


BOARD of SUPERVISORS



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MEMORANDUM

TO: Ben Rosenfield, City Controller

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

DATE: December 21, 2015

SUBJECT: CHARTER AMENDMENT INTRODUCED
June 7, 2016, Election

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. 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 Mayoral Run-Off Election Following Ranked-Choice Voting; Filling
Mayoral and Supervisorial Vacancies**

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to provide for a run-off election for Mayor between the top two candidates selected through ranked-choice voting unless one candidate receives a majority of first-place choices; 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 Board of Supervisors 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. 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 - Mayoral Run-Off Election Following Ranked-Choice Voting; Filling
2 Mayoral and Supervisorial Vacancies]

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4 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**
5 **2016, to amend the Charter of the City and County of San Francisco to provide for a run-**
6 **off election for Mayor between the top two candidates selected through ranked-choice**
7 **voting unless one candidate receives a majority of first-place choices; require the**
8 **Department of Elections to hold a special election when there is a vacancy in the Office of**
9 **Mayor or Member of the Board of Supervisors, unless a regularly scheduled election will**
10 **be held within 180 days of the vacancy; provide that the President of the Board of**
11 **Supervisors serves as Acting Mayor until an election is held to fill a mayoral vacancy; and**
12 **provide that the Board of Supervisors shall appoint an interim Supervisor to fill a**
13 **supervisorial vacancy until an election is held to fill that vacancy, with the interim**
14 **Supervisor being ineligible to compete in that election.**

15
16 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City
17 and County, at an election to be held on June 7, 2016, a proposal to amend the Charter of the
18 City and County by amending Sections 13.101.5, 13.102, and Article XVII, and adding Section
19 13.102.5, to read as follows:

20 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
21 **Additions** are *single-underline italics Times New Roman font*.
22 **Deletions** are *strike-through italics Times New Roman font*.
23 **Asterisks (* * * *)** indicate the omission of unchanged Charter
24 subsections.

24 **SEC. 13.101.5. VACANCIES.**

25 (a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender,

1 Sheriff, Treasurer, or Member of the ~~Board of Supervisors~~, Board of Education or Governing
2 Board of the Community College District becomes vacant because of death, resignation, recall,
3 permanent disability, or the inability of the respective officer to otherwise carry out the
4 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy
5 under this Charter and state laws.

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

11 (c) If the Office of Member of the Board of Supervisors becomes vacant because of
12 death, resignation, recall, permanent disability or the inability to carry out the responsibilities of
13 the office, the Board of Supervisors shall, by a two-thirds vote, appoint an individual qualified to
14 fill the vacancy under this Charter and state law to serve as an interim Supervisor. The Board of
15 Supervisors shall appoint an interim Supervisor within 14 days of the date of the vacancy. The
16 interim Supervisor shall serve until a successor is elected at a special municipal election as
17 provided in Section 13.101.5(e). That interim Supervisor may not seek election for that seat at
18 the special municipal election described in Section 13.101.5(e).

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

3 (e) If the Office of Mayor or Member of the Board of Supervisors becomes vacant as
4 provided in subsection (b) or (c) of this Section 13.101.5, the Director of Elections, within 14
5 days of the vacancy, shall call a special municipal election to fill the vacancy. The special
6 municipal election shall be held on a Tuesday at least 126 days, but not more than 140 days,
7 following the date of its calling, except that if the next regularly scheduled statewide or general
8 municipal election will occur within 180 days of the vacancy, the Director of Elections shall
9 consolidate the special municipal election with that regularly scheduled election.

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

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

20 (g) If a vacancy in the Office of Mayor or Member of the Board of Supervisors occurs
21 after June 7, 2016 but before the effective date of the Charter amendment amending this Section
22 13.101.5 at the June 7, 2016 election, and the vacancy is filled in accordance with the Charter as
23 operative at that time, the person appointed to fill the vacancy shall vacate the office by
24 operation of law on the effective date of the Charter amendment. The vacancy shall then be
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1 filled as provided in this Section 13.101.5. The City Attorney shall remove this subsection (g)
2 from the Charter by January 1, 2017.

3 ~~(d) If no candidate receives a majority of the votes cast at an election to fill a vacated~~
4 ~~office, the two candidates receiving the most votes shall qualify to have their names placed on~~
5 ~~the ballot for a municipal runoff election at the next regular or otherwise scheduled election~~
6 ~~occurring not less than five weeks later. If an instant runoff election process is enacted for the~~
7 ~~offices enumerated in this Section, that process shall apply to any election required by this~~
8 ~~Section.~~

9 **SEC. 13.102. ~~INSTANT RUNOFF~~ RANKED-CHOICE VOTING ELECTIONS.**

10 (a) For the purposes of this ~~section~~ Section: (1) a candidate shall be deemed "continuing"
11 if the candidate has not been eliminated from further rounds of tabulation; (2) a ballot shall be
12 deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not
13 ~~counted~~ included in further stages of the tabulation, if all of the choices have been eliminated or
14 there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to
15 two or more candidates, the ballot shall be declared exhausted when such multiple rankings are
16 reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be
17 transferred to that voter's next ranked choice.

