

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

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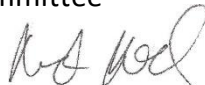
TO: Budget and Appropriations Committee
FROM: Budget and Legislative Analyst 
SUBJECT: June 12, 2024 Rescheduled Budget and Appropriations Committee Meeting

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MANDATE STATEMENT/DETAILS OF PROPOSED LEGISLATION

File 24-0623: Administrative Provisions of the Annual Appropriation Ordinance

The proposed FY 2024-25 and FY 2025-26 Annual Appropriation Ordinance (AAO) contains the administrative provisions governing the appropriation ordinance. The proposed AAO for FY 2024-25 and FY 2025-26 contain the following significant changes to the administrative provisions:

Section 5.8- Collection and Legal Services

The proposed ordinance deletes Section 5.8, which authorizes the Controller to adjust estimated revenues and expenditures to pay the fee to outside counsel when such payment is contingent upon the recovery of a judgment or other monies by the City through the prosecution of actions filed on behalf of the City or for assistance in the prosecution of actions that the City Attorney files in the name of the People.

According to Michelle Allersma, Director of the Controller's Office Budget and Analysis Division (BAD), this section is being deleted to reflect current practice. Director Allersma stated that according to the City Attorney's Office (CAT), payments to outside counsel are made according to the same process as for regular legal expenditures, so the appropriation authority is not needed.

Section 6- Bond Interest and Redemption

The proposed ordinance adds language to Section 6 to authorize the payment of bond rating fees that are incurred and payable prior to the issuance of Board of Supervisors-authorized Certificates of Participation (COPs) when unexpected changes in market conditions cause a delay in issuance. The language authorizes payment of such fees from funds appropriated for annual COPs debt service that exceed the actual requirements for bond interest and redemption.

According to Director Allersma, the City recently experienced a delay in the sale of refunding COPs due to increases in interest rates, which impacted the City's ability to realize its savings threshold and this provision would help the City ensure timely payment to its credit rating providers in times of unexpected changes in market conditions.

Section 10.9- Holidays, Special Provisions

The proposed ordinance revises language in Section 10.9 regarding the Controller's authorization to make transfers of funds to cover the actual costs of holidays. According to Director Allersma, this revision is simply being made to update outdated language regarding the definition of a holiday. The section currently defines a holiday as being proclaimed by the Mayor after such day has been declared a holiday by the Governor of California or the President of the United States. The revised language defines a holiday as being formally declared by the Mayor as a holiday for City employees under the terms of a Memorandum of Understanding.

Section 11.1- Special and Trust Funds Appropriated; Approval of Certain Grant Agreements under Charter Section 9.118

The proposed ordinance adds language to Section 11.1, which would deem all recurring grants exceeding \$1 million or with duration exceeding 10 years to be approved by the Board of Supervisors under Charter Section 9.118. According to Director Allersma, this language is being added to reflect current practice. Existing language in the AAO states that, “recurring grant funds which are detailed in departmental budget submissions and approved by the Mayor and Board of Supervisors in the annual budget shall be deemed to have met the requirements of Administrative Code Section 10.170 for the approval to apply for, receive and expend said funds and shall be construed to be funds received for a specific purpose as set forth in this section.”

Section 11.7- Arbitrage

The proposed ordinance adds language to Section 11.7, which would authorize the Controller to make payments to the IRS from annual budget appropriations for lease payments based on expected savings amounts when bond indentures or fiscal agent agreements require interest earnings to be used to offset annual lease financing payments.

According to Director Allersma, annual lease payments for debt service are budgeted in the AAO in the full amounts due. To the extent that there are offsetting interest earnings that may be used to partially offset any budgeted lease payment, those savings are then realized by the City at the end of the fiscal year. The proposed language will allow for the use of such savings from budgeted debt service to make timely payments as needed to the IRS for any required rebate payments (i.e., arbitrage), and would clarify that separate Board action to appropriate those rebate payments would not be necessary. Rebate payments are typically due to the IRS within 60 days after a required reporting period, after which they may incur additional penalties. According to Director Allersma, that is not sufficient time for enactment of a supplemental appropriation. Due to the current higher interest rate environment, the City has begun accruing arbitrage rebate liabilities on certain outstanding debt issues, so these rebate payments will become necessary on a more frequent basis.

Section 11.8- Damage Recoveries and Restitution

The proposed ordinance adds language to Section 11.8 to clarify that moneys received as restitution in a criminal proceeding to reimburse the City for losses caused by an employee or third party are appropriated to the departments that incurred the losses.

