

LEGISLATIVE DIGEST
(Second Draft 7/8/09)

[Instituting two-year budgetary cycle, providing for the adoption of a five-year financial plan, providing for the adoption of binding financial policies, and imposing a deadline of May 15 for submission of MOUs for miscellaneous and safety employees to the Board of Supervisors.]

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 Sections 3.105, 9.100, 9.101, 9.102, 9.103, 9.104, 9.113, 9.113.5, 9.114, 11.100, A8.409-4, A8.590-5, A8.590-8, and Article XVII, and adding Sections 9.119 and 9.120 to institute a "rolling" two-year budgetary cycle (the City would adopt a new two-year budget each year), allow the Board of Supervisors to convert the rolling two-year budgetary cycle for some or all departments into a "fixed" two-year cycle (each two-year budget would stay in effect for two years), impose a deadline of May 10 or May 15 for submission to the Board of Supervisors of new terms and conditions of employment for miscellaneous or safety employees if those terms and conditions are to be effective during the upcoming fiscal year, allow the Board of Supervisors to determine, by ordinance, how City departments, including the Board of Supervisors, will comply with the Charter's publication requirements, and allow the Controller to certify the availability of funds based on the expectation that funds will become available during the course of the budgetary cycle.

Existing Law – Budget and Fiscal Provisions

The City currently adopts its budgets and appropriation ordinances annually for the upcoming fiscal year. The City does not have a set of financial policies that govern the adoption of City budgets. The Charter does not require the City to produce, and the City does not have, a five-year financial plan. An employee of the City may not bind the City by contract unless the Controller certifies that the budget has appropriated funds for that purpose and sufficient unencumbered funds remain available in the appropriate fund to meet the payments under the contract as they become due.

Amendments to Current Law -- Budget and Fiscal Provisions

Beginning in 2010 for some departments, and beginning in 2012 for the City as a whole, the proposal would institute a two-year "rolling" budgetary cycle such that each year the City would adopt a new, two-year budget. The Mayor and Board of Supervisors could by resolution decide that an upcoming budgetary cycle or cycles would be fixed two-year cycles such that the two-year budget would remain in effect, for some or all City departments, for two

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consecutive fiscal years. If the Board exercised that option, the Controller would report to the Board with respect to any significant increase or decrease in revenues or expenditures necessitating an amendment to the two-year budget. The Mayor would then propose an amendment to the budget for consideration by the Board.

The proposal requires the City to adopt a five-year financial plan by 2010 for designated departments, and by 2011 for all City departments, and to update that plan every other year. The financial plan would be a budget planning tool that would include a forecast of revenues and expenditures and a plan to balance revenues and expenditures in light of each department's strategic goals. The proposal would also require the Controller to propose financial policies to the Mayor for submission to the Board for adoption. The City could not adopt a budget that was inconsistent with such policies.

The Controller would be permitted to certify the availability of funds for a particular contract based on his or her expectation that sufficient funds will be available during the budgetary cycle to pay the contractual obligations as they become due.

Existing Law – Deadlines for Adoption of Labor Agreements

The City and employee organizations representing safety employees may negotiate a new agreement, or, if the parties reach impasse, an arbitration board may impose the terms of a new agreement, at any time during the fiscal year. If the Board adopts the agreement after July 1, the terms of the new agreement will generally be retroactive to July 1.

For miscellaneous employees the Charter imposes a deadline of April 1 for the parties to reach agreement or, in case of impasse, for the arbitration/mediation board to reach a decision. While the April 1 deadline is subject to waiver by the parties and extension by the Board, the Board must adopt the negotiated agreement or the decision of the arbitration/mediation board by June 30 if the new agreement is to become effective during the upcoming fiscal year.

Amendments to Current Law -- Deadlines for Adoption of Labor Agreements

The proposal would modify and simplify the deadline for adoption of new agreements for miscellaneous employees, and would impose the same deadline for adoption of new agreements governing safety employees. For both safety and miscellaneous employees, the proposal would impose a deadline of May 15 for the parties to submit to a negotiated agreement to the Board of Supervisors, and a deadline of May 10, or May 15 if the parties waive the 10-day "cooling off" period, for the arbitration or arbitration/mediation panel to submit its decision to the Board of Supervisors. Agreements or awards submitted after these deadlines would not be effective, upon adoption by the Board of Supervisors, until the following July 1, unless the agreement or decision was reached during the course of an

existing agreement, and reduced the cost to the City, or imposed no new cost, during the current fiscal year, under the existing agreement.

