of  
15 ~~Municipal Elections Code Sections 535 et seq., the Director of Elections may modify the~~  
16 ~~deadlines for submission of proponent, opponent, and rebuttal ballot arguments for or against~~  
17 ~~the measures identified in Section 2, and any related deadlines, as the Director deems~~  
18 ~~necessary to allow for the timely and orderly preparation and distribution of the voter~~  
19 ~~information pamphlet for the June 2, 2009 election.~~

20           ~~(d) Deadlines for Submission of City Attorney Statement, Ballot Simplification~~  
21 ~~Committee Digest, and Controller's Financial Analysis.~~ Notwithstanding the provisions of  
22 ~~Municipal Elections Code Sections 510, 515, and 520, the Director of Elections may modify~~  
23 ~~the deadlines for submission of the City Attorney statement, the Ballot Simplification~~  
24 ~~Committee digest, and the Controller's financial analysis, respectively, for the measures~~  
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1 identified in Section 2, as the Director deems necessary to allow for the timely and orderly  
2 preparation and distribution of the voter information pamphlet for the June 2, 2009 election.

3 ~~(e) Deadlines for Public Inspection of Voter Information Pamphlet Materials.~~

4 Notwithstanding the provisions of Municipal Elections Code Section 590, the Director of  
5 Elections may modify the deadlines for public inspection of the various categories of materials  
6 included in the voter information pamphlet for the measures identified in Section 2, as the  
7 Director deems necessary to allow for the timely and orderly preparation and distribution of  
8 the voter information pamphlet for the June 2, 2009 election, provided that the Director  
9 provides for the full 10-day inspection period for all such materials required under California  
10 Elections Code Sections 9295 and 13313.

11 ~~(f) Elimination of Paid Arguments. Notwithstanding the provisions of Municipal~~

12 ~~Elections Code Sections 535(c) and 560, the Director of Elections shall not accept paid~~  
13 ~~arguments for or against the measures identified in Section 2 or include such paid arguments~~  
14 ~~in the voter information pamphlet for those measures. "Paid arguments" shall, for purposes of~~  
15 ~~this Section, include ballot arguments submitted pursuant to Municipal Elections Code~~  
16 ~~Sections 565 and 570 with in-lieu signatures rather than payment of the printing fee.~~

17 ~~(g) Notice of Submission of Ballot Arguments. Notwithstanding the provisions of~~

18 ~~Municipal Elections Code Sections 525(a), the Director of Elections may waive, in whole or in~~  
19 ~~part, or otherwise modify the requirement that the Director publish notice in the official~~  
20 ~~newspaper on three separate occasions that ballot arguments may be submitted for or against~~  
21 ~~the measures identified in Section 2, as the Director deems necessary to allow for the timely~~  
22 ~~and orderly preparation and distribution of the voter information pamphlet for the June 2, 2009~~  
23 ~~election, provided that the Director provides for the full 10-day inspection period for such ballot~~  
24 ~~arguments required under California Elections Code Sections 9295 and 13313.~~

1            (d) ~~(h)~~ **Notice of Changes.** The Director of Elections shall publish on the Department  
2 of Elections' website notice of all changes in deadlines and other modifications to election  
3 procedures that he makes under the authority of this ordinance.

4            (e) ~~(i)~~ **Board Rule 2.28 Regarding Charter Amendments.** The Board of Supervisors  
5 waives the application of Board Rule 2.28 to any charter amendments included among the  
6 measures identified in Section 2.

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

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By: \_\_\_\_\_  
11            THOMAS J. OWEN  
12            Deputy City Attorney

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