Section 11.15- FEMA, OES, Other Reimbursements

The proposed ordinance adds language to Section 11.15 that would appropriate any remaining balances in the Give2SF-COVID-19 Fund, including amounts from previously identified and unidentifiable donors, for COVID-19 related costs and programs. The language also specifies that donation balances and uses of funds shall be included in the San Francisco Disaster and Emergency Response and Recovery Fund annual report to the Board of Supervisors, pursuant to Administrative Code Section 10.100-100(d).

Section 11.26- Refuse Rate Order Changes

The proposed ordinance adds Section 11.26 to authorize the Controller to adjust appropriations from the Solid Waste Impound Account to reconcile with the final adopted refuse rate order established by the Refuse Rate Board, provided that such adjustments shall not result in a total increase in appropriations from the fund.

According to Director Allersma, this Section is being added to address timing differences between when the budget is approved and when the final refuse rate order is adopted. Prop F (November 2021) allows two-to-five-year rate cycles, as determined by the Refuse Rate Board, and rate years begin October 1st. The most recent order was adopted in August 2023, just after the final adoption of the budget, and had a slightly different spending allocation than the budget, and the Board stipulated a two-year cycle.

Section 12.4- New Project Reserves

The proposed ordinance adds language to Section 12.4 to authorize the Controller to allocate project budgets appropriated in citywide accounts to the department where the expense will be incurred.

According to Director Allersma, this language is being added to codify the assumption that the Controller has authority to move expenditure budgets from General City Responsibility to operating departments where the actual expenditures will occur. This became an issue in the current year when the Controller's Office had to move funds from the APEC project in General City Responsibility to departments. The Controller's Office has explicit authority to move budgets for MOU, litigation, and audit reserves (and had temporary authority to move budgets for the COVID emergency) and would like to make explicit the generally held assumption that they can do this for other appropriations like APEC and the Cost of Doing Business for non-profit City partners. This change would not affect the Controller's authority to move monies put on reserve by the Board of Supervisors.

Section 14(d)- Local Agency Formation Commission (LAFCo)

The proposed ordinance adds language to Section 14(d) to clarify that City staff, including but not limited to the Clerk of the Board of Supervisors, may not perform work for LAFCo, except as authorized by a memorandum of understanding between the City and LAFCo, subject to required approvals. According to Director Allersma, this language was added to reflect current law.

Section 15.1- State of California Travel Program

The proposed ordinance adds Section 15.1 to authorize the Controller's Office to implement rules and regulations required of departments to participate in the State of California's Statewide Travel Program, which provides access to State-negotiated rates with hotel, airline, and car rental providers in adherence with the State's competitive procurement solicitation and contract award rules and regulations.

Section 29- Appropriation Control of Capital Improvement Projects and Equipment

The proposed ordinance adds language to Section 29 to authorize the Controller to revise COP debt service appropriations within General Fund supported COP debt service funds for authorized but unissued debt, in order to make final debt service payments due upon issuance of authorized debt. Such revisions are only permitted if the Controller determines it is financially advantageous to do so and if such revisions do not increase or decrease approved expenditure authority, and can only be done for the purpose of reducing interest costs in future years.

According to Director Allersma, COP issuance can be delayed by a number of factors, including design, technical, and administrative issues related to projects. Director Allersma has asserted that this change is being proposed to allow the Controller's Office to avoid the added expense of capitalized interest (i.e., increasing the amount borrowed to finance the first interest payment on the debt) by moving budgeted debt service funds from a project experiencing delays to a project for which the City is able to spend proceeds right away.

Section 31- Infrastructure Financing, Infrastructure Revitalization and Financing, and Enhanced Infrastructure Financing Districts

The proposed ordinance adds language to Section 31 to add Enhanced Infrastructure Financing Districts (EIFDs) to the types of voluntary tax increment financing districts that the Board of Supervisors has formed. According to Director Allersma, this section is being revised to include EIFDs now that the City has created the Power Station EIFD in the current fiscal year.

Section 32.3- Fiscal Cliff Reserve

The proposed ordinance adds Section 32.3 to amend the uses for the Fiscal Cliff Reserve (Administrative Provision 32.1 from FY 2021-22) to include managing shortfalls of business tax revenues. The Fiscal Cliff Reserve can be used to manage projected budget shortfalls following the spenddown of federal and state stimulus funds and other one-time sources used to balance the budget. The proposed section also stipulates that this new assignment of the Fiscal Cliff Reserve shall not be included in the calculations of deposits to the Budget Stabilization Reserve described in Administrative Code Section 10.60(c).

