

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Ben Rosenfield, City Controller

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

DATE: January 15, 2016

SUBJECT: CHARTER AMENDMENT INTRODUCED  
June 7, 2016, Election

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The Board of Supervisors Rules Committee has received the following Charter Amendment for the June 7, 2016, Election, introduced by Supervisor Avalos on December 15, 2015, duplicated by Supervisor Avalos and amended by Rules Committee on January 14, 2016. This matter is being referred to you in accordance with Elections Code, Section 305(B)(2), and Rules of Order 2.22.3.

### **File No. 151273      Filling Mayoral and Supervisorial Vacancies**

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to require the Department of Elections to hold a special election when there is a vacancy in the Office of Mayor or Member of the Board of Supervisors, unless a regularly scheduled election will be held within 180 days of the vacancy; provide that the President of the Board of Supervisors serves as Acting Mayor until an election is held to fill a mayoral vacancy; and provide that the Mayor shall appoint an interim Supervisor to fill a supervisorial vacancy until an election is held to fill that vacancy, with the interim Supervisor being ineligible to compete in that election, at an election to be held on June 7, 2016.

Please review and prepare a financial analysis of the proposed measure prior to the first Rules Committee hearing.

If you have any questions or concerns please call me at (415) 554-7702 or email [derek.evans@sfgov.org](mailto: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

1 [Charter Amendment - Filling Mayoral and Supervisorial Vacancies]

2  
 3 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**  
 4 **2016, to amend the Charter of the City and County of San Francisco to require the**  
 5 **Department of Elections to hold a special election when there is a vacancy in the Office of**  
 6 **Mayor or Member of the Board of Supervisors, unless a regularly scheduled election will**  
 7 **be held within 180 days of the vacancy; provide that the President of the Board of**  
 8 **Supervisors serves as Acting Mayor until an election is held to fill a mayoral vacancy; and**  
 9 **provide that the Mayor shall appoint an interim Supervisor to fill a supervisorial vacancy**  
 10 **until an election is held to fill that vacancy, with the interim Supervisor being ineligible to**  
 11 **compete in that election.**

12  
 13 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City  
 14 and County, at an election to be held on June 7, 2016, a proposal to amend the Charter of the  
 15 City and County by revising Section 13.101.5 and Article XVII, to read as follows:

16 NOTE: **Unchanged Charter text and uncodified text** are in plain font.  
 17 **Additions** are *single-underline italics Times New Roman font*.  
 18 **Deletions** are *strike-through italics Times New Roman font*.  
 19 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Charter  
 20 subsections.

21 **SEC. 13.101.5. VACANCIES.**

22 (a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender,  
 23 Sheriff, Treasurer, or Member of the ~~*Board of Supervisors*~~, Board of Education or Governing  
 24 Board of the Community College District becomes vacant because of death, resignation, recall,  
 25 permanent disability, or the inability of the respective officer to otherwise carry out the  
 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy  
 under this Charter and state laws.

1 (b) If the Office of Mayor becomes vacant because of death, resignation, recall,  
2 permanent disability or the inability to carry out the responsibilities of the office, the President of  
3 the Board of Supervisors shall become Acting Mayor and shall serve until a successor is elected  
4 at a special municipal election as provided in Section 13.101.5(e) appointed by the Board of  
5 Supervisors.

6 (c) If the Office of Member of the Board of Supervisors becomes vacant because of  
7 death, resignation, recall, permanent disability or the inability to carry out the responsibilities of  
8 the office, the Mayor shall appoint an individual qualified to fill the vacancy under this Charter  
9 and state law to serve as an interim Supervisor. The Mayor shall appoint an interim Supervisor  
10 within 28 days of the date of the vacancy. The interim Supervisor shall serve until a successor is  
11 elected at a special municipal election as provided in Section 13.101.5(e). That interim  
12 Supervisor may not seek election for that seat at the special municipal election described in  
13 Section 13.101.5(e).

14 (ed) Any person filling a vacancy pursuant to ~~subsection (a) or (b) of this~~ Section  
15 13.101.5(a) shall serve until a successor is selected at the next election occurring not less than  
16 120 days after the vacancy, at which time an election shall be held to fill the unexpired term,  
17 provided that (1) if an election for the vacated office is scheduled to occur less than one year  
18 after the vacancy, the appointee shall serve until a successor is selected at that election or (2) if  
19 an election for any seat on the same board as the vacated seat is scheduled to occur less than one  
20 year but at least 120 days after the vacancy, the appointee shall serve until a successor is selected  
21 at that election to fill the unexpired term.

22 (e) If the Office of Mayor or Member of the Board of Supervisors becomes vacant as  
23 provided in subsection (b) or (c) of this Section 13.101.5, the Director of Elections, within 14  
24 days of the vacancy, shall call a special municipal election to fill the vacancy. The special  
25 municipal election shall be held on a Tuesday at least 126 days, but not more than 140 days,

1 following the date of its calling, except that if the next regularly scheduled statewide or general  
2 municipal election will occur within 180 days of the vacancy, the Director of Elections shall  
3 consolidate the special municipal election with that regularly scheduled election.

