

File No. 130434

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 6/27/13

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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Completed by: Linda Wong

Date 6/24/13

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[Municipal Elections Code - Publication of Legal Text of Proposed Measures]

Ordinance amending the Municipal Elections Code to specify that the Voter Information Pamphlet will not include the legal text of any ballot measure that exceeds 20 pages.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough-normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Municipal Elections Code is hereby amended by amending Section 500, to read as follows:

SEC. 500. VOTER INFORMATION PAMPHLET; CONTENTS; FORMAT.

With respect to any election to be held in the City and County, the Director of Elections shall prepare a voter information pamphlet. The voter information pamphlet shall contain, in addition to any other material required by the Charter or by general law, the following materials:

(a) **General contents:**

- (1) A table of contents;
- (2) An index of candidates and measures;
- (3) A brief explanation of the purpose and use of the pamphlet;
- (4) A summary of voters' rights, including a description of the right provided to every elector by California Elections Code sections 9295 and 13314 to seek a writ of mandate or an injunction prior to the publication of the Voter Information Pamphlet, requiring any or all of the materials submitted for publication in the Pamphlet to be amended or deleted;

1 (5) A brief description of the rules and procedures that govern the submission,
2 selection and publication of ballot arguments in the pamphlet, including a statement explaining
3 that each person entitled to submit a "Proponent's" or "Opponent's" argument is chosen
4 pursuant to the priority list stated in Section 545 of this Code;

5 (6) A disclaimer that neither the Director of Elections nor any other City
6 agency, official or employee verifies the accuracy of information contained in the ballot
7 arguments or candidate qualification statements appearing in the pamphlet, and an
8 explanation that any person submitting a ballot argument or qualifications statement bears the
9 sole responsibility for claims made therein;

10 (7) Artwork, graphics and other material which the Director of Elections
11 determines will make the pamphlet easier to understand or more useful to the voter;

12 (8) Definitions of terms appearing in the pamphlet; and

13 (9) A sample ballot.

14 (b) **Contents as to candidates:**

15 (1) The candidate qualification statement of each candidate for City elective
16 office;

17 (2) A brief statement of the term, compensation, and duties of each City
18 elective office appearing in the pamphlet; and

19 (3) Any notice required by the Campaign Finance Reform Ordinance or the
20 Political Reform Act, Government Code Section 85600, informing voters whether the
21 candidate has adopted the applicable voluntary expenditure ceiling.

22 (c) **Contents as to measures:**

23 (1) The identification of each measure by letter and title;

24 (2) The City Attorney's statement or question for each measure;
25

1 (3) The digest of each measure prepared by the Ballot Simplification
2 Committee;

3 (4) The Controller's financial analysis of each measure;

4 (5) An explanation of how the measure qualified for submission to the voters;

5 (A) If the measure was submitted to the voters by the Board of Supervisors,
6 the explanation required by Subsection (c)(5) of this Section shall identify those Supervisors
7 who voted for submission of the measure and those Supervisors who voted against
8 submission of the measure,

9 (B) If the measure was submitted to the voters by four or more members of
10 the Board of Supervisors, the explanation required by Subsection (c)(5) of this Section shall
11 identify those Supervisors who submitted the measure,

12 (C) If the measure was submitted to the voters by initiative petition, the
13 explanation required by Subsection (c)(5) of this Section shall include the number of valid
14 signatures of registered San Francisco voters that were required to qualify the measure for
15 the ballot, and the date on which the Director of Elections certified that the measure qualified
16 for the ballot;

17 ~~(6) The full text of each measure to be voted upon at the election;~~

18 (7) The opponent, proponent, rebuttal and paid arguments, if any, for or
19 against each measure;

20 (7) The full legal text of each measure to be voted upon at the election, unless the
21 legal text of a measure as submitted to the Department of Elections exceeds 20 pages. In that event, the
22 Director of Elections shall omit the legal text of that measure from the Voter Information Pamphlet and
23 instead cause the legal text to be posted on the Department's website, provided to the Main Library and
24 every branch library of the San Francisco Public Library, and mailed to any voter upon request.
25

1 (A) If the legal text of a measure is printed in the voter information pamphlet,
2 the Department of Elections shall cause to be printed immediately below the Ballot Simplification
3 Committee digest, in no less than 10-point bold type, a statement substantially as follows: "The above
4 statement is an impartial analysis of Measure _____. The full text of this measure appears at page
5 (insert page number)."

