

LEGISLATIVE DIGEST

[Prohibiting members of City boards and commissions from obtaining City employment.]

Ordinance amending Chapter 2 of Article III of the Campaign and Governmental Conduct Code to prohibit members of City boards and commissions from obtaining employment with the City during their tenure and for one year after the termination of their City service, and to extend the one-year prohibition on former Mayors and former members of the Board of Supervisors obtaining City employment to include part-time employment.

Existing Law

Under existing law, appointed members of City boards and commissions may accept City employment during their terms in office and at any time after they leave office. The Mayor and members of the Board of Supervisors cannot accept compensated *full-time* employment with the City for one year after leaving office.

Although appointed members of City boards and commissions can accept employment with the City after leaving office, existing law otherwise restricts their post-employment activities in three ways. First, for one year after leaving office, a former board member or commissioner cannot attempt to influence his or her former commission or department on behalf of another person or entity. Second, for one year after leaving office, a former board member or commissioner cannot accept employment with a City contractor if he or she personally and substantially participated in the award of the contract within the 12 months prior to leaving office. Third, a former board member or commissioner cannot switch sides on a particular matter in which he or she was personally and substantially involved while in City service. A variety of other ethics rules apply to members of City boards and commissions during their terms in office, including the ban on compensated advocacy before City departments and the ban on contracting with City departments.

Amendments to Current Law

The legislation would prohibit members of appointed City boards and commissions who are required to file Statements of Economic Interests from accepting City employment while holding office and for one year after leaving office. The legislation would not prohibit a member of a board or commission from being elected to elective office, appointed to fill a vacancy in an elective office, or appointed to another board or commission. The legislation also would not prohibit employment of current or former City employees under the Civil Service Rules.

The legislation also would amend the post-employment restriction that currently applies to the Mayor and members of the Board of Supervisors. Under the legislation, the Mayor and members of the Board of Supervisors could not accept *any* compensated employment – as opposed to just full-time employment – with the City for one year after leaving office.

FILE NO.

Legislative History

As initially introduced, the ordinance would have prohibited board members and commissioners from full-time City employment. This amended version of the ordinance applies to all compensated City employment, whether full time or part time.

As initially introduced, the ordinance would not have affected the Mayor or members of the Board of Supervisors. This amended version changes existing law so that the Mayor and members of the Board of Supervisors are prohibited for one year from accepting compensated City employment, whether full time or part time.

Background Information

The proposal amends Article III, Chapter Two of the Campaign and Governmental Conduct Code, which was originally approved by the voters. Section 3.204 of the Campaign and Governmental Conduct code expressly authorizes amendment of Article III, Chapter Two only if:

- 1) the amendment furthers the purposes of the Chapter;
- 2) the amendment is submitted to the Ethics Commission and recommended by its members by a four-fifths vote;
- 3) the legislation is made available for public review for 30 days; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

1 [Prohibiting members of City boards and commissions from obtaining City employment.]

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3 **Ordinance amending Chapter 2 of Article III of the Campaign and Governmental**
 4 **Conduct Code to prohibit members of City boards and commissions from obtaining**
 5 **employment with the City during their tenure and for one year after the termination of**
 6 **their City service, and to extend the one-year prohibition on former Mayors and former**
 7 **members of the Board of Supervisors obtaining City employment to include part-time**
 8 **employment.**

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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 ~~strike-through normal~~.

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

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14 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
 15 amended by adding Section 3.235, to read as follows:

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SEC. 3.235. CITY EMPLOYMENT FOR CURRENT AND FORMER MEMBERS OF BOARDS

17

AND COMMISSIONS.

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(a) For the purposes of this Section, the term "board or commission" means an appointed
board or commission created by Charter or ordinance of the City and County whose members are
required by Article III, Chapter 1 of this Code to file statements of economic interests.

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(b) During his or her service and for a period of one year after the last day of his or her
service, no member of a board or commission shall be eligible for appointment to any compensated
employment with the City and County. This restriction shall not prohibit a member of a board or
commission from being elected to an office of the City and County, appointed to fill a vacancy in an
elective office of the City and County, or appointed to another board or commission.

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1 (c) Nothing in this Section is intended to interfere with or abridge any rights held by any
2 employee or former employee of the City and County of San Francisco pursuant to Civil Service Rules.
3 This Section shall not apply to any member of a board or commission who by law must be a City
4 employee.

5 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
6 amended by amending Section 3.234, to read as follows:

7 SEC. 3.234. POST-EMPLOYMENT AND POST-SERVICE RESTRICTIONS.

8 (a) All Officers and Employees.

9 (1) Permanent Restriction On Representation In Particular Matters.

10 (A) Prohibition. No former officer or employee of the City and County, after the
11 termination of his or her service or employment with the City, shall, with the intent to influence,
12 act as agent or attorney, or otherwise represent, any other person (except the City and
13 County) before any court, or before any state, federal, or local agency, or any officer or
14 employee thereof, by making any formal or informal appearance or by making any oral,
15 written, or other communication in connection with a particular matter:

16 (i) in which the City and County is a party or has a direct and substantial interest;

17 (ii) in which the former officer or employee participated personally and substantially as
18 a City officer or employee; and

19 (iii) which involved a specific party or parties at the time of such participation.

20 (B) Restriction on assisting others. No former officer or employee of the City and
21 County, after the termination of his or her service or employment with the City, shall aid,
22 advise, counsel, consult or assist another person (except the City and County) in any
23 proceeding in which the officer or employee would be precluded under Subsection (A) from
24 personally appearing.
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1 (C) Exception for testimony. The prohibitions in Subsections A and B do not prohibit a
2 former officer or employee of the City and County from testifying as a witness, based on the
3 former officer's or employee's personal knowledge, provided that no compensation is received
4 other than the fees regularly provided for by law or regulation of witnesses.

5 (2) One-Year Restriction on Communicating with Former Department.

6 No current or former officer or employee of the City and County, for one year after
7 termination of his or her service or employment with any department, board, commission,
8 office or other unit of the City, shall, with the intent to influence a government decision,
9 communicate orally, in writing, or in any other manner on behalf of any other person (except
10 the City and County) with any officer or employee of the department, board, commission,
11 office or other unit of government, for which the officer or