4 Notwithstanding this provision, the special election may be held more than 180 days from the  
5 date of the vacancy, for the purpose of consolidation with a regularly scheduled statewide or  
6 general municipal election, if (1) the Director of Elections submits such a request to the Board of  
7 Supervisors and (2) the Board of Supervisors and Mayor approve the request by resolution. Any  
8 person elected at a special municipal election to fill a vacancy shall take office when the  
9 Director of Elections has issued the certified statement of election results for that election.

10 (f) The Director of Elections shall not include any measures or other contests on the  
11 ballot for a special municipal election held pursuant to Section 13.101.5(e), unless the special  
12 municipal election is consolidated with a regularly scheduled statewide or general municipal  
13 election.

14 (g) If a vacancy in the Office of Mayor or Member of the Board of Supervisors occurs  
15 after June 7, 2016 but before the effective date of the Charter amendment amending this Section  
16 13.101.5 at the June 7, 2016 election, and the vacancy is filled in accordance with the Charter as  
17 operative at that time, the person appointed to fill the vacancy shall vacate the office by  
18 operation of law on the effective date of the Charter amendment. The vacancy shall then be  
19 filled as provided in this Section 13.101.5. The City Attorney shall remove this subsection (g)  
20 from the Charter by January 1, 2017.

21 ~~(d) If no candidate receives a majority of the votes cast at an election to fill a vacated~~  
22 ~~office, the two candidates receiving the most votes shall qualify to have their names placed on~~  
23 ~~the ballot for a municipal runoff election at the next regular or otherwise scheduled election~~  
24 ~~occurring not less than five weeks later. If an instant runoff election process is enacted for the~~  
25

1 ~~offices enumerated in this Section, that process shall apply to any election required by this~~  
2 ~~Section.~~

### 3 **ARTICLE XVII: DEFINITIONS**

4 For all purposes of this Charter, the following terms shall have the meanings specified  
5 below:

6 "Business day" shall mean any day other than a Saturday, Sunday or holiday on which  
7 governmental agencies are authorized by law to close.

8 "Confirm" or "confirmation" shall mean the approval by a majority of the members of the  
9 Board of Supervisors.

10 "Discrimination" shall mean violations of civil rights on account of race, color, religion,  
11 creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation,  
12 sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status,  
13 other non-merit factors, or any category provided for by ordinance.

14 "Domestic partners" shall mean persons who register their partnerships pursuant to the  
15 voter-approved Domestic Partnership Ordinance.

16 "Elector" shall mean a person registered to vote in the City and County.

17 "For cause" shall mean the issuance of a written public statement by the Mayor  
18 describing those actions taken by an individual as a member of a board or commission which are  
19 the reasons for removal, provided such reasons constitute official misconduct in office.

20 "General municipal election" shall mean ~~the election for local officials or measures to be~~  
21 ~~held in the City and County on the Tuesday immediately following the first Monday in November~~  
22 ~~in every year until and including 2015. Thereafter, "general municipal election" shall mean the~~  
23 election for local officials or measures to be held in the City and County on the Tuesday  
24 immediately following the first Monday in November, both in all even-numbered years and in  
25 every fourth year following 2015.

1 "Initiative" shall mean (1) a proposal by the voters with respect to any ordinance, act or  
2 other measure which is within the powers conferred upon the Board of Supervisors to enact, any  
3 legislative act which is within the power conferred upon any other official, board, commission or  
4 other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to  
5 the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

6 "Notice" shall mean publication (as defined by ordinance), and a contemporaneous filing  
7 with the Clerk of the Board of Supervisors or other appropriate office.

8 "One-third," "a majority" or "two-thirds" of the Board of Supervisors or any other board  
9 or commission of the City and County shall mean one-third, a majority or two-thirds of all  
10 members of such board or commission.

11 "Published" shall have the meaning ascribed to the term by the Board of Supervisors by  
12 ordinance. The Board of Supervisors shall seek a recommendation from the Clerk of the Board  
13 of Supervisors before adopting such an ordinance.

14 "Referendum" shall mean the power of the voters to nullify ordinances involving  
15 legislative matters except that the referendum power shall not extend to any portion of the annual  
16 budget or appropriations, annual salary ordinances, ordinances authorizing the City Attorney to  
17 compromise litigation, ordinances levying taxes, ordinances relative to purely administrative  
18 matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers,  
19 or ordinances adopted pursuant to Section 9.106 of this Charter.

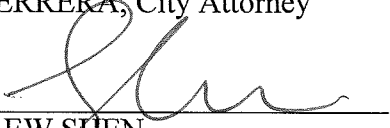
20 "Special municipal election" shall mean, in addition to special elections otherwise  
21 required by law, the election called by (1) the Director of Elections with respect to an initiative,  
22 referendum or recall, (2) the Director of Elections with respect to filling a vacancy in the Office  
23 of Mayor or Member of the Board of Supervisors, and ~~(23)~~ the Board of Supervisors with respect  
24 to bond issues, ~~election of an official not required to be elected at the general municipal election,~~  
25 or an initiative or referendum.

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"Statewide election" shall mean an election held throughout the state.

"Voter" shall mean an elector who is registered in accordance with the provisions of state law.

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

By:   
ANDREW SHEN  
Deputy City Attorney

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