

File No. 170738

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date June 11, 2018

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
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Completed by: Alisa Somera Date June 7, 2018

Completed by: _____ Date _____

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

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

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

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

16 Section 1. The Administrative Code is hereby amended by revising Chapter 16, Article
17 XIII, Sections 16.550, 16.551, 16.553, 16.553-1, 16.553-2, 16.554, 16.555, 16.556, 16.557,
18 16.558, 16.560, 16.561, 16.563, 16.563-1, 16.564, and by adding Sections 16.553-3, 16.557-
19 1, 16.566, to read as follows:

20 **SEC. 16.550. PURPOSE.**

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) The necessity for an election;

21 (b) The procedure for nomination and selection of candidates to serve on the Board;

22 *and*

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

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

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

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

15 **SEC. 16.553-1. CANDIDATE QUALIFICATION STATEMENTS.**

16 (a) **Content and Form of Statement.** Candidates ~~may~~ shall file a candidate
17 qualification statement including the name, age and occupation of the candidate and a
18 description of no more than 200 words of the candidate's education and qualifications as
19 expressed by the candidate. The candidate qualification statement shall also require candidates to
20 attest that they have read and understand the procedures and requirements set forth in this Article XIII.
21 To ensure that all statements are filed in a uniform format, the statement shall be in a manner
22 specified, and on a form provided, by the Department of Elections, ~~or Contractor~~, for this
23 purpose.
24
25

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

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

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

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

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

20 (a) Statement of Economic Interests (Form 700). Each candidate for Retirement Board,
21 Health Service Board or Retiree Health Care Trust Fund Board elections shall file, by the date
22 set by the respective Board for verifying acceptance of the nomination, a ~~statement~~ Statement of
23 Economic Interests (Form 700) disclosing the information required by the disclosure category for
24 the ~~elective~~ office sought by the candidate established in the Conflict of Interest Code.
25 Candidates shall file such statements with the Ethics Commission ~~respective Board on the same~~

1 *forms as used by filers under Section 3.1-100 et seq. of the Conflict of Interest Code.* This statement
2 shall not be required if the candidate has filed, within 90 days prior to accepting the
3 *nomination, a statement at disclosure category one (1) with the City and County of San Francisco*
4 *Ethics Commission.*

5 **(b) Spending by Candidates.**

6 **(1) Disclosure.** *Whenever a candidate for the Retirement Board, Health Service Board*
7 *or Retiree Health Care Trust Fund Board spends \$500 or more on communications, including but not*
8 *limited to any broadcast, electronic, social media or telephone communication, and any printed*
9 *mailing, flyer, door-hanger, pamphlet, brochure, card, sign, or billboard, with persons eligible to*
10 *participate in elections for the Retirement Board, Health Service Board or Retiree Health Care Trust*
11 *Fund Board, the candidate shall file disclosure statements that include:*

12 *(A) a copy of the communication(s);*

13 *(B) the amount the candidate spent on creating and distributing the*
14 *communication(s);*

15 *(C) the source of the candidate's funds spent on creating and distributing the*
16 *communication(s); and*

17 *(D) the vendor(s) used to create or distribute the communication(s).*

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

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

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

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

10 (2) a copy of the communication(s);

11 (3) the amount the person or entity spent on creating and distributing the
12 communication(s);

13 (4) the source of the person's or entity's funds spent creating and distributing the
14 communication(s); and

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

16 (b) Filing of Disclosures. Persons or entities shall file the statements required by this Section
17 16.553-3 with the Ethics Commission. These persons or entities shall file the required disclosure
18 statements within 72 hours of distributing such communications, except that in the 14 days prior to first
19 date on which ballots may be marked and delivered, and continuing through the entire period in which
20 ballots may be marked and delivered, persons and entities shall file the required disclosure statements
21 within 24 hours of distributing these communications.

22 (c) Exception. Employee organizations that represent employees who are eligible to benefit
23 from the Retirement System, Health Service System or Retiree Health Care Trust Fund, are subject to
24 the disclosure requirements established by subsections (a) and (b); provided that, an employee
25

1 organization whose communications are directed solely to its own members shall not be required to
2 disclose copies of those communications.

