

[Ethics Commission Charter Amendment]

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 C3.699-14 to establish a budget process for the Ethics Commission and adding Section C3.99.15 to authorize the hiring of outside counsel for specified conflicts.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 8, 2005, a proposal to amend the Charter of the City and County by amending Section C3.699-14 and adding a new Section C3.699-15 to read as follows:

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

Section 1. The San Francisco Charter is hereby amended by amending Section C3.699-14 to read as follows:

C3.699-14 COMMISSION FUNDING

The Ethics Commission shall, not later than March 1 of every year, approve and submit to the Mayor a budget detailing itemized estimates of the financial needs of the Commission for the ensuing fiscal year. The Mayor shall include the Commission's budget in the Mayor's annual proposed budget to the Board of Supervisors without revision, but with such recommendations as the Mayor may deem proper. Upon inclusion in the Mayor's proposed annual budget to the Board of Supervisors the budget submitted by the Commission may be amended and adopted pursuant to the provisions of Article IX of this Charter, provided that the Mayor may not, pursuant to Section 9.104 of this Charter, reduce or reject any expenditure authorized by the Board of Supervisors related to the Commission.

Before the Commission approves and submits its first annual budget proposal to the Mayor under this Section, it shall conduct, in conjunction with the Controller, a survey of the budgets of equivalent agencies in comparable jurisdictions for each of the Commission's mandates under this Charter and City codes. The survey shall assess the level of staffing in those jurisdictions for particular tasks and what a comparable staffing level for the Ethics Commission should be given the workload that the Ethics Commission has historically carried. Based on this survey, the Ethics Commission shall produce a minimum baseline budget. The Commission's first annual budget proposal to the Mayor under this Section may not be less than this minimum baseline budget.

Thereafter, the Ethics Commission shall establish a three year cycle, coordinated with the City's budget process, for updating the minimum baseline budget determination required by this Section, provided that the initial determination may be in effect for less than a three year period in order to facilitate implementation of a three year cycle. The Commission's annual budget proposal to the Mayor under this Section may not be less than the last minimum baseline budget produced by the Commission.

When producing a minimum baseline budget under this Section, the Ethics Commission shall also establish a timeline, not to exceed three years, for increasing or decreasing its staff to the level identified in any baseline budget.

The ethics commission may impose fees related to the administration and enforcement of ordinances and provisions of this charter related to campaign finance, lobbying, campaign consultants and governmental ethics. The fees shall become effective 30 days after their approval by the commission unless the board of supervisors, by a vote of two-thirds of all of its members, disapproves the fees within this 30 day period.

Section 2. The San Francisco Charter is hereby amended by adding new Section C3.699-15 to read as follows:

C3.699-15 LEGAL COUNSEL

The City Attorney shall serve as legal counsel to the Ethics Commission, subject to the provisions of this Section. In addition to the provisions of Section 6.102 governing the procedures for hiring outside counsel in the event of specified conflicts of interest, the Commission may, by a majority vote of its members, hire outside legal counsel to advise the Commission on any audit, assessment of a fine or penalty, or investigation and enforcement of a complaint if the City Attorney, or any current employee in the Office of the City Attorney, is the subject of that audit, fine, penalty or complaint; provided that any dispute over application of this provision shall be resolved following the dispute resolution process set forth in Section 6.102. Any outside legal counsel hired pursuant to this Section shall be a member in good standing of the California State Bar. In selecting outside legal counsel, the Commission shall give preference to engaging the services of a city attorney's office, a county counsel's office or other public law office with expertise regarding the subject-matter jurisdiction of the Ethics Commission. In the event that the Commission concludes that private counsel is necessary, it may, by a majority vote, engage the services of a private attorney who has at least five years' experience in the subject-matter jurisdiction of the Ethics Commission. Any private counsel retained pursuant to this Section shall be subject to the conflict of interest provisions of Section 15.100. Any contract for outside legal counsel authorized by this Section shall be paid for by the Commission and shall be subject to the budgetary and fiscal provisions of this charter.

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

By: _____
CHAD A. JACOBS
Deputy City Attorney