

File No. 200400

Committee Item No. 2

Board Item No. 3

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: May 7, 2020

Board of Supervisors Meeting:

Date: June 2, 2020

Cmte Board

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Registrar Letter – May 18, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI – April 29, 2020</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Presidential Action Memo – April 30, 2020</u> |
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Prepared by: John Carroll

Date: May 1, 2020

Prepared by: John Carroll

Date: May 29, 2020

1 [Municipal Elections Code - Expanded Vote-by-Mail for the November 3, 2020 Election;
2 Voter's Choice Act]

3 **Ordinance amending the Municipal Elections Code to require the Department of**
4 **Elections to expand use of vote-by-mail ballots at the November 3, 2020 Consolidated**
5 **General Election, to report to the Board of Supervisors regarding planning for that**
6 **election, and to report to the Board regarding implementation of the Voter's Choice Act**
7 **in future San Francisco elections.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

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

16 Section 1. Findings.

17 (a) In 2016, then-California Governor Jerry Brown signed Senate Bill 450, opening the
18 option for California counties to adopt a new voting model known as the Voter's Choice Act
19 ("VCA"). The VCA requires counties to mail every registered voter a vote-by-mail ballot and
20 gives voters the options of mailing in their ballot, delivering it to a county-placed ballot drop
21 box, or voting in person at a vote center that will be open for early voting and through Election
22 Day.

23 (b) According to a recent study on the initial impacts of the VCA published by the
24 Public Policy Institute of California and University of California at San Diego, turnout in the five
25 counties that had implemented the VCA (Madera, Napa, Nevada, Sacramento and San
Mateo) increased by about three percentage points in the 2018 general election and four

1 points in the primary, when compared to counties that had not implemented the VCA.
2 Moreover, turnout increases were greater for 18-to-24-year old, Latino, and Asian American
3 voters in the counties that implemented the VCA.

4 (c) Originally launched with the five counties participating during an initial pilot period,
5 VCA is now open to any county that takes steps to implement it, and as of April 2020, more
6 than ten counties have adopted the VCA. San Francisco has not yet taken steps to
7 implement the VCA.

8 (d) On April 6, 2020, during the global COVID-19 pandemic that has spurred shutdown
9 orders throughout the United States and the world, and despite clear evidence that keeping
10 people at home and away from crowds is necessary to save lives, the United States Supreme
11 Court issued a decision, *Republican National Committee et al. v. Democratic National*
12 *Committee et al.* (Docket No. 19A1016), that restricted the ability of many Wisconsin citizens
13 to have their absentee ballots counted, thus forcing voters in Wisconsin to leave the safety of
14 their homes in order to cast votes in-person at increased risk to their health. News reports
15 circulated worldwide showing long queues of voters, many of them seniors or potentially
16 people with serious health conditions, waiting to vote in-person.

17 (e) In San Francisco, vote-by-mail ballots are available in advance of Election Day, but
18 only on request. As of April 2020, approximately 70% of San Francisco voters were
19 registered as permanent vote by mail. By contrast, several states -- Colorado, Hawaii,
20 Oregon, Utah, and Washington -- conduct all elections by having ballots sent to every
21 registered voter without the voter having to request one. Other jurisdictions, including
22 California (see California Elections Code Sections 4000-04), conduct certain specified
23 elections as "all mail" elections.

24 (f) On February 25, 2020, Mayor London Breed proclaimed a state of emergency
25 based on the coronavirus pandemic (COVID-19), and on March 3, 2020, the Board of

1 Supervisors concurred in the February 25 Proclamation. On March 4, 2020, Governor Gavin
2 Newsom declared a state of emergency for California due to COVID-19. On March 16, 2020,
3 the County Health Officer issued Order No. C19-07 (later extended by Order No. C19-07b),
4 directing people to stay in their homes and requiring businesses to cease all non-essential
5 operations at physical locations in San Francisco. On March 19, 2020, Governor Newsom
6 issued Executive Order N-33-20, incorporating an order issued by the State Public Health
7 Officer, requiring California residents to shelter in place except as needed to maintain
8 continuity of operations of certain critical infrastructure sectors.

9 (g) On March 20, 2020, Governor Newsom issued Executive Order N-34-20, which
10 directed special elections scheduled for the City of Westminster, the California 25th
11 Congressional District, and the 28th State Senate District to be held as “all mail” elections with
12 in-person voting options in a manner consistent with public health and safety. On April 9,
13 2020, Governor Newsom issued Executive Order N-48-20 which similarly directed special
14 elections scheduled for the City of Santa Ana, the City of Commerce, and the El Rancho
15 Unified School District to be held as “all mail” elections with in-person voting options in a
16 manner consistent with public health and safety.