3 **SEC. 16.554. NOTICE TO DEPARTMENT OF ELECTIONS ~~OR CONTRACTOR~~.**

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

8 **SEC. 16.555. NOTICE TO DEPARTMENTS; APPOINTMENT OF ELECTION**
9 **OFFICERS.**

10 The Department of Elections ~~or Contractor~~ shall notify each department, office and
11 agency of the City and County of San Francisco (hereunder referred to as "department") at
12 least 90 days prior to the First Voting Day that the department must designate an employee
13 who shall serve as Election Officer for that department and must inform the Department of
14 Elections ~~or Contractor~~ at least 60 days prior to the First Voting Day of the identity of such
15 officer. The Department of Elections ~~or Contractor~~ shall supply each department with a form
16 which can be returned to the Department of Elections ~~or Contractor~~ which identifies the
17 employee who has been designated Election Officer. If any department has not designated an
18 Election Officer by the appointed deadline, the Department of Elections ~~or Contractor~~ shall
19 treat the department head as the Election Officer until such designation has been made.

20 **SEC. 16.556. INSTRUCTIONS TO ELECTION OFFICERS.**

21 The Department of Elections ~~or Contractor~~ shall provide written instructions to each
22 Election Officer at least 21 days prior to the First Voting Day, informing such officer of dates
23 on which ballots will be distributed and collected and the procedure to be followed for their
24 distribution and collection. If any department has failed to designate an Election Officer by the
25 time that the Department of Elections ~~or Contractor~~ sends these written instructions, the

1 Department of Elections ~~or Contractor~~ shall thereafter treat the administrative head of the
2 department as the Election Officer until another employee has been designated as such by
3 that department.

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

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

9 The Retirement Board, Health Service Board or Retiree Health Care Trust Fund Board
10 shall also furnish the Department of Elections ~~or Contractor~~ with a list of the members and
11 retired members of the Retirement System or Health Service System respectively eligible to
12 vote ("voters") in the election at the same time that it furnishes the names of the eligible
13 nominees. A supplemental list shall be furnished to the Department of Elections ~~or Contractor~~
14 within two days of the First Voting Day, which list shall provide the names of eligible voters not
15 included on the original list. These lists shall be in the format required by the Department of
16 Elections ~~or Contractor~~. These lists shall include the last known addresses for the members
17 and retired members. For the active members, at the election of the entity conducting the
18 election the department address shall be provided as an alternative.

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

23 **SEC. 16.557-1. CONFIDENTIALITY OF NAMES AND ADDRESSES OF ELIGIBLE**
24 **VOTERS.**

1 The disclosure of the names, addresses, and other personal information of eligible voters in the
2 custody and control of the Department of Elections shall not be subject to the California Elections
3 Code, including Section 2194. Any potential disclosure of names, addresses, and other personal
4 information of eligible voters shall be subject to the California Public Records Act (California
5 Government Code Section 6250, et seq.) and the San Francisco Sunshine Ordinance (Administrative
6 Code Section 67.1, et seq.).

7 **SEC. 16.558. BALLOTS TO CONTAIN INSTRUCTIONS FOR VOTING.**

8 Each ballot shall contain instructions printed on it informing the voters of the procedure
9 to be used in marking the ballot. Each ballot, or ballot return envelope, shall inform the voter
10 that there are three ways to return the ballot:

11 (a) By placing the ballot in the signed and sealed return envelope provided by ~~the~~
12 ~~Contractor~~ or the Department of Elections in the container maintained for such purpose by the
13 Election Officer of the voter's department, or by otherwise using the collection procedure
14 arranged for by the Election Officer;

15 (b) By delivering the signed and sealed return envelope provided by ~~the Contractor~~ or
16 the Department of Elections with the ballot enclosed personally to the Department of Elections
17 ~~or the Contractor~~; and

18 (c) By placing a stamp on the ballot return envelope and mailing the ballot and
19 envelope to the Department of Elections ~~or the Contractor~~.

20 The instructions shall also note the date by which ballots must be delivered to be
21 counted.

22 **SEC. 16.560. DELIVERY OF BALLOTS AND INSTRUCTIONS TO ELECTION**
23 **OFFICERS.**

24 (a) **Members.** The Department of Elections ~~or Contractor~~ shall cause the ballots and
25 accompanying envelopes to be mailed or delivered pursuant to Section 16.559(a) not later

1 than 10 days prior to the First Voting Day, along with written instructions for their proper
2 distribution and collection and any other pertinent guidelines as set out in these provisions or
3 as otherwise applicable.

4 (b) **Retired Members.** The Department of Elections ~~or Contractor~~ shall deposit in the
5 mail the ballots and accompanying envelopes to each retired member at least 10 business
6 days prior to the First Voting Day.

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

8 Each Election Officer shall:

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

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

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

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

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

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

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

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

13 (b) Within five days of the close of voting and prior to certification, the Retiree Health
14 Care Trust Fund Board secretary shall attest to the Department of Elections ~~or contractor~~ that
15 there is one retired member trustee and one active member trustee candidate to fill the two
16 elected Retiree Health Care Trust Fund Board trustee positions. For purposes of Retiree
17 Health Care Trust Fund Board elections, the date of the election shall be the day the election
18 is certified by the Department of Elections ~~or Contractor~~. In the event that the active member
19 candidate with the highest number of votes is no longer an active member on the day the
20 election is certified, the Department of Elections shall certify the active member candidate with
21 the next highest number of votes. In the event that the retired member candidate with the
22 highest number of votes is no longer a retired member on the day the election is certified, the
23 Department of Elections shall certify the retired member candidate with the next highest
24 number of votes.
25

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

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

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

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

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

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

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

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

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

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

5 **SEC. 16.566. ENFORCEMENT; PENALTIES AND LATE FILING FEES.**

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

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

12 (c) Penalties. Any person who intentionally or negligently violates Sections 16.553-2 and
13 16.553-3 shall be liable in an administrative proceeding before the Ethics Commission for an amount
14 up to \$5,000 for each violation.

15 (d) Late Filing Fees.

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

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

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

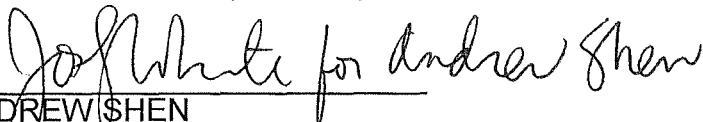
1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's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

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

11 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
12 of this ordinance, or any application thereof to any person or circumstance, is held to be
13 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
14 shall not affect the validity of the remaining portions or applications of the ordinance. The
15 Board of Supervisors hereby declares that it would have passed this ordinance and each and
16 every section, subsection, sentence, clause, phrase, and word not declared invalid or
17 unconstitutional without regard to whether any other portion of this ordinance or application
18 thereof would be subsequently declared invalid or unconstitutional.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By:


23 ANDREW SHEN
24 Deputy City Attorney

25 n:\legan\as2017\1700483\01198964.docx

LEGISLATIVE DIGEST

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

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

Existing Law

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

Article XIII does not require any reporting of expenditures made in support of or in opposition to candidates seeking election to these Boards. Article XIII also does not have any specific provisions regarding the confidentiality of information concerning eligible voters participating in these elections.

Article XIII suggests that these Boards may select contractors to conduct these elections. But the Charter requires the Department of Elections to conduct elections for the Retirement Board and the Health Service Board. Charter §§12.100, 12.200.

Amendments to Current Law

The proposed ordinance requires candidates who spend more than \$500 or more on communications with eligible voters to file disclosure statements with the Ethics Commission. The proposal also requires any persons or entities who spend \$500 or more on communications featuring these candidates to file disclosure statements with the Ethics Commission. The ordinance also provides the Ethics Commission with the authority to impose late filing fees and to levy penalties on persons who fail to file the required statements.

The proposed ordinance also specifies that only the Department of Elections may conduct elections for the Boards, by deleting Article XIII's references to contractors.

The proposal also clarifies that information concerning voters participating in these elections shall be subject to disclosure under the standards established by the California Public Records Act and the Sunshine Ordinance, rather than the California Elections Code.

BOARD of SUPERVISORS



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

MEMORANDUM

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

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

DATE: June 21, 2017

SUBJECT: LEGISLATION INTRODUCED

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

File No. 170738

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

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

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

BOARD of SUPERVISORS



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San Francisco, CA 94102-4689
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Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: LeeAnn Pelham, Executive Director, Ethics Commission

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

DATE: June 22, 2017

SUBJECT: LEGISLATION INTRODUCED

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

File No. 170738

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

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

c: Kyle Kundert, Ethics Commission

Evans, Derek

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

Patrick Monette-Shaw

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

September 12, 2017

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

Re: **Support for Supervisor**

Cohen's Legislation on Campaign Finance Disclosure

Dear Chair Safai and Rules Committee Members,

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

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

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

and contributing to each candidate.

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

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

Respectfully submitted,

Patrick Monette-Shaw

Columnist

Westside Observer Newspaper

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

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
 BOARD OF SUPERVISORS
 SAN JOSE, CALIF. 95100
 2017 JUN 13 PM 4:28
 Time stamp
 or meeting date

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

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

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

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

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

Sponsor(s):

Cohen

Subject:

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

The text is listed:

Attached

Signature of Sponsoring Supervisor:



For Clerk's Use Only