6 (B) If the legal text of a measure is omitted from the voter information pamphlet,
7 the Department of Elections shall cause to be printed immediately below the Ballot Simplification
8 Committee digest, in no less than 10-point bold type, a statement substantially as follows: "The above
9 statement is an impartial analysis of Measure _____. The full text of this measure is available on-line
10 at (insert website address) and in every San Francisco public library. If you desire a copy of the full
11 text of the measure to be mailed to you, please contact the Department of Elections at (insert telephone
12 number and e-mail address) and a copy will be mailed at no cost to you."

13 Measures, and the material specified in this Section relating to said measures, shall
14 be printed in the voter information pamphlet in the same order in which designated upon the
15 ballot.

16 If space allows, the items specified in Subsection (c)(1) to (c)(5) of this Section shall
17 be printed together on the same page of the voter information pamphlet. This page shall be
18 known as the "ballot measure title page." The ballot measure title page shall also indicate: ~~the~~
19 ~~page number at which the full text of the measure is printed;~~ the page number at which the
20 arguments for or against the measure are printed; and, if applicable the page number at which
21 the definitions of terms appearing on ballot measure title page are printed.

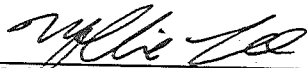
22 The format of the voter information pamphlet shall be determined by the Director of
23 Elections, subject to the approval of the Ballot Simplification Committee.

1 Section 2. Effective Date. This ordinance shall become effective 30 days from the
2 date of passage.

3
4 Section 3. This section is uncodified. In enacting this Ordinance, the Board intends to
5 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
6 punctuation, charts, diagrams, or any other constituent part of the Municipal Elections Code
7 that are explicitly shown in this legislation as additions, deletions, Board amendment
8 additions, and Board amendment deletions in accordance with the "Note" that appears under
9 the official title of the legislation.

10
11 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

12
13 By:


14 Mollie Lee
Deputy City Attorney

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LEGISLATIVE DIGEST

[Municipal Elections Code - Publication of Legal Text of Proposed Measures]

Ordinance amending the Municipal Elections Code to specify that the Voter Information Pamphlet will not include the legal text of any ballot measure that exceeds 20 pages.

Existing Law

The Municipal Elections Code requires the Department of Elections ("Department") to prepare a Voter Information Pamphlet ("VIP") in advance of every municipal election. The VIP includes information about candidates and ballot measures to be voted on at the election, as well as general election information. The Department provides the Voter Information Pamphlet to every registered San Francisco voter.

Section 500 of the Municipal Elections Code specifies the material that must be printed in the VIP. For each local ballot measure, the VIP must include the letter and title of the measure, the City Attorney's ballot question, the Ballot Simplification Committee's digest, the Controller's financial analysis, an explanation of how the measure qualified for submission to the voters, ballot arguments for and against the measure, and the full legal text of each measure.

Amendments to Current Law

This ordinance would amend Section 500 of the Municipal Elections Code to change the requirement that the VIP include the full legal text of every ballot measure. Under the proposed ordinance, if the legal text of a ballot measure is over 20 pages, the Department would not print the legal text of that measure in the Voter Information Pamphlet. Instead, the Department would be required to post the legal text of that measure on its website, provide the legal text to the Main Library and every branch of the San Francisco public library, and mail a copy of the legal text to any voter upon request.

Gerard Gleason
100 2nd Avenue
San Francisco

May 30, 2013

Supervisor Breed
Supervisor Yee
Supervisor Cohen
Rules Committee
San Francisco Board of Supervisors
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2013 JUN -4 AM 9:16

RE: Proposed Ordinance(s) ~~130413~~ and 130434 Ordinance amending the Municipal Elections Code to specify that the Voter Information Pamphlet will not include the legal text of any ballot measure

Dear Supervisors,

The two proposals before your committee regarding modification of the Municipal Election Code to forgo providing, in the Voter Information Pamphlet, the entire legal text of measures submitted to voters, are wildly over reaching and ill advised.

Why suddenly do we have measures with hundreds of pages of legal text? Why permanently change Municipal Election Code? Are hundreds of pages of legal text to be the expected future for measures?

