

**CITY AND COUNTY OF SAN FRANCISCO**  
**BOARD OF SUPERVISORS**  
**BUDGET AND LEGISLATIVE ANALYST**

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June 11, 2021

**TO:** Budget and Appropriations Committee  
**FROM:** Budget and Legislative Analyst   
**SUBJECT:** June 14, 2021 Special Budget and Appropriations Committee Meeting

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## MANDATE STATEMENT/DETAILS OF PROPOSED LEGISLATION

### **File 21-0671: Administrative Provisions of the Annual Appropriation Ordinance**

The proposed FY 2021-22 and FY 2022-23 Annual Appropriation Ordinance (AAO) contains the administrative provisions governing the appropriation ordinance. The proposed AAO for FY 2021-22 and FY 2022-23 contain the following major changes to the administrative provisions:

#### Section 5- Transfers of Functions and Duties

The proposed ordinance updates language describing the process by which the Controller and Human Resources Director make transfers or reassignment of personnel when a duty or performance has been transferred from one department to another. Currently, the AAO states that when there is such a transfer of duties, the Controller and Human Resources Director are authorized to make personnel transfers or reassignments between affected departments at a mutually convenient time not to exceed 100 days from the effective date of the ordinance transferring the duty or function. [emphasis added]

The proposed change adds that the transfers or reassignments of personnel shall not exceed 100 days from the date of the ordinance or Mayoral memorandum transferring the duty or function. According to Ms. Michelle Allersma and Ms. Risa Sandler from the Controller's Office, this new language is being updated to reflect the Charter provisions under which the Mayor and Board may transfer functions between departments. Under Charter Section 4.132, the Mayor may transfer functions with Mayoral "transfer of function" memos, subject to rejection by the Board within 30 days.

#### Section 10.4- Salary Adjustments, Memoranda of Understanding (MOUs)

The proposed ordinance makes a correction to account for an administrative practicality in the transfer of funds from the City's Salary and Benefits Reserve to department budgets to reflect adjustments in salaries and related mandatory fringe benefits of employees whose compensation is determined through collective bargaining agreements. Specifically, the proposed change adds that adjustments are made to pay requirements above the funding level established in the base and adopted budget of the respective departments. The base budget does not always assume the correct required appropriation for salary and mandatory fringe benefits.

The proposed ordinance also changes language in this section referring to "premium" pay to "other" pay as this broader term encompasses all of the types of pay that fall under mandatory fringe benefits, such as payouts upon retirement.

#### Section 11.25- Housing Trust Fund

The proposed ordinance notes that the Controller shall account for the appropriation of \$17,600,000 for eligible affordable housing projects in FY 2021-22 as an advance of future year Housing Trust Fund allocations, and shall credit such advance against required appropriations to

that fund for a period of five years, beginning in FY 2023-24, in an annual amount of \$3,250,000. According to Ms. Allersma from the Controller's Office, this pre-payment of obligations to the Housing Trust Fund is included in the Mayor's proposed budget to account for the availability of General Fund revenues in FY 2021-22 and the projected General Fund deficits beginning in FY 2023-24.

#### Section 12.15- Unclaimed Funds Escheatment Noticing & Accounting Procedures

The proposed ordinance provides authorization to the Treasurer to transfer certain unclaimed funds to the General Fund without public notice if they remain unclaimed for a period of at least one year. Specifically, the Treasurer would be able to transfer any individual items of less than \$15 and any individual items of \$5,000 or less if the depositor's name is unknown. According to Ms. Allersma, several departments have unclaimed funds in small amounts and Government Code Sections 50055 and 50057 allow for transfer of such funds to the General Fund under these circumstances.

The proposed FY 2021-22 General City Responsibility budget includes \$946,782 in one-time escheatment funds, which reflects the transfer of these funds that have built up over time. According to Ms. Allersma, \$900,000 of this amount is from the Office of Labor Standards Enforcement (OLSE) under the Department of Administrative Services and \$46,782 is from the Juvenile Probation Department. The Controller's Office anticipates that amounts transferred to the General Fund after FY 2021-22 will be minimal.

#### Section 32 - COVID-19 Response and Economic Loss Contingency Reserve; Federal and State Emergency Grant Disallowance Reserve

The proposed ordinance removes the COVID-19 Response and Economic Loss Contingency Reserve and adds the proposed Federal and State Emergency Grant Disallowance Reserve.

The COVID-19 Response and Economic Loss Contingency Reserve was established in FY 2020-21 from \$507 million in FY 2019-20 unassigned fund balance for the purpose of managing costs related to the coronavirus public health emergency and revenue shortfalls caused by the effect of the pandemic on the state and local tax bases, as well as mitigating uncertainty around future funding from the Federal Emergency Management Agency (FEMA) and voter approval of November 2020 business tax measures that were assumed in the FY 2020-22 budget.

The Federal and State Emergency Grant Disallowance Reserve is being proposed in the amount of \$100 million from FY 2020-21 unassigned fund balance for the purpose of managing revenue shortfalls related to reimbursement disallowances from FEMA and other state and federal agencies. According to Ms. Allersma, the City has budgeted to receive \$430 million of reimbursements from FEMA in total since the beginning of the public health emergency, including \$49.5 million in the proposed FY 2021-22 budget. Further, the City has submitted claims to date of \$180.5 million, of which \$36.3 million have been approved (i.e. obligated) by FEMA and \$14.6 million has been paid. According to Ms. Allersma, the balance of funds not approved or paid by FEMA are subject to risk of both lower claiming than that assumed in the budget and potential disallowance of claimed costs. Further, Ms. Allersma noted that the federal

reimbursement and auditing process will likely continue for the coming fiscal year at a minimum, which presents an ongoing risk to budgeted reserves.