The deadlines would be extended automatically for 45 days from the date of rejection if the Board of Supervisors rejected a negotiated agreement or a decision of the arbitration or arbitration/mediation board.

The proposal corrects an error in Charter Section A8.590-8. That section, which pertains to safety employees, currently refers to provisions of the Charter that apply to miscellaneous employees. It is corrected to cite the analogous provisions applicable to safety employees.

Existing Law –Posting of Notices

The City Charter requires the Board of Supervisors to publish certain notices in the City's official newspaper. For example, the Board must publish notices of special meetings, and of ordinances that have been passed and resolutions that have been adopted. The Charter also requires other City departments to publish notices in the City's official newspaper before taking various actions, such as:

- closing, eliminating or reducing the level of service at any facility used by the public, including libraries and health facilities;
- making a significant change in the operating schedule or route of a Municipal Railway line; or
- selling , leasing, or exchanging real property held by the City.

Amendments to Current Law – Posting of Notices

Under the proposal, the Board of Supervisors, after seeking a recommendation from the Clerk of the Board of Supervisors, would, by ordinance, decide how the Board and other City departments would meet the Charter's requirements to publish or give notice of particular information or actions. This Charter amendment would not affect the City's obligation to select an official newspaper for publication of notices of official advertising as required by state law or City ordinances.

Differences Between First and Second Draft of the Charter Amendment

The Second Draft of the Charter amendment modifies the budget and fiscal provisions contained in the First Draft by: (1) removing the section on "set asides;" (2) requiring that financial policies shall be adopted by a two-thirds' vote of the Board rather than by a simple majority; (3) clarifying the authority of the Mayor and members of the Board to introduce amendments to the biennial budget at any time during the budgetary cycle, even if the Mayor and Board have decided that a particular department or departments shall be on a "fixed "

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budgetary cycle or cycles; and (4) deleting the deadline for the Controller to alert the Mayor and the Board to significant increases or decreases in revenues or expenditures if the Mayor and the Board have decided by resolution that some or all City departments shall be on a "fixed" two-year budgetary cycle or cycles, deleting the deadline for the Mayor to submit an amended budget to the Board in the event of such an alert, and requiring that those two deadlines, and the definition of the term "significant increases or decreases in revenues or expenditures" be included in any ordinance that places some or all City departments on a fixed budgetary cycle or cycles.

The Second Draft of the Charter amendment modifies the provisions relating to deadlines for adoption of labor agreements contained in the First Draft by: (1) changing the deadline from a June 30 deadline for the Board of Supervisors to adopt a negotiated agreement or decision of an arbitration board, to a May 15 deadline for the parties to submit a negotiated agreement to the Board, and a May 10 deadline, or a May 15 deadline if the parties waive the 10-day "cooling off" period, for the parties to submit a decision of an arbitration board to the Board; (2) clarifying that the exception allowing an agreement reached after the deadlines to be effective during the current fiscal year by specifying that the agreement can be effective if it does not increase the **net** cost of an existing agreement **during the current fiscal year**; (3) importing the January 20 deadline for selecting arbitrators from the provisions governing miscellaneous employees into the provisions governing safety employees; and (4) modifying the automatic extension of the deadline in the event that the Board rejects an MOU or arbitration agreement to make the extension 45 rather than 30 days, and to specify that it is a deadline for submission to the Board and that it runs from the date of rejection.

The Second Draft of the Charter amendment modifies the Charter provisions for posting of notices and publication contained in the First Draft by deleting all modifications to specific noticing and publication requirements contained in the Charter, and amending only two of the definitions in Section XVII of the Charter – definitions of the words "notice" and "published." The modifications to these two definitions provide that the Board of Supervisors will define these terms by ordinance after seeking a recommendation from the Clerk of the Board of Supervisors.