I handled the production of ballots and the Voter Information Pamphlet for the City & County for 6 elections (1999-2002) at the Department of Elections and for the past 10 years (2004 to present) I have been a member of the Elections Commission. I am fully aware of the contents and costs associated with the Voters Information Pamphlet (VIP).

The attachment to this letter covers the mandated components of the VIP, and which portions currently **already** involve distilled and condensed information. All of the condensed material is subject to either public review or are created in a public process. All of the condensed material is open to potential legal challenge which can delay the production and distribution of the VIP.

There are so many aspects of the two proposals which are just plainly wrong that it is hard to touch on them all. But for starters, you should consider these:

- 1) The legal text of any measure is singularly the only bit of actual absolute truth provided to voters before an election. Today voters are bombarded by a year-round campaign industry and frankly much of the public is fed up with it. Do the proponents of this legislation believe voters already receive adequate information from sound-bites, slate-cards and robo-calls? That the legal text can be sent later if voters really insist on it...or voters can fetch it off the internet if needed or make a trip to the library (when it is open)?

Yes, most people do not even read the legal text. Likewise most people also do not read the pages of information that come in their prescription medications. The molecular formula of Erythromycin may be complicated and not useful to most. Legislators mandated that pharmaceutical companies provide that information so those who ingest medications can make their own judgment or seek advice. Yet now we have legislators who propose legal text of measures to voters be available upon special request or fetched?

2) Remove the legal text and the Voter Information Pamphlet (VIP) becomes a Campaign Opinion Booklet. Much of the VIP consists of submitted arguments. Most of these signed arguments originate from campaign committees. And most important: are any of these arguments even true?

Municipal Election Code 500(a) (6)

A disclaimer that neither the Director of Elections nor any other City agency, official or employee verifies the accuracy of information contained in the ballot arguments or candidate qualification statements appearing in the pamphlet, and an explanation that any person submitting a ballot argument or qualifications statement bears the sole responsibility for claims made therein;

What type of “information” are we truly providing to voters if we do not provide the basic truth and fact of proposed measures? We will provide opinions and arguments but not the actual proposed text of the measure?

3) An attempt to provide condensed or partial legal text.

- What happens at page 20, or page 100?
- Does the Director of Elections have time or expertise to condense legal text in addition to preparing for the impending deadline of an upcoming election?
- Is a condensed version produced by the Director of Elections and the City Attorney in a back office?
- Would a condensed version be subject to public review and legal challenge?

The Ballot Simplification Committee (BSC) meets in public, has an appeals process, and people can and do seek legal challenges to the 200 word Digest.

The City Attorney’s 20 word max Ballot Question is subject to public review, and people can and do seek legal challenges to the 20 word question. And the Ballot Question is produced **based on and after** the BSC public meetings.

What makes the proponents think there will not be legal challenges and delays in the getting the pamphlet to voters when legal text involves hundreds of pages and thousands of words?

4) Why did **signers** of a referendum need ready-available the full hundreds of pages of legal text yet it would be OK for **voters** to have to fetch the legal text? Signers and voters are both the same thing. Referred to as **Qualified Electors**. There is absolutely no difference between signers and voters in our democracy. The distinction proposed only exists within the campaign industry.

The reason these proposals are before you is simple. The proponents are correct. Including 500 pages of legal text will be costly and cause delays in getting the voter pamphlet to voters. Phone book-size voter pamphlets would be preposterous. Agreed.

But they are seeking to change the Municipal Election Code from here-on-out. For every future election. This should instead be a one-time issue.

Solution

Allow the indulgence they are seeking. One time, with specific notices to voters about it. Be sure this is a one-time situation caused by unusual circumstances. But do not change the code to “from here-on-out”, to limit or condense or omit the distribution of the legal text of measures alongside other material provided to voters --at the same time. That would be absolutely the wrong thing to do. The legal text is the truth. Simple as that.

Cause the requested action to sunset this year. If the argument is "what about next time?". NEXT TIME? That this should EVER happen again? That voters should be presented with measures that have 500 pages of legal text behind them?

Online Voter Pamphlet is Set Up to Unleash a Torrent of email Spam

As to the future, the situation before you can be resolved as we move toward the elimination delivery of print on paper. For the time being we need to be aware and cautious that not all people have access to the internet, or the cost involved or familiarity with computers.