#### Sections 32.1 & 32.2 - Fiscal Cliff Reserve; Federal and State Emergency Revenue Revisions

The Fiscal Cliff Reserve (Section 32.1) is being proposed in the amount of \$293,900,000 from FY 2020-21 unassigned fund balance for the purpose of managing projected budget shortfalls following the spend down of federal and state stimulus funds and other one-time sources used to balance the FY 2021-23 two-year budget. The March Update to the Five-Year Financial Plan (Joint Report) projected a \$499.3 million cumulative shortfall in the General Fund through FY 2025-26 (inclusive of the funds the City expects to receive from the American Rescue Plan Act (ARPA) signed into law in March 2021). Although ARPA funds have helped to balance the City's budget over the next two years, a structural deficit remains. The proposed Fiscal Cliff Reserve is comprised of the balance of the COVID-19 Response and Economic Loss Contingency Reserve (COVID Reserve) remaining after funding the Federal and State Emergency Grant Disallowance Reserve in Section 32 and accounting for the use of the COVID Reserve in the FY 2021-23 two-year budget.

The proposed ordinance provides new authority to the Controller (Section 32.2) to revise approved revenue budgets for federal and state emergency-related revenues in order to manage timing differences and cash flow needs driven by changing guidance and approvals from granting agencies. The ordinance does not allow the Controller to revise such revenue budgets beyond the cumulative total revenue budgets in a given fund for FY 2020-21 through FY 2022-23 and such revisions shall not change the approved expenditure authority. The proposed ordinance requires the Controller to report any such revisions to the Mayor and Board of Supervisors within 30 days of their enactment. According to Ms. Allersma, this authority will help the Controller manage the uncertainty in timing and eligibility for emergency grant funds.

#### Section 35 – Administration of Appropriation Advances to Contested Taxes

The proposed ordinance removes Section 35, which was established to allow for appropriation advances for contested taxes as the litigation against such taxes has been finally resolved. Specifically, Section 35 of the current AAO provided for the advancing of funds to address the policy goals of three measures (June 2018 Prop C Early Care and Education Commercial Rents Tax ordinance; June 2018 Prop G Living Wage for Educators Parcel Tax; and November 2018 Prop C Homelessness Gross Receipts Tax ordinance). According to Mr. Jon Givner from the City Attorney's Office, the litigation regarding the June 2018 Prop C and November 2018 Prop C are both finally resolved. Therefore, the proposed budget spends those tax revenues directly rather than appropriating advances to fund programs covered by the two ballot measures. Further, June 2018 Prop G was repealed by the voters effective July 1, 2021, and was replaced by the November 2020 Prop J Fair Wages For Educators Parcel Tax ordinance.

#### Section 36 – Equity Investment Report

The proposed ordinance deletes the requirement for the Human Rights Commission (HRC) to submit a report to the Mayor and Board of Supervisors detailing the final investment plan for various appropriated equity investments following the completion of a community driven

planning process. According to Mr. Givner, it is the recommendation of the City Attorney's Office to remove the requirement from the AAO as the Board generally imposes reporting requirements by separate ordinance, rather than through the budget. According to Ms. Sheryl Evans Davis, Executive Director of the HRC, the Department is preparing its report and plans to present it at its first scheduled budget hearing on June 14, 2021.

### **File 21-0672: Administrative Provisions of the Annual Salary Ordinance**

The proposed FY 2021-22 and FY 2022-23 Annual Salary Ordinance (ASO) contains the administrative provisions governing the appropriation ordinance. The changes to the proposed ASO for FY 2021-22 and FY 2022-23 are mostly related to updating compensation provisions to account for changes in inflation, specifically for stipends to employees permanently assigned to Hetch Hetchy and Camp Mather and for moving expenses for new employees in the Manager IV classification or higher. In addition, the proposed ASO adds language regarding supplemental military pay for employees called into active military service in response to the September 11, 2001 terrorist attacks, international terrorism, conflict in Iraq or related extraordinary circumstances.

### **POLICY CONSIDERATION**

The proposed AAO provides for the advance of \$17,600,000 in FY 2021-22 for five years of required transfers from the General Fund to the Housing Trust Fund from FY 2023-24 to FY 2027-28. The Board of Supervisors could consider requesting a report from the Mayor's Office of Housing and Community Development on how this advance might affect the acquisition or development of affordable housing.

The proposed AAO establishes two new reserves: (1) the Federal and State Emergency Grant Disallowance Reserve in the amount of \$100 million and (2) the Fiscal Cliff reserve in the amount of \$293,900,000. The establishment and amount of reserve funds is a policy matter for the Board of Supervisors to consider. We are reviewing these reserves as part of our analysis of the General City Responsibility budget and will present our report on this budget at the Budget and Appropriations Committee hearing scheduled for June 21, 2021.

The proposed AAO removes the requirement for HRC to present a report to the Mayor and Board of Supervisors detailing the final investment plan for various appropriated equity investments following the completion of a community driven planning process. The Board could consider requesting such a report from the HRC Director if it is not presented at the first hearing scheduled on the Department's budget on June 14, 2021.

**RECOMMENDATIONS**

1. Consider requesting that the Director of the Mayor's Office of Housing and Community Development provide a report to the Board of Supervisors on how the advancement of \$17,600,000 to the Housing Trust Fund in FY 2021-22 may affect the acquisition or development of affordable housing.
2. Consider requesting a report from the Director of the Human Rights Commission detailing the final investment plan for various appropriate equity investments if such a report is not provided on June 14, 2021 at the Budget and Appropriations Committee hearing on the Department's budget.
3. Approve the proposed ordinance.