

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Tom Paulino, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
Vincent C. Matthews, Superintendent, SFUSD
(Matthews@sfusd.edu)
Linda Shaw, Liaison to the Board, City College of San Francisco
(lshaw@ccsf.edu)

FROM: Victor Young, Assistant Clerk, Rules Committee
Board of Supervisors

A handwritten signature in black ink that reads "Victor Young".

DATE: December 21, 2021

SUBJECT: CHARTER AMENDMENT INTRODUCED
June 7, 2022 Election

The Board of Supervisors' Rules Committee has received the following Charter Amendment for the June 7, 2022, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 211287

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to provide that vacancies on the Board of Supervisors, Board of Education, and governing body of the Community College District shall be filled by a majority of those boards' members rather than the Mayor; extend the ban on initiation of recall petitions from six to twelve months after the official has assumed office; and prohibit the submission of recall petitions within eighteen months of a regularly scheduled election for the office held by the official sought to be recalled; at an election to be held on June 7, 2022.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@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: Andres Power, Mayor's Office
Patrick Ford, Ethics Commission
Viva Mogi, SFUSD (mogiv@sfusd.edu)
Diana Gonzales, CCSF (dgonzales@ccsf.edu)



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 211287 **File Type:** Charter Amendment **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Charter Amendment - Filling Vacancies in Elected Offices; Timelines for Recall Process **Date Introduced:** 12/14/2021

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to provide that vacancies on the Board of Supervisors, Board of Education, and governing body of the Community College District shall be filled by a majority of those boards' members rather than the Mayor; extend the ban on initiation of recall petitions from six to twelve months after the official has assumed office; and prohibit the submission of recall petitions within eighteen months of a regularly scheduled election for the office held by the official sought to be recalled; at an election to be held on June 7, 2022.

Sponsors: Peskin; Walton, Ronen, Preston, Chan and Melgar

History of Legislative File 211287

| Ver | Acting Body | Date | Action | Sent To | Due Date | Result |
|-----|-------------|------------|----------------------------|-----------------|------------|--------|
| 1 | President | 12/14/2021 | ASSIGNED UNDER 30 DAY RULE | Rules Committee | 01/13/2022 | |

1 [Charter Amendment - Filling Vacancies in Elected Offices; Timelines for Recall Process]

2

3 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**

4 **2022, to amend the Charter of the City and County of San Francisco to provide that**

5 **vacancies on the Board of Supervisors, Board of Education, and governing body of the**

6 **Community College District shall be filled by a majority of those boards’ members rather**

7 **than the Mayor; extend the ban on initiation of recall petitions from six to twelve months**

8 **after the official has assumed office; and prohibit the submission of recall petitions within**

9 **eighteen months of a regularly scheduled election for the office held by the official sought**

10 **to be recalled.**

11

12 The Board of Supervisors hereby submits to the qualified voters of the City and County,

13 at an election to be held on June 7, 2022, a proposal to amend the Charter of the City and County

14 by revising Sections 13.101.5 and 14.103, to read as follows:

15 NOTE: **Unchanged Charter text and uncodified text** are in plain font.

16 **Additions** are *single-underline italics Times New Roman font*.

17 **Deletions** are ~~*strike-through italics Times New Roman font*~~.

18 **Asterisks (* * * *)** indicate the omission of unchanged Charter subsections.

19 **SEC. 13.101.5. VACANCIES.**

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

21 Sheriff, or Treasurer, ~~or Member of the Board of Supervisors, Board of Education or Governing~~

22 ~~Board of the Community College District~~ becomes vacant because of death, resignation, recall,

23 permanent disability, or the inability of the respective officer to otherwise carry out the

24 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy

25 under this Charter and state laws.

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

6 ~~(b)~~ (c) 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
9 appointed by the Board of Supervisors.

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

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

24 //

25 //

1 **SEC. 14.103. RECALL.**

2 (a) An elected official of the City and County, the City Administrator, the Controller, or
3 any member of the Airports Commission, the Board of Education, the governing board of the
4 Community College District, the Ethics Commission, or the Public Utilities Commission may be
5 recalled by the voters as provided by this Charter and by the laws of the State of California,
6 except that:

7 (1) no recall petitions shall be initiated with respect to any officer who has held
8 office for less than ~~six~~ 12 months; and

9 (2) no recall petition shall be submitted to the Director of Elections within 18
10 months before a regularly scheduled election for the office held by the elected official sought to
11 be recalled.