For the past 2 years Municipal Election Code allows voters to opt of postal delivery of the voter pamphlet (VIP). Right now of some 490,000 VIPs sent out...only 2128 voters have opted for electronic delivery. That's not too promising in hi-tech San Francisco. Tweet that.

However, electronic delivery will likely remain low as long as voters know that the very email address information requested to send you your electronic voter pamphlet is given away by the Department of Elections. Voters who provide their email will likely be bombarded by campaign spam after the Department provides the voter list to campaigns. And once that list is out there, it ends up with commercial entities. If you like spam, give your email to the Department of Elections.

Regardless of what California Elections Code says about restricted access to voter data files**, the exclusivity of the restricted access list is -- practically anyone. And again, once someone has the data, it can go anywhere. There is no policing on this.

There is a solution, but the entrenched political operatives and campaign industry don't like it. Have the Department of Elections allow voters to designate email addresses for administrative use only. Currently a voter's only option is to provide or withhold email and phone number on registration forms. Hundreds of vote-by-mail ballots to go uncounted every election due to lack of rapid contact information. We don't offer the simple opt-out, to keep that contact info for internal use only...the same opt-out Pottery Barn offers.

Until we allow votes to opt to keep their email address private we stand less of a chance to eliminate pages and pages of print on paper and discontinue physical postal delivery of hundreds of thousands of voter pamphlets, costing close to \$1 million per election.

Please Consider the Impact of Permanent Change to Municipal Election Code

I would like to reiterate that I am not in favor of spending the huge sum of money to mail hundreds of pages of legal text to voters...even though we should. This dilemma was caused by a mistake. There is resulting blow back from previous decisions which taxpayers and voters cannot afford. Again, please grant only a one time indulgence. Do not make permanent changes to the Municipal Election Code as the proponents ask. Elections exist to serve voters, not campaigns. Thank you.

Sincerely,



Gerard Gleason

cc: Supervisor David Chiu

cc: Supervisor Scott Weiner

cc: Linda Wong, Clerk, Rules Committee

Append

Under Municipal Election Code, the Voter Information Pamphlet has several mandated components. Key among these are condensed and distilled versions of the measure before voters:

- A maximum 20 word Question produced by the City Attorney. This is also the wording voters see printed on their ballot.
- A 200 word, 8th grade reading level synopsis of the measure, produced by a public body, the Ballot Simplification Committee. This Digest produced by the Ballot Simplification Committee attempts to distill down the language of the measure to key components and an understanding of the implication of voting Yes or No.
- The Controller's best-to-my-knowledge fiscal impact if the measure is adopted.
- The full legal text of the measure before voters.

The Question and Controllers Statement are both subject to a public review period and possible legal challenge before the VIP is printed.

The Ballot Simplification Committee's Digest is produced during open meetings and subject to a required appeal process and possible legal challenge.

The legal text is forwarded to the Department of Elections and printed exactly as submitted.

The VIP in large part consists of submitted arguments. Proponents and selected Opponents may submit an argument and rebuttal. San Francisco also allows purchased arguments in the VIP. Most of these paid arguments are signed by individuals but are submitted and paid for by campaign committees and parties interested in passage or defeat of the measure.

The balance of the VIP contains information to the voters such as candidate statements in-person voting hours, instructions on how to mark a ballot, casting a Ranked Choice Voting ballot, assessable voting and rights of a voter.

.....
**California Elections Code

2194. (a) *The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:*

(3) Shall be provided with respect to any voter, subject to the provisions of Sections 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

Introduction Form

By a Member of the Board of Supervisors or the 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 inquires"
- ☐ 5. City Attorney request.
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget Analyst request (attach written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Request for Closed Session (attach written motion).
- ☐ 10. Board to Sit as A Committee of the Whole.
- ☐ 11. Question(s) 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 a Imperative

Sponsor(s):

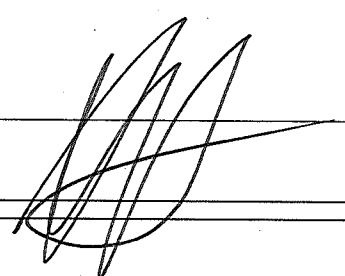
Supervisor Wiener

Subject:

Municipal Elections Code - Publication of Legal Text of Proposed Measures

The text is listed below or attached:

Ordinance amending the Municipal Elections Code to specify that the Voter Information Pamphlet will not include the legal text of any ballot measure that exceeds twenty pages.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: