

BOARD of SUPERVISORS



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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
Angela Calvillo, Clerk of the Board, Board of Supervisors
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: January 27, 2022

SUBJECT: CHARTER AMENDMENT INTRODUCED
June 7, 2022 Election

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

File No. 211287 (ver2)

Charter Amendment (Second Draft) to amend the Charter of the City and County of San Francisco to extend the ban on the initiation of recall petitions from six to twelve months after the official has assumed office; prohibit the submission of a recall petition to the Department of Elections, if the subsequent recall election would be required to be held within twelve months of a regularly scheduled election for the office held by the official sought to be recalled; and provide that any person appointed by the Mayor to fill any vacancy created by a recall may not be a candidate in the subsequent vacancy election; 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)

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

2 **Describing and setting forth a proposal to the voters at an election to be held on June 7,**
 3 **2022, to amend the Charter of the City and County of San Francisco to extend the ban on**
 4 **the initiation of recall petitions from six to twelve months after the official has assumed**
 5 **office; prohibit the submission of a recall petition to the Department of Elections, if the**
 6 **subsequent recall election would be required to be held within twelve months of a regularly**
 7 **scheduled election for the office held by the official sought to be recalled; and provide that**
 8 **any person appointed by the Mayor to fill any vacancy created by a recall may not be a**
 9 **candidate in the subsequent vacancy election.**

10
 11 The Board of Supervisors hereby submits to the qualified voters of the City and County,
 12 at an election to be held on June 7, 2022, a proposal to amend the Charter of the City and County
 13 by revising Sections 13.101.5 and 14.103, to read as follows:

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

18 **SEC. 13.101.5. VACANCIES.**

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

1 (b) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender,
2 Sheriff, Treasurer, or Member of the Board of Supervisors, Board of Education or Governing
3 Board of the Community College District becomes vacant because of recall, the Mayor shall
4 appoint an individual qualified to fill the vacancy under this Charter and state laws to serve as
5 an interim officer. The interim officer shall carry out the responsibilities of the vacated office
6 and serve until a successor is elected pursuant to subsection (d). No person appointed as an
7 interim officer may be a candidate in the following election held to fill the vacancy.

8 **(b) (c)** If the Office of Mayor becomes vacant because of death, resignation, recall,
9 permanent disability or the inability to carry out the responsibilities of the office, the President of
10 the Board of Supervisors shall become Acting Mayor and shall serve until a successor is
11 appointed by the Board of Supervisors.

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

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

1
2 **SEC. 14.103. RECALL.**

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

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

10 (2) no recall petition shall be submitted to the Director of Elections within 18
11 months before a regularly scheduled election for the office held by the elected official sought to
12 be recalled, in order to ensure that no recall election may be held, pursuant to subsection (b),
13 within 12 months of that regularly scheduled election.

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

19
20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

22 By: /s/ Andrew Shen
23 ANDREW SHEN
24 Deputy City Attorney

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LEGISLATIVE DIGEST
(revised 01/26/2022)

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

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 extend the ban on the initiation of recall petitions from six to twelve months after the official has assumed office; prohibit the submission of a recall petition to the Department of Elections, if the subsequent recall election would be required to be held within twelve months of a regularly scheduled election for the office held by the official sought to be recalled; and provide that any person appointed by the Mayor to fill any vacancy created by a recall may not be a candidate in the subsequent vacancy election.

Existing Law

1. 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.

2. 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.

Amendments to Current Law

1. Recall process

The proposed Charter amendment 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 provide that no recall petition may be submitted to the Director of Elections within 18 months before a regularly scheduled election for the office held by the elected official subject to the recall. This deadline would ensure that no recall election would be held within 12 months of that regularly scheduled election. This 18-month period incorporates the additional time necessary for the Department of Elections' review of recall petitions and calling of a recall election.

2. Vacancy appointments

Under the proposed Charter amendment, the Mayor would continue to make appointments for vacancies created by recalls. Such appointees would be “interim” officers that would carry out the responsibilities of the vacated office but would also be prohibited from being candidates in the following elections held to fill those vacancies.

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