12 (b) Upon certifying the sufficiency of the recall petition's signatures, the Director of
13 Elections shall immediately call a special municipal election on the recall, to be held not less
14 than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a
15 general municipal or statewide election, in which event the recall shall be submitted at such
16 general municipal or statewide election.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ Andrew Shen
21 ANDREW SHEN
22 Deputy City Attorney

23 n:\legana\as2021\2200262\01571108.docx

LEGISLATIVE DIGEST
(First Draft, 12/14/2021)

[Charter Amendment - Filling Vacancies in Elected Offices; Timelines for Recall Process]

Describing and setting forth a proposal to the voters at an election to be held on June 7, 2022, to amend the Charter of the City and County of San Francisco to provide that vacancies on the Board of Supervisors, Board of Education, and governing body of the Community College District shall be filled by a majority of those boards' members rather than the Mayor; extend the ban on initiation of recall petitions from six to twelve months after the official has assumed office; and prohibit the submission of recall petitions within eighteen months of a regularly scheduled election for the office held by the official sought to be recalled.

Existing Law

1. Vacancy appointments

In the event of a vacancy in the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, or Treasurer, or Member of the Board of Supervisors, School Board or Governing Board of the Community College District, the Mayor is responsible for appointing a qualified individual to fill the vacant seat.

2. Recall process

Under Charter Section 14.103, no recall petition may be initiated against a local official, if that official has held office for less than six months. Also, under Elections Code 11007(c), no recall petition may be initiated against a local elected official, if that official's term of office would end within six months.

Amendments to Current Law

1. Vacancy appointments

Under the proposed Charter amendment, the Mayor would no longer make vacancy appointments for the Board of Supervisors, the School Board or Governing Board of the Community College District. Instead, those appointments would be made by a majority of the board's members that has the vacant seat (majority would be determined based on the number of seats on the board, rather than the number of seats actually occupied).

2. Recall process

The proposal would extend the period in which a recall petition could not be initiated during the beginning of an official's term of office, from the first six months to the first 12 months.

The proposed Charter amendment would also establish a deadline by which a recall petition must be submitted, in order to prevent a recall election from being held within 12 months of a regularly scheduled election for the office held by the official sought to be recalled.

In order to accommodate this limitation, the proposal would prohibit the submission of a recall petition within 18 months before a regularly scheduled election for the office held by the person sought to be recalled. This 18-month period incorporates the additional time necessary for the Department of Elections' review of recall petitions and calling of a recall election.

n:\legana\as2021\2200262\01571143.docx

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
2. Request for next printed agenda Without Reference to Committee.
3. Request for hearing on a subject matter at Committee.
4. Request for letter beginning : "Supervisor inquiries"
5. City Attorney Request.
6. Call File No. from Committee.
7. Budget Analyst request (attached written motion).
8. Substitute Legislation File No.
9. Reactivate File No.
10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Describing and setting forth a proposal to the voters at an election to be held on June 7, 2022, to amend the Charter of the City and County of San Francisco to provide that vacancies on the Board of Supervisors, Board of Education, and governing body of the Community College District shall be filled by a majority of those boards' members rather than the Mayor; extend the ban on initiation of recall petitions from six to twelve months after the official has assumed office; and prohibit the submission of recall petitions within eighteen months of a regularly scheduled election for the office held by the official sought to be recalled.

Signature of Sponsoring Supervisor:

For Clerk's Use Only

From: [Shen, Andrew \(CAT\)](#)
To: [Hepner, Lee \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Peskin, Aaron \(BOS\)](#); [PEARSON, ANNE \(CAT\)](#); [Angulo, Sunny \(BOS\)](#)
Subject: RE: Peskin - Introduction Form - Recall Reform Charter Amendment
Date: Tuesday, December 14, 2021 8:09:45 PM

BOS Legislation –

Confirming my approval as to form.

Thank you.

Andrew Shen

Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4780

www.sfcityattorney.org

DURING COVID, PLEASE CONTACT ME THROUGH EMAIL.

From: Hepner, Lee (BOS) <lee.hepner@sfgov.org>
Sent: Tuesday, December 14, 2021 5:03 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Shen, Andrew (CAT) <Andrew.Shen@sfcityatty.org>; Pearson, Anne (CAT) <Anne.Pearson@sfcityatty.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Smeallie, Kyle (BOS) <kyle.smeallie@sfgov.org>; Ronen, Hillary (BOS) <hillary.ronen@sfgov.org>; Beinart, Amy (BOS) <amy.beinart@sfgov.org>; Chan, Connie (BOS) <connie.chan@sfgov.org>; Groth, Kelly (BOS) <kelly.groth@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Gee, Natalie (BOS) <natalie.gee@sfgov.org>; Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>; Low, Jen (BOS) <jen.low@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Subject: RE: Peskin - Introduction Form - Recall Reform Charter Amendment

Apologies – Introduction Form attached here.