File 24-0624: Administrative Provisions of the Annual Salary Ordinance

The proposed FY 2024-25 and FY 2025-26 Annual Salary Ordinance (ASO) contains the administrative provisions governing the salary ordinance. The changes to the proposed ASO for FY 2024-25 and FY 2025-26 are 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.

RECOMMENDATIONS

1. Approve the administrative provisions of the Annual Appropriation Ordinance and Annual Salary Ordinance when considering approval of the Mayor's proposed FY 2024-25 and FY 2025-26 budget.

Item 16
File 24-0569

Department:
Board of Supervisors

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would appropriate \$400,000 in assessment appeal fee revenue generated in FY 2023-24 to a continuing fund for the Assessment Appeals Board. The funding would be used to help fund the procurement of a new online assessment appeals filing system.

Key Points

- The Assessment Appeals Board is a division of the Board of Supervisors and is responsible for evaluating tax assessment appeals. In general, Assessment Appeal Board fees must be used to fund related operations. Due to an increase in assessment appeals, fee revenue is projected to be approximately \$400,000 more than budgeted (\$304,150) in FY 2023-24.
- The Assessment Appeals Board's current filing system is more than ten years old and beyond its useful life. In addition, the current system will not be able to accept data from the Assessor-Recorder's new assessment filing system. The total estimated cost for the Assessment Appeals Board's new filing system is \$1 - \$2 million; no other funding has been secured.

Fiscal Impact

- The proposed ordinance would appropriate up to \$400,000 in assessment appeal fees for a new online filing system. As noted above, this revenue must be spent on assessment appeals costs.

Recommendations

- Approve the proposed ordinance.
- Request the Clerk of the Board create a special revenue fund to deposit excess assessment appeal revenue to fund operating costs of the Assessment Appeals Board.

MANDATE STATEMENT

City Charter Section 9.105 states that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

BACKGROUND

Section 16 of Article XIII of California State Constitution requires every county to have a board of equalization to evaluate tax assessment appeals. These assessment appeal boards are established by each county's board of supervisors. The San Francisco Assessment Appeals Board is a division of the San Francisco Board of Supervisors.

Consistent with State law, Administrative Code Chapter 2B establishes fees for processing assessment appeals, hearings, and fact findings. Processing and hearing fees must be used for the Assessment Appeal Board's operating costs, and fact-finding fees must be used to fund fact-finding expenses incurred by the county. The City Attorney is paid for actual hours spent on fact-finding. Assessment appeal filings have increased from approximately 3,000 filings in FY 2022-23 to a projected 8,000 in FY 2023-24. Due to this increase, fee revenue is projected to be approximately \$400,000 more than budgeted (\$304,150) in FY 2023-24.¹ In FY 2023-24, actual findings of fact fee revenue collected was \$17,000 and findings of fact fee revenue is much less than this amount in normal years. Per SF Admin Code Section 2B.11(f), the amount of fee revenue that City Attorney can collect from the Assessment Appeals Board is limited to actual findings of fact fee revenue collected during the fiscal year less the Assessment Appeals Board's cost to assist with production of findings of fact.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would appropriate \$400,000 in assessment appeal fee revenue generated in FY 2023-24 to a continuing fund for the Assessment Appeals Board. The funding would be used for a new online assessment appeals filing system.

The ordinance also places \$58,700 on Controller's Reserve pending receipt of revenue due to the uncertainty of final collections in FY 2023-24.

New Assessment Appeals Filing System

According to Edward de Asis, Deputy Director of Administration & Finance for the Board of Supervisors, the Assessment Appeals Board's current filing system is more than ten years old and beyond its useful life. In addition, the current system will not be able to accept data from the Assessor-Recorder's new assessment filing system. The total estimated cost for the Assessment

¹ The projected fee revenue is still below the FY 2023-24 Assessment Appeals Board budget of \$958,404.

Appeals Board's new filing system is \$1 - \$2 million; no other funding has been secured. The Clerk of the Board may wish to consider creating a special fund for excess assessment appeal revenue for this system or other operating costs of the Assessment Appeals Board.

FISCAL IMPACT

The proposed ordinance would appropriate up to \$400,000 in assessment appeal fees for a new online filing system. As noted above, this revenue must be spent on assessment appeals costs.

RECOMMENDATIONS

1. Approve the proposed ordinance.
2. Request the Clerk of the Board create a special revenue fund to deposit excess assessment appeal revenue to fund operating costs of the Assessment Appeals Board.