

[Qualifications and term limits for Port Commission members; increasing the number of Commission members from 5 to 7; criteria for use of Port property; capital and financial plans.]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Section 4.114 to establish minimum qualifications for members of the Port Commission, impose term limits, increase the number of Commission members from five to seven, and limit hold-over appointments, amending Section 3.581 to set criteria for use of property under the Port Commission's jurisdiction and provide that the Port Director may, in his or her sole discretion, appoint and remove heads of Commission divisions and bureaus, and amending Section B3.584, to require long-range capital and financial plans for the Port.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on June 6, 2006, a proposal to amend the Charter of the City and County by amending Section 4.114 to read as follows:

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

SEC. 4.114. PORT COMMISSION.

(a) Establishment. The Port Commission shall consist of seven ~~five~~ members who shall be appointed by the Mayor, subject to confirmation by a majority of the Board of Supervisors. Each of the members shall serve for a term of four years. They shall be subject to recall, suspension and removal in the same manner as an elected official.

(b) Qualifications. One member of the Commission shall have professional experience or background in the maritime industry or in organized labor (Seat 1). One member shall have professional experience or expertise in urban planning and design (Seat 2). One member shall

be a member of the general public with professional experience or background in environmental issues (Seat 3). One member shall have professional experience or background in commercial real estate portfolio management, commercial property management, leasing, and/or development (Seat 4). One member shall have professional experience or background in the fields of government, finance, or business (Seat 5). One member shall represent an established neighborhood association in San Francisco (Seats 6). One member shall be an at-large representative (Seat 7). The members appointed to Seat 6 and Seat 7 shall be non-voting members until the Burton Act is amended to provide for a seven-member commission.

Members of the Commission must possess significant knowledge of, or professional experience in, the fields of maritime activities, labor relations, or the environment.

(c) Powers and Duties. The Commission shall have the composition and organization, and the powers, duties and responsibilities with respect to the Port that are set forth in the Burton Act, Statutes of 1968, Chapter 1333, as amended, and in the Agreement Relating to the Transfer of the Port of San Francisco from the State of California to the City and County, executed on the 24th day of January 1969.

The Commission shall be subject to the provisions of Sections 4.101 through 4.103 of this Charter, so far as those powers and duties are not inconsistent with the Burton Act and the Transfer Agreement as they are referred to in the above paragraph.

(d) The terms and tenures of all members sitting on the Commission as of the effective date of the amendments to this Section approved at the June 2006 election shall terminate at 12 noon on November 1, 2006. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than September 1, 2006. The Board of Supervisors shall act on those initial appointments no later than October 15, 2006 or those appointments shall be deemed confirmed.

To stagger the terms of the seven members thereafter, four of the first seven members appointed by the Mayor shall serve terms of four years and the remaining three members shall

serve terms of two years. All subsequent appointments to the Commission shall be for four-year terms.

(e) **Term Limits.** No person appointed to the Port Commission pursuant to subdivision (d) or thereafter may serve more than two consecutive terms as a member of the Port Commission. No person having served two consecutive terms may serve as a member of the Commission until at least four years after the expiration of the second term.

Any person appointed to the Commission to complete in excess of two years of a four-year term shall be deemed, for purposes of this Section, to have served a full term. Any member of the Commission who resigns with less than two full years remaining until the expiration of the term shall be deemed, for purposes of this Section, to have served a full term. Any member of the Commission who is appointed to serve less than two full years remaining in a term shall be deemed, for purposes of this Section, not to have served a full term. A person appointed to a two-year term under subsection (d) for the purpose of establishing staggered terms shall not be deemed to have served a full term for purposes of the two-term limit.

(f) A member sitting on the Commission as of the effective date of the amendments to this Section approved at the June 2006 election who has completed more than two years of a second consecutive four-year term, or who has completed more than two full terms consecutive with his or her current term, may continue to serve as a hold-over member of the Commission until October 1, 2006, but such member shall not be eligible to be appointed to a new two- or four-year term under subsection (e) until at least four years after that date.