17 (h) The duration of the COVID-19 crisis, and when and how shelter-in-place orders will
18 be modified or lifted, are, as of April 2020, unknown, but it appears the COVID-19 pandemic
19 will persist for a considerable time. Data show that those most at risk are the elderly, people
20 of color, and people with certain chronic medical conditions. To avoid disenfranchising these
21 communities and all San Franciscans by requiring them to decide between their health and
22 their right to vote, the City should take action now to maximize fair and safe access for all
23 voters to exercise their right to vote in the November 3, 2020 election. This ordinance will
24 ensure an emergency plan for a fair, safe, and secure November 3, 2020 election, and a clear
25 path to prepare for future elections by instituting similar protections.

1
2 Section 2. The Municipal Elections Code is hereby amended by adding Article XI,
3 consisting of Sections 1101, 1102, and 1103, to read as follows:
4

5 **ARTICLE XI: VOTE-BY-MAIL FOR THE NOVEMBER 3, 2020 ELECTION; VOTER'S**
6 **CHOICE ACT**
7

8 **SEC. 1101. DEFINITIONS.**

9 *Whenever the following terms are used in this Article XI, the following definitions shall apply.*
10 *Other terms shall be defined as set forth in the California Elections Code.*

11 *"Department" means the San Francisco Department of Elections.*

12 *"Director" means the Department's Director of Elections, or the Director's designated agent*
13 *or representative.*

14 *"Election" means the November 3, 2020 Consolidated General Election.*
15

16 **SEC. 1102. EXPANSION OF VOTE-BY-MAIL FOR THE SAN FRANCISCO NOVEMBER**
17 **3, 2020 CONSOLIDATED GENERAL ELECTION.**

18 *(a) Purpose. Unless federal or State law preempt such action, the Department shall expand the*
19 *use of vote-by-mail by San Francisco voters for the Election to the extent permitted by law and as*
20 *specified in subsections (b) and (c). But if any State or federal law (including but not limited to*
21 *statutes, executive orders, and regulations) that requires the expansion of vote-by-mail for the Election*
22 *is approved, enacted, or issued prior to or after the effective date of this Article XI, this Section 1102,*
23 *except for subsection (d), shall be inoperative and shall impose no requirements on the Department.*

24 *(b) Implementation. To the extent not preempted by federal or State law and not otherwise*
25 *rendered inoperative by subsection (a), the Department shall take all available steps, to the extent*

1 reasonably feasible and financially practicable, to expand the use of vote-by-mail ballots including, but
2 not necessarily limited to:

3 (1) the Department shall attempt to inform every San Francisco household regarding
4 the opportunity to register as a vote-by-mail voter for the Election; and

5 (2) the Department shall distribute vote-by-mail ballots to all registered voters, even if
6 they have not applied to become vote-by-mail voters.

7 (c) **Conditions.** The following conditions shall apply to the Department's expansion of the use
8 of vote-by-mail ballots and its conduct of the Election:

9 (1) in consultation with the Department of Public Health, the Department shall evaluate
10 and implement measures regarding the distribution and collection of vote-by-mail ballots, ~~and in-~~
11 person and ballot drop-off opportunities, and early voting options to offset the lack of in-person
12 voting due to fewer polling places, in order that the Department of Public Health has
13 determined to be safe, necessary to protect public health, especially the health of people who are
14 particularly vulnerable to COVID-19 infections, including, but not limited to, persons 65 years and
15 older, persons who reside in a long-term care facility or other congregate settings, persons in custody,
16 and persons with underlying medical conditions;

17 (2) in consultation with the Department of Public Health and the Department of Human
18 Resources, the Department shall evaluate and implement measures to protect the health of its
19 employees and contractors, and employees of other City departments who may assist the Department
20 with the Election, such as the Sheriff's Department;

21 (3) consistent with public health requirements and to the extent required by State and
22 federal laws, such as the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101 et seq.)
23 and the Help America Vote Act of 2002 (52 U.S.C. Sections 20901 et seq.), the Department shall
24 provide voters with a disability with adequate facilities and opportunities to cast a ballot through vote-
25 by-mail or alternative means; and

1 (4) the Department shall consult with the Office of Racial Equity and community-based
2 organizations to conduct outreach to and to implement diverse and targeted strategies to engage
3 and inform communities and neighborhoods with historically low voter turnout regarding the
4 expansion of vote-by-mail and other options to vote for the Election.

5 (d) Report to the Board of Supervisors. No later than June 30, 2020, the Department shall
6 submit a written report to the Board of Supervisors, with a copy to the Elections Commission,
7 regarding its implementation of this Section 1102. If any State or federal law (including but not limited
8 to statutes, executive orders, or regulations) expanding the use of vote-by-mail is approved, enacted, or
9 issued prior to or after the operative date of this Article XI, no later than June 30, 2020, the
10 Department shall submit a written report to the Board of Supervisors and the Elections Commission
11 regarding its plans for the Election under that law. The report required by this subsection (d) shall
12 address, but is not limited to, the following topics:

13 (1) voter outreach, education, and services, including to limited-English speaking
14 communities and persons with disabilities;

15 (2) staffing needs, hiring strategies, and staff training;

16 (3) voting equipment and capacity;

17 (4) preliminary voting locations and hours, dropbox or curbside drop-off
18 locations and hours;

19 (4) (5) ballot collection and processing; and

20 (5) (6) public health measures and procedures for both voters and poll workers.

21
22 **SEC. 1103. VOTER'S CHOICE ACT.**

23 (a) Purpose. The Board of Supervisors seeks the Department's input, and the public's
24 feedback, on the potential implementation of the Voter's Choice Act (SB 450, adding California
25

1 Elections Code Sections 4005-08 and amending California Elections Code Sections 3017 and 15320) in
2 San Francisco.

3 (b) **Report to the Board of Supervisors.** No later than ~~January 31, 2021~~ February 28,
4 2021, the Department shall submit a written report to the Board of Supervisors, with a copy to the
5 Elections Commission, regarding the potential implementation of the Voter’s Choice Act in San
6 Francisco for elections to be held in 2021 and thereafter. The report shall address, but need not be
7 limited to, the following topics:

- 8 (1) voter outreach, education, and services;
- 9 (2) staffing and staff training;
- 10 (3) voting equipment and capacity;
- 11 (4) ballot collection and processing; and
- 12 (5) location and operation of potential vote centers.

13 (c) **Removal of Article XI.** Following submission of the report referenced in subsection (b), the
14 City Attorney shall cause this Article XI to be removed from the Municipal Elections Code.

15
16 Section 3. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor’s veto of the ordinance.

20
21 Section 4. Severability.

22 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
23 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
24 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
25 remaining portions or applications of the ordinance. The Board of Supervisors hereby

1 declares that it would have passed this ordinance and each and every section, subsection,
2 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
3 whether any other portion of this ordinance or application thereof would be subsequently
4 declared invalid or unconstitutional.

5

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

8 By: /s/ Andrew Shen
9 ANDREW SHEN
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee – May 7, 2020)

[Municipal Elections Code - Expanded Vote-by-Mail for the November 3, 2020 Election; Voter's Choice Act]

Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020 Consolidated General Election, to report to the Board of Supervisors regarding planning for that election, and to report to the Board regarding implementation of the Voter's Choice Act in future San Francisco elections.

Existing Law

Article XIII of the Charter and the Municipal Elections Code govern the conduct of San Francisco elections. San Francisco elections are also generally subject to the California Elections Code and federal laws, such as the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Sections 20901 et seq.).

California Elections Code Sections 3000-3026 and 3200-3206 address vote-by-mail voting. The Municipal Elections Code does not specifically address vote-by-mail procedures.

In 2016, the State enacted the Voter's Choice Act (SB 450), amending the Elections Code to authorize the use of an elections model that incorporates expanded use of vote-by-mail and greater opportunities for early voting through the use of ballot drop-off boxes and vote centers. As of January 1, 2020, any county in California can choose to adopt the Voter's Choice Act model for its elections. See Elec. Code § 4005(a). San Francisco has not adopted the Voter's Choice Act for its elections.

Amendments to Current Law

The proposed ordinance would require the Department of Elections ("Department") to expand the use of vote-by-mail voting for the November 3, 2020 Consolidated General Election ("Election"), to the extent not preempted or addressed by State or federal law. Subject to those limitations, this expansion would include informing all San Francisco households of the ability to register as vote-by-mail voters and sending all registered voters vote-by-mail ballots.

In expanding the use of vote-by-mail for the Election, to the extent not preempted or addressed by State or federal law, the proposed ordinance would require the Department:

- to implement measures, in consultation with the Department of Public Health, to protect public health in the distribution and collection of vote-by-mail ballots, in-person voting

and ballot drop-off opportunities, and early voting options, especially for vulnerable populations of voters;

- to implement measures, in consultation with the Department of Public Health and the Department of Human Resources, to protect the health of the Department's employees and contractors, and employees of other City departments who may assist the Department with the Election;
- to provide voters with disabilities with adequate facilities and opportunities to cast a ballot through vote-by-mail or alternative means, as required by the required by State and federal laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Section 20901 et seq.); and
- to conduct outreach to and to engage communities and neighborhoods with historically low voter turnout regarding the expansion of vote-by-mail for the Election, in consultation with the Office of Racial Equity and community-based organizations.

The proposed ordinance would also require the Department to submit a written report to the Board of Supervisors by June 30, 2020, regarding its plans for the Election. The Department would also submit a copy of the written report to the Elections Commission.

The proposed ordinance would also require the Department to submit a written report to the Board of Supervisors and Elections Commission by February 28, 2021, regarding the potential implementation of the Voter's Choice Act in San Francisco for future elections held in 2021 and later.

Background Information

On February 25, 2020, Mayor London Breed proclaimed a state of emergency based on coronavirus ("COVID-19"), and on March 4, 2020, Governor Gavin Newsom declared a state of emergency for California due to COVID-19.

In light of the COVID-19 crisis, on March 20, 2020, Governor Newsom issued Executive Order N-34-20 which directed special elections scheduled for the City of Westminster, the California 25th Congressional District, and the 28th State Senate District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety. On April 9, 2020, Governor Newsom issued Executive Order N-48-20 which similarly directed special elections scheduled for the City of Santa Ana, the City of Commerce, and the El Rancho Unified School District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety.

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CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

May 1, 2020

TO: Government Audit and Oversight Committee

FROM: Budget and Legislative Analyst



SUBJECT: May 7, 2020 Government Audit and Oversight Committee Meeting

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<p>Item 2 Files 20-0400</p>	<p>Department: Department of Elections</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020, Consolidated General Election. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • Under the proposed ordinance, the expansion of the use of vote-by-mail for the November 3, 2020, Consolidated General Election, to the extent not preempted or addressed by State or federal law, would include (1) informing all San Francisco households of the ability to register as vote-by-mail voters and, (2) distributing vote-by-mail ballots to all registered voters, even if they have not applied to become vote-by-mail voters. • The proposed ordinance also requires the Department of Elections to work with the Departments of Public Health and Human Resources to implement measures to protect the health and safety of San Francisco residents and City workers during elections to limit exposure to COVID 19 and other risks. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • According to information provided by the Director of the Department of Elections, the initial cost estimate for mailing ballots to all registered voters in San Francisco and for associated outreach activities is \$1.5 million. Additional costs would be incurred to meet the ordinance requirements, including public health protections and disability access, but estimates were not available at the time of this report. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • The proposed ordinance provides for written reports from the Department of Elections to the Board of Supervisors in June 2020 on implementation of the ordinance for the November 3, 2020 election, and January 2021 on potential implementation in future elections. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • The Government Audit and Oversight Committee should request the Director of the Department of Elections to submit a memorandum to the May 19, 2020 Board of Supervisors meeting on the Department’s initial cost estimates to implement this ordinance. • The Board of Supervisors should consider amending the proposed ordinance to specify that, to the extent possible, the estimated costs to implement the ordinance requirements be included in the Department of Elections written reports to the Board of Supervisors for June 30, 2020, and January 31, 2021. • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

BACKGROUND**Voter's Choice Act**

In 2016, then-California Governor Jerry Brown signed Senate Bill 450, opening the option for California counties to adopt a new voting model known as the Voter's Choice Act (VCA). The Voter's Choice Act requires counties to mail every registered voter a vote-by-mail ballot and gives voters the options of mailing in their ballot, delivering it to a county-placed ballot drop box, or voting in person at a vote center that will be open for early voting and through Election Day. The Voter's Choice Act is now open to any county that takes steps to implement it, and as of April 2020, more than ten counties have adopted the voting model. San Francisco has not yet implemented the Voter's Choice Act.

COVID-19 Health Crisis

On February 25, 2020, San Francisco Mayor London Breed proclaimed a state of emergency based on the coronavirus pandemic (COVID-19). On March 4, 2020, Governor Gavin Newsom declared a state of emergency for California due to COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, incorporating an order issued by the State Public Health Officer, requiring California residents to shelter in place except as needed to maintain continuity of operations of certain critical infrastructure sectors.

In response to the COVID-19 health crisis, on March 20, 2020, Governor Newsom issued Executive Order N-34-20 which directed special elections scheduled for the City of Westminster, the California 25th Congressional District, and the 28th State Senate District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety. On April 9, 2020, Governor Newsom issued Executive Order N-48-20 which similarly directed special elections scheduled for the City of Santa Ana, the City of Commerce, and the El Rancho Unified School District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020, Consolidated General Election, to the extent not preempted or addressed by State or federal law¹, including:

- 1) requiring the submission of a written report to the Board of Supervisors by June 30, 2020 regarding planning for that election; and
- 2) requiring the submission of a written report to the Board of Supervisors by January 31, 2021 regarding the potential implementation of the Voter's Choice Act in future San Francisco elections to be held in 2021 and later.

Under the proposed ordinance, the expansion of the use of vote-by-mail for the November 3, 2020, Consolidated General Election, to the extent not preempted or addressed by State or federal law, would include (1) informing all San Francisco households of the ability to register as vote-by-mail voters and, (2) distributing vote-by-mail ballots to all registered voters, even if they have not applied to become vote-by-mail voters.

In expanding the use of vote-by-mail for the election, the proposed ordinance would require the following conditions:

- 1) implementing measures, in consultation with the Department of Public Health, to protect public health in the distribution and collection of vote-by-mail ballots, and in-person and ballot drop-off opportunities determined to be safe, especially for populations who are particularly vulnerable to COVID-19 infections, including, but not limited to, persons 65 years and older, persons who reside in a long-term care facility or other congregate settings, persons in custody, and persons with underlying medical conditions;
- 2) implementing measures, in consultation with the Department of Public Health and the Department of Human Resources, to protect the health of the Department's employees and contractors, and employees of other City departments who may assist the Department with the election;
- 3) providing voters with disabilities with adequate facilities and opportunities to cast a ballot through vote-by-mail or alternative means, as required by State and federal laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Section 20901 et seq.); and

¹ Under the proposed ordinance, if any State or federal law (including but not limited to statutes, executive orders, and regulations) that requires the expansion of vote-by-mail for the election is approved, enacted, or issued prior to or after the effective date of the amendment, the expansion of the use of vote-by-mail voting as described in the proposed ordinance shall be inoperative and shall impose no requirements on the Department.

- 4) conducting outreach to communities and neighborhoods with historically low voter turnout regarding the expansion of vote-by-mail for the Election, in consultation with the Office of Racial Equity and community-based organizations.

FISCAL IMPACT

According to information provided by the Director of the Department of Elections, the initial cost estimate for mailing ballots to all registered voters in San Francisco and for associated outreach activities is \$1.5 million. Additional costs would be incurred to meet the ordinance requirements, including public health protections and disability access, but estimates were not available at the time of this report.

The Government Audit and Oversight Committee should request the Director of the Department of Elections to submit a memorandum to the May 19, 2020 Board of Supervisors meeting on the Department's initial cost estimates to implement this ordinance.

POLICY CONSIDERATION

Implementation Plan and Cost Reporting

As noted above, detailed costs on implementing the proposed ordinance are not available at this time. The ordinance requires the Department of Elections is required a written report to the Board of Supervisors by June 30, 2020 regarding planning for that election. Under the proposed ordinance, the report should include, but is not limited to, the following topics: (1) voter outreach, education, and services, (2) staffing and staff training, (3) voting equipment and capacity, (4) ballot collection and processing; and (5) public health measures and protections.

In addition, the Department of Election is required to submit a written report to the Board of Supervisors by January 31, 2021 regarding the potential implementation of the Voter's Choice Act in future San Francisco elections to be held in 2021 and later. Under the proposed ordinance, the report should include, but is not limited to, the following topics: (1) voter outreach, education, and services, (2) staffing and staff training, (3) voting equipment and capacity, (4) ballot collection and processing; and (5) location and operation of potential vote centers.

The Board of Supervisors should consider amending the proposed ordinance to specify that, to the extent possible, the estimated costs to implement the ordinance requirements be included in the Department of Elections written reports to the Board of Supervisors for June 30, 2020, and January 31, 2021.

RECOMMENDATIONS

- The Government Audit and Oversight Committee should request the Director of the Department of Elections to submit a memorandum to the May 19, 2020 Board of Supervisors meeting on the Department's initial cost estimates to implement this ordinance.
- The Board of Supervisors should consider amending the proposed ordinance to specify that, to the extent possible, the estimated costs to implement the ordinance requirements be included in the Department of Elections written reports to the Board of Supervisors by June 30, 2020, and January 31, 2021.
- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.



Memorandum

To: Honorable Members Board of Supervisors
From: John Arntz, Director
Date: May 18, 2020
RE: Initial Cost Estimates: Mailing Ballots to All Registered Voters and Voter Outreach

Overview

This memorandum provides initial cost estimates associated with the Board of Supervisors' (Board) proposed ordinance, File 20-0400, regarding the mailing of ballots to voters who have not previously requested vote-by-mail ballots for the November 2020 election, and a partial accounting of costs associated with voter outreach. The proposed ordinance requires a report from the Department of Elections (Department) by June 30, 2020 that details the Department's plans associated with "(1) voter outreach, education, and services, including to limited-English speaking communities and persons with disabilities, (2) staffing, hiring strategies, and staff training, (3) voting equipment and capacity, (4) preliminary voting locations and hours, dropbox or curbside drop-off locations and hours, (5) ballot collection and processing, and (6) public health measures and procedures for both voters and poll workers."

The Department has not yet had sufficient time to fully develop plans related to all elements of conducting the election referenced in the proposed ordinance. Also, election planning and cost estimates rely on criteria set for the November 2020 election by either the state legislature or the Governor. In a recent Executive Order (N-64-20), the Governor set a deadline of May 30, 2020, to determine the criteria by which counties will provide in-person voting opportunities, and other election-related activities.

Initial cost estimate: mailing ballots to "non-permanent" vote-by-mail voters

To identify additional costs to mail ballots to voters who have not requested ballots prior to the beginning of the election cycle, the Department multiplied unit cost by the number of registered voters who have not requested "permanent" vote-by-mail status. Each election, the Department automatically mails ballots to voters with permanent vote-by-mail status as prescribed by state elections law.

Currently, 360,788 of San Francisco's 511,031 registered voters are permanent vote-by-mail voters, or, approximately 71% of voters receive ballots in the mail for each election. However, the Department expects an increase in the number of registered voters prior to the November 2020 election. For planning purposes, the Department considers a registration total of 550,000 voters.

The Department applies a base unit cost of \$4.55 a voter for a five-card ballot mailed to a voter. This base cost includes the costs for card stock, assembly, envelopes, informational insert, postage, and costs related to temporary as-needed personnel to process voted ballots. These initial costs do not include ballot formatting, translations, phone bank assistance, ballot deliveries to people experiencing incarceration or in long-term care facilities, etc.

Since approximately 71% of registered voters are permanent vote-by-mail voters, the Department would need to mail ballots to the remaining 29%, or, 150,243 voters. Thus, mailing and processing of ballots associated with these additional voters is estimated to establish a base cost of nearly \$683,606. Should the number of registered voters increase to 550,000, the number of additional voters who will require mailed ballots is 38,969. This higher number of registered voters requiring a ballot in the mail would add additional costs of nearly \$177,309.

Other costs related to the processing of the vote-by-mail ballots include a site relocation and additional equipment to process vote-by-mail ballots. The Department cannot process vote-by-mail ballots in City Hall for the November 2020 election cycle since the site does not provide sufficient space for personnel to practice social distancing. The Department will need to move the processing of vote-by-mail ballots outside of City Hall and has yet to set this location.

To meet the 30-day requirement under state law to complete the processing of ballots and certify the election, the Department will obtain additional equipment. These costs are not yet final and are not included in this estimate.

Initial cost estimate: voter outreach

Language Preference Notices

In June, the Department plans to send nearly 20,000 language preference mailers to City voters born in Chinese, Spanish, Filipino, Korean, Vietnamese, Burmese, Japanese or Thai-speaking countries and who have no language preference on file as well as voters who did not provide their birthplace when registering to vote. These mailers will list available translated election materials with simple, bilingual instructions. Voters may select their language preferences on the notices using easy-to-use language preference checkboxes and return the notices, postage-paid, to the Department prior to Election Day.

Department personnel will process returned language preference mailers by entering voters' stated language preferences into its registration database to ensure respondents receive the official ballot and other election materials in their preferred languages this fall. To reach new voters who register after the initial language preference mailings are sent, the Department will continue sending language preference notices on a rolling basis up through the mailing of vote-by-mail packets in October.

The unit cost for each of these mailers is approximately \$1.19, which includes costs associated with printing and postage. Costs related to design, data processing, and additional mailers or correspondence with voters are not included in the unit cost. The Department expects to mail approximately 20,000 Language Preference Notices for an initial cost estimate of nearly \$24,000. Printing costs comprise \$2,400, and postage costs comprise \$21,400.

Voting Options Notices

To inform voters about their voting options in the November 3 election, the Department will send at least three multilingual notices to each of the 374,446 households in San Francisco this summer and fall. These notices will provide key information regarding both mail and in-person voting options and highlight accessible and language services associated with each option. Voting Options notices will encourage voters to "Take action today!" to ensure timely delivery of their ballots by

checking their residential and mailing addresses on their registration records via the Secretary of State's website at voterstatus.sos.ca.gov or by contacting the Department.

The unit cost for each of these notices is approximately \$.60, which includes costs associated with printing and postage. The Department has not yet estimated costs related to design, data processing, or correspondence with voters. The Department expects to mail the three notices to approximately 374,446 addresses. Each mailing would cost approximately \$225,000. The estimated printing cost for each notice is \$37,400, and the estimated postage cost is \$187,200. The estimated cost for three mailings of these notices is \$674,000.

Grant Program

As part of its effort to focus supplemental outreach in the communities referenced in the proposed ordinance, the Department intends to seek the approval of \$250,000 in grant monies to be disbursed to local non-profit partners interested and willing in assisting the Department in reaching voters in vulnerable or hard-to-reach communities beginning in the summer and continuing into the fall.

Summary of Costs

To send ballots to all voters who have not currently requested permanent vote-by-mail status, the initial base cost estimate is nearly \$684,000. This estimate considers only the current number of registered voters and does not include the expected increase in the number of registered voters for the November 2020 election who will also require ballots mailed to them.

This estimated cost also does not include additional equipment to process the increased volume of ballots, ballot security, or safeguards the Department will need to implement to allow personnel to practice social distancing during the election cycle in relation to ballot processing.

Initial cost estimates for providing outreach to voters regarding the election total nearly \$925,000. These costs do not include additional outreach the Department will need to implement in relation to the proposed ordinance, or, the costs associated with the Department's established outreach for an election.

Thus, currently, the initial cost estimate for activities identified in relation to the proposed ordinance is nearly \$1.65 million.

Political Director 政治主任

Chinese Progressive Association 華人進步會
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AMERICAN CIVIL LIBERTIES UNION

Northern
California

May 6, 2020

Supervisor Gordon Mar
Supervisor Aaron Peskin
Supervisor Matt Haney
John Carroll, Clerk
San Francisco Government Audit
& Oversight Committee
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, California 9410
john.carroll@sfgov.org

**RE: Ordinance “Municipal Elections
Code – Expanded Vote-by-Mail for
the November 3, 2020 Election –
Voter’s Choice Act” – SUPPORT**

Via Electronic Mail

Dear Members of the Government Audit & Oversight Committee:

The American Civil Liberties Union of Northern California (“ACLU”) is pleased to support Supervisor Ronen’s Ordinance “Municipal Elections Code- Expanded Vote-by-Mail for the November 3, 2020 Election – Voter’s Choice Act” (“Ordinance”), which seeks to ensure fair and safe access to the ballot for all of San Francisco’s voters during the November 2020 election by requiring the expansion of the use of vote-by-mail (“VBM”) ballots; implementation of public health measures to protect elections staff, poll workers, and voters during the distribution and collection of VBM ballots as well as through in-person voting and ballot drop-off opportunities; outreach to communities with historically low voter turnout; and a report to the Board of Supervisors regarding the plan for administration of the November 2020 election.

The COVID-19 pandemic poses unique challenges to administering the November 2020 election. San Francisco must act proactively to ensure the election is safe, secure, and accessible for all voters. No one should be forced to choose between exercising their constitutional right to vote and protecting their health. The first and most commonsense step to ensuring this is to send all registered voters a ballot and allow them to safely vote from home. However, expanding the availability of VBM is *not enough* to safeguard our democracy.

San Francisco must also allow voters the option to safely vote in person. We encourage San Francisco to set a strong standard by committing to having as many in-person voting locations as is safely possible and providing opportunities for early voting. Without significant options for in-person voting locations as well as early voting, there is a severe risk that historically underrepresented voters will face significant barriers to voting, long lines, and be disenfranchised. For example, voters with limited-English proficiency and disabilities rely on services that are

American Civil Liberties Union of Northern California

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Magan Pritam Ray

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provided at in-person voting locations.¹ Voters who are housing insecure or unhoused – as more voters will be this November due to displacement from the economic fallout of COVID-19 – are more likely to not receive a VBM ballot and would therefore need in-person voting options. Further, Black, Latinx, and Native American voters are also historically less likely to use VBM and Asian American voters are more likely to have their VBM ballots rejected.²

San Francisco officials must also engage in robust public education efforts to inform voters of their voting options, encourage eligible voters to register to vote, and remind those already registered to update their registration if they have moved. This outreach must be in all required languages, available in accessible formats, and delivered through a wide range of platforms and formats.

Finally, we strongly support the requirement that the San Francisco Department of Elections provide a report to the Board of Supervisors regarding the administration plan for the November 2020 election. Transparency about this plan, including providing meaningful opportunities for public input, will help protect confidence in the election system. Voter's Choice Act counties follow a similar model under which they must publish election administration plans in all required languages and allow communities to provide input. This process not only helps elections offices form a strong partnership with local groups and community members, but it also improves implementation of the election. We encourage that San Francisco's plan include information about voting locations and hours, drop box locations and hours, public outreach strategies and media plans (including to limited-English speaking communities and people with disabilities), budget for outreach and media, plans to make voting locations safe/healthy, and plans to ensure access to VBM and voting locations for limited-English proficient voters and voters with disabilities. We further urge that the plan be made available for public comment for at least 15 days.

For these reasons, the ACLU of Northern California supports the Ordinance.

Sincerely,



Christina E. Fletes-Romo
Voting Rights Attorney



Brittany Stonesifer
Voting Rights Attorney

¹ See, e.g., Disability Rights California, *Best Processes to Reduce and Eliminate Accessibility Barriers for Voters with Disabilities* (2013), <http://futureofelections.org/wp/wp-content/uploads/2013/09/FOCE.12-DRC-Barriers-and-Best-Processes-Voters-with-Disabilities.pdf>.

² See, e.g., Asian-Americans Advancing Justice, *Asian Americans Face Higher than Average Vote-by-Mail Rejection Rates in California* (Aug. 2017); Mindy S. Romero, CCEP, *The California Voter Experience: Why African-American Voters Choose to Vote at the Polls or Vote-by-Mail, and How They Perceive Proposed Changes to California's Voting System* (Sept. 2016); Mindy S. Romero, *The California Voter Experience: Vote-by-Mail vs. the Polls* (July 2016); Mindy S. Romero, CCEP, *Disparities in California's Vote-by-Mail Use Changing Demographic Composition: 2002-2012* (Mar. 2014); Native American Rights Fund, *Vote by Mail in Native American Communities*, available at www.narf.org/vote-by-mail.

Page 3 of 3
May 6, 2020

CC: Edward Wright, Legislative Aide (Edward.W.Wright@sfgov.org);
Lee Hepner, Legislative Aide (Lee.Hepner@sfgov.org);
Abigail Rivamonte Mesa, Chief of Staff (Abigail.Rivamontemesa@sfgov.org)

From: [Mchugh, Eileen \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Subject: FW: SUPPORTING Government Audit and Oversight Committee Agenda Item #2 Municipal Elections Code - Expanded Vote-By-Mail for the November 3, 2020 Election - Voter's Choice Act File #200400
Date: Tuesday, May 5, 2020 11:11:02 AM

Good Morning John,

Happy Board Tuesday.

Please see the below email for the file.

Thank you,

Eileen

From: aeboken <aeboken@gmail.com>
Sent: Tuesday, May 5, 2020 8:04 AM
To: BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>
Subject: SUPPORTING Government Audit and Oversight Committee Agenda Item #2 Municipal Elections Code - Expanded Vote-By-Mail for the November 3, 2020 Election - Voter's Choice Act File #200400

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

TO: Board of Supervisors members

I am strongly supporting expanded vote-by-mail for the November 3, 2030 election.

Eileen Boken
Chair, Land Use and Transportation Committee
Coalition for San Francisco Neighborhoods*

* For identification purposes only.

Sent from my Verizon, Samsung Galaxy smartphone

BOARD of SUPERVISORS



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TDD/TTY No. 554-5227

MEMORANDUM

TO: John Arntz, Director, Department of Elections

FROM: Victor Young, Assistant Clerk *Victor Young*
Rules Committee

DATE: April 29, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on April 21, 2020:

File No. 200400

Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020, Consolidated General Election; to report to the Board of Supervisors regarding planning for that election; and to report to the Board regarding implementation of the Voter's Choice Act in future San Francisco elections.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

President, District 7
BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Norman Yee

PRESIDENTIAL ACTION

Date:

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No.

(Primary Sponsor)

Title.

Transferring (Board Rule No 3.3)

File No.

(Primary Sponsor)

Title.

From:

Committee

To:

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor:

Replacing Supervisor:

For:

Meeting

(Date)

(Committee)

Start Time:

End Time:

Temporary Assignment: Partial

Full Meeting

Norman Yee, President
Board of Supervisors

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:

Signature of Sponsoring Supervisor:

For Clerk's Use Only