-Lee

From: Hepner, Lee (BOS)
Sent: Tuesday, December 14, 2021 5:02 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; SHEN, ANDREW (CAT) <Andrew.Shen@sfcityatty.org>; PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Smeallie, Kyle (BOS) <kyle.smeallie@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Beinart, Amy (BOS) <amy.beinart@sfgov.org>; Chan, Connie (BOS) <connie.chan@sfgov.org>; Groth, Kelly (BOS) <kelly.groth@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>; Gee, Natalie (BOS) <natalie.gee@sfgov.org>; Melgar, Myrna (BOS) <Myrna.Melgar@sfgov.org>; Low, Jen (BOS) <jen.low@sfgov.org>; Angulo, Sunny (BOS)

<sunny.angulo@sfgov.org>

Subject: Peskin - Introduction Form - Recall Reform Charter Amendment

Please find the subject Charter Amendment and corresponding Introduction Form attached hereto.

Thanks,

Lee

Lee Hepner

Legislative Aide

Supervisor Aaron Peskin

(415) 554-7419 | *pronouns: he, him, his*

[District 3 Website](#)

Sign up for our newsletter [here!](#)

From: Shen, Andrew (CAT) <Andrew.Shen@sfcityatty.org>

Sent: Tuesday, December 14, 2021 10:17 AM

To: Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Hepner, Lee (BOS) <lee.hepner@sfgov.org>

Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>

Subject: RE: Leg Request - Recall Reform

Dear Supervisor Peskin and Lee,

Attached is a "signed" version of the Charter amendment and a leg digest.

Thank you.

Andrew Shen (he/him)

Deputy City Attorney

Office of City Attorney David Chiu

(415) 554-4780

www.sfcityattorney.org

1 [Charter Amendment - Filling Vacancies in Elected Offices; Timelines for Recall Process]

2

3 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**

4 **2022, to amend the Charter of the City and County of San Francisco to provide that**

5 **vacancies on the Board of Supervisors, Board of Education, and governing body of the**

6 **Community College District shall be filled by a majority of those boards’ members rather**

7 **than the Mayor; extend the ban on initiation of recall petitions from six to twelve months**

8 **after the official has assumed office; and prohibit the submission of recall petitions within**

9 **eighteen months of a regularly scheduled election for the office held by the official sought**

10 **to be recalled.**

11

12 The Board of Supervisors hereby submits to the qualified voters of the City and County,

13 at an election to be held on June 7, 2022, a proposal to amend the Charter of the City and County

14 by revising Sections 13.101.5 and 14.103, to read as follows:

15 NOTE: **Unchanged Charter text and uncodified text** are in plain font.

16 **Additions** are *single-underline italics Times New Roman font*.

17 **Deletions** are ~~*strike-through italics Times New Roman font*~~.

18 **Asterisks (* * * *)** indicate the omission of unchanged Charter subsections.

19 **SEC. 13.101.5. VACANCIES.**

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

21 Sheriff, or Treasurer, ~~or Member of the Board of Supervisors, Board of Education or Governing~~

22 ~~Board of the Community College District~~ becomes vacant because of death, resignation, recall,

23 permanent disability, or the inability of the respective officer to otherwise carry out the

24 responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy

25 under this Charter and state laws.

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

6 ~~(b)~~ (c) 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
9 appointed by the Board of Supervisors.

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

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

24 //

25 //

1 **SEC. 14.103. RECALL.**

2 (a) An elected official of the City and County, the City Administrator, the Controller, or
3 any member of the Airports Commission, the Board of Education, the governing board of the
4 Community College District, the Ethics Commission, or the Public Utilities Commission may be
5 recalled by the voters as provided by this Charter and by the laws of the State of California,
6 except that:

7 (1) no recall petitions shall be initiated with respect to any officer who has held
8 office for less than ~~six~~ 12 months; and

9 (2) no recall petition shall be submitted to the Director of Elections within 18
10 months before a regularly scheduled election for the office held by the elected official sought to
11 be recalled.

12 (b) Upon certifying the sufficiency of the recall petition's signatures, the Director of
13 Elections shall immediately call a special municipal election on the recall, to be held not less
14 than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a
15 general municipal or statewide election, in which event the recall shall be submitted at such
16 general municipal or statewide election.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ Andrew Shen
21 ANDREW SHEN
22 Deputy City Attorney

23 n:\legana\as2021\2200262\01571108.docx