(g) **Hold-Over Appointments.** The tenure of a member of the Port Commission shall terminate no later than 120 days after the expiration of the member's term, unless the member is re-appointed. A member may not serve as a hold-over member of the Commission for more than 120 days after the expiration of his or her term.

If the Mayor appoints a member to the Port Commission during the 120-day hold-over period of an incumbent member of the Commission, and the Board of Supervisors fails to act on

the confirmation of the candidate during that period or the Board rejects the candidate, the hold-over period of the incumbent member shall be extended once, for a period of up to 90 days.

SEC. B3.581. POWERS AND DUTIES.

The port commission shall have all the powers and duties given to boards and commissions by Section 3.500 of the charter and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and any supplemental agreements relating thereto, the port commission shall have the control and management of all real and personal property transferred under the Statutes 1968, ch. 1333, or otherwise acquired or purchased with funds under its control or acquired or purchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and management of the commission shall be known as the port area. The port commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the port area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said port area, or which may further the interests of the port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following:

(a) The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon;

(b) The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the port area;

(c) The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or

convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

(d) The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

(e) The preservation or restoration of marine and natural resources ~~consistent with the primary mission~~ of the harbor of San Francisco;

(f) The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and navigation, or if the port commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds will yield maximum profits to be used by the commission in the furtherance of commerce and navigation; and public benefit, balancing criteria including: fair market return to the Harbor Trust Fund, determination of statutory trust grant consistency based on overall planned area development, enjoyment and use of the waterfront by residents and visitors alike, consistency with the authentic and diverse character of San Francisco, urban design worthy of the waterfront setting, preservation of historic resources, seismic and life safety improvements, stewardship of natural resources, and diverse economic opportunities and benefits;

(g) Leases and franchises granted or made by the port commission shall be administered exclusively by the operating forces of the port commission;

(h) The power to nominate for appointment a port director who shall be the chief executive of the port commission and who shall have the management of all the affairs and activities placed under the jurisdiction of the commission. The mayor shall appoint a port director. He or she shall devote his or her entire time to the duties of ~~the his~~ office. ~~The port director's and his~~ salary shall be fixed by the commission. He or she shall hold ~~his~~ office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and all bureaus and departments established for the operation of said harbor or for the operation of any equipment or facility thereof. ~~The port director Subject to the approval of the commission he~~ shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He or she shall possess the necessary administrative, executive and technical qualifications necessary to ~~enable him to~~ perform the duties of ~~the his~~ office. His or her compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on ~~the port director him~~ such additional powers and authority as it may see fit;

(i) To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the port;

(j) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;

(k) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the port commission, and to provide for the collection thereof;

(l) To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;

(m) To give such bonds or assurances as may be required by the United States in the operations permitted hereunder;

(n) To provide and equip offices within or without the port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;

(o) To contract for and operate foreign trade zones within the port area or auxiliary to the port area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the public utilities commission for operation of future zones or sub-zones in other areas;

(p) Members and officers of the port commission shall be exempt from the provisions of the city charter relating to absences from the state, but shall advise the mayor and the board of supervisors in advance of such absences;

(q) May promote the maritime and commercial interests of the harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without this state and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the port, and may use any moneys of the harbor fund for the special purposes authorized by this provision. Members and employees of the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the port;

(r) To issue revenue bonds as provided in Section 7.305;

(s) To expend all funds necessary to the carrying out of the powers and duties herein expressed;

(t) This section does hereby vest in the port commission all of the powers set forth in Section 3 and Section 5 of the Statutes of 1968, Chapter 1333, which provisions are hereby incorporated in the charter by this reference.

SEC. B3.584. BUDGETING AND FISCAL PROCEDURE.

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the port commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

The Commission shall periodically review, update, and adopt a capital plan to build and maintain facilities under its jurisdiction, identifying projects during the next 10-year period, including cost estimates and schedules, and a financial plan, including estimates of operation and maintenance expenses, repair and replacement costs, debt cost, and revenue and public subsidy requirements.

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

By: _____
THOMAS J. OWEN
Deputy City Attorney