18 (b) The ~~Mayor~~, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder,
19 Public Defender, and ~~members~~ Members of the Board of Supervisors shall be elected using a
20 ranked-choice, ~~or "instant runoff,"~~ ballot. The ballot shall allow voters to rank a number of
21 choices in order of preference equal to the total number of candidates for each office; provided,
22 however, that if the voting system, vote tabulation system or similar or related equipment used
23 by the City and County cannot feasibly accommodate choices equal to the total number of
24 candidates running for each office, then the Director of Elections may limit the number of
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1 choices a voter may rank to no fewer than three. The ballot shall in no way interfere with a
2 voter's ability to cast a vote for a write-in candidate.

3 (c) If a candidate receives a majority of the first choices, that candidate shall be declared
4 elected. If no candidate receives a majority, the candidate who received the fewest first choices
5 shall be eliminated from further rounds of tabulation, and each vote cast for that candidate shall
6 be transferred to the next ranked candidate on that voter's ballot. If, after this transfer of votes,
7 any candidate has a majority of the votes from the continuing ballots, that candidate shall be
8 declared elected.

9 (d) If no candidate receives a majority of votes from the continuing ballots after a
10 candidate has been eliminated and his or her votes have been transferred to the next-ranked
11 candidate, the continuing candidate with the fewest votes from the continuing ballots shall be
12 eliminated. All votes cast for that candidate shall be transferred to the next-ranked continuing
13 candidate on each voter's ballot. This process of eliminating candidates from further rounds of
14 tabulation and transferring their votes to the next-ranked continuing candidates shall be repeated
15 until a candidate receives a majority of the votes from the continuing ballots.

16 (e) If the total number of votes of the two or more candidates credited with the lowest
17 number of votes is less than the number of votes credited to the candidate with the next highest
18 number of votes, those candidates with the lowest number of votes shall be eliminated from
19 further rounds of tabulation simultaneously and their votes transferred to the next-ranked
20 continuing candidate on each ballot in a single counting operation.

21 (f) A tie between two or more candidates shall be resolved in accordance with State law.

22 (g) The Department of Elections shall conduct a voter education campaign to familiarize
23 voters with the ranked-choice ~~or, "instant runoff,"~~ method of voting.

1 (h) Any voting system, vote tabulation system, or similar or related equipment acquired
2 by the City and County shall have the capability to accommodate this system of ranked-choice,
3 ~~or "instant runoff,"~~ balloting.

4 ~~(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal~~
5 ~~election in November 2002 and all subsequent elections. If the Director of Elections certifies to~~
6 ~~the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not~~
7 ~~be ready to implement ranked choice balloting in November 2002, then the City shall begin~~
8 ~~using ranked choice, or "instant runoff," balloting at the November 2003 general municipal~~
9 ~~election.~~

10 ~~If ranked choice, or "instant runoff," balloting is not used in November of 2002, and no~~
11 ~~candidate for any elective office of the City and County, except the Board of Education and the~~
12 ~~Governing Board of the Community College District, receives a majority of the votes cast at an~~
13 ~~election for such office, the two candidates receiving the most votes shall qualify to have their~~
14 ~~names placed on the ballot for a runoff election held on the second Tuesday in December of~~
15 ~~2002.~~

16 **SEC. 13.102.5. RANKED-CHOICE VOTING PLUS RUN-OFF ELECTIONS FOR**
17 **MAYOR.**

18 (a) Elections for Mayor shall consist of a ranked-choice voting election, and if necessary
19 under subsection (b), a subsequent run-off election between the two candidates receiving the
20 most votes at that ranked-choice voting election.

21 (b) Elections for Mayor shall use a ranked-choice ballot. If a candidate for Mayor
22 receives a majority of the first choices in that contest, that candidate shall be declared elected.
23 If no candidate receives a majority of the first choices, then no candidate shall be declared
24 elected, and the ranked-choice voting tabulation process set forth in subsections 13.102(a)-(e)
25 shall proceed, except that the ranked-choice voting tabulation process shall end when all but two

1 candidates have been eliminated. Those two candidates shall then proceed to a run-off election.
2 In that run-off election, the candidate who receives a majority of votes cast shall be declared
3 elected.

4 (c) The run-off election shall be held in the City and County on the second Tuesday in
5 December following a general municipal election. But if the Director of Elections calls a special
6 municipal election for Mayor under Section 13.101.5(e) and does not consolidate that election
7 with a regularly scheduled statewide or general municipal election, the Director of Elections
8 shall call the run-off election to be held on a date at least 35 days, but not more than 42 days,
9 following the date of the special municipal election.

10 (d) Ballots cast in the run-off election shall not permit voters to cast votes for write-in
11 candidates for Mayor. The Director of Elections shall not count any attempts to cast votes for
12 write-in candidates in that contest.

13 (e) The Director of Elections shall not include any measures on the ballot for a run-off
14 election.

ARTICLE XVII: DEFINITIONS

15
16 For all purposes of this Charter, the following terms shall have the meanings specified
17 below:

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

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

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

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

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

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

7 "General municipal election" shall mean ~~the election for local officials or measures to be~~
8 ~~held in the City and County on the Tuesday immediately following the first Monday in November~~
9 ~~in every year until and including 2015. Thereafter, "general municipal election" shall mean the~~
10 election for local officials or measures to be held in the City and County on the Tuesday
11 immediately following the first Monday in November, both in all even-numbered years and in
12 every fourth year following 2015.

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

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

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

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

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


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

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

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

16
17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By:


20 ANDREW SHEN
21 Deputy City Attorney

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