

CITY AND COUNTY OF SAN FRANCISCO



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FILED  
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June 7, 2016

TO ALL INTERESTED PARTIES:

Attached is the City Attorney's title and summary for the measure entitled "2016 San Francisco Sunshine Ordinance Amendments." In preparing this title and summary, the City Attorney makes no representation regarding the merits or legality of the proposed legislation. Nor does the City Attorney verify or confirm any factual or legal assertion made in the proposal. The title and summary is presented as a "true and impartial statement of the purpose of the proposed measure." Elections Code § 9203.

Very truly yours,

DENNIS J. HERRERA  
City Attorney

A handwritten signature in black ink, appearing to read "Andrew Shen".

Andrew Shen  
Deputy City Attorney

## Sunshine Ordinance Amendments

In 1999, the City's voters approved San Francisco's Sunshine Ordinance, which provides rules and procedures for the public's access to meetings of City bodies and to City records. In addition to the Sunshine Ordinance, the City must comply with State law regarding public meetings and public records.

The Sunshine Ordinance Task Force ("Task Force") is an eleven-member advisory body that, among other duties, hears complaints that City employees, officers or agencies have violated the Sunshine Ordinance. The Board of Supervisors ("Board") appoints Task Force members, who must satisfy specific qualifications. The Task Force may refer matters to other local or State agencies for enforcement.

The proposed measure is an ordinance that would create an eleven-member Sunshine Commission to replace the Task Force. Designated outside organizations would nominate commission members, and the Board would be required to appoint those nominees unless it finds, by clear and convincing evidence, that they are unqualified. The Sunshine Commission could issue subpoenas, and its factual findings would receive greater weight in referrals to enforcement agencies. The measure would also seek to provide the Sunshine Commission with additional, full-time staff and funding.

The proposed measure would also make numerous changes and additions to the Sunshine Ordinance, including the following:

	Current Sunshine Ordinance	Proposed changes
<b>Public meetings</b>	<ul style="list-style-type: none"> <li>• During meetings, the City must allow public comment on every agenda item.</li> <li>• The City must record certain public meetings.</li> <li>• Public members must have an equal opportunity to comment on every meeting agenda item, generally for up to three minutes each. There is no set minimum time for comment.</li> </ul>	<ul style="list-style-type: none"> <li>• Public members could submit comments on agenda items even if they are not present, up to ten business days after any meeting.</li> <li>• The City would provide real-time audio or video streaming of all meetings in City Hall.</li> <li>• If the meeting chair allows, public members could authorize a designated speaker to speak on their behalf for up to 15 minutes. Otherwise, each public member must have at least two minutes to comment on any agenda item.</li> </ul>
<b>Public records</b>	<ul style="list-style-type: none"> <li>• City departments are not required to search their back-up electronic files in response to a public records request.</li> <li>• Draft staff memoranda must be disclosed, but the author's recommendations may be withheld.</li> <li>• Employee disciplinary records are only available if misconduct charges have been upheld.</li> <li>• The Sunshine Ordinance does not directly address whether communications relating to City business sent on personal electronic devices are subject to disclosure.</li> <li>• Each City department must adopt a records retention policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic back-up files would be subject to disclosure.</li> <li>• Draft memoranda would be disclosed in their entirety, including any recommendations.</li> <li>• Disciplinary records that include allegations of serious misconduct would be available, even if the allegations were not upheld.</li> <li>• The amendments would clarify that all communications relating to the City business are subject to disclosure, and that City officials could not use self-deleting communication applications.</li> <li>• The City may not destroy public records unless it meets certain conditions, including electronic recording.</li> </ul>
<b>Fines</b>	<ul style="list-style-type: none"> <li>• The City does not impose fines for Sunshine Ordinance violations.</li> </ul>	<ul style="list-style-type: none"> <li>• The City would fine employees, officers or departments at least \$500 for a Sunshine Ordinance violation.</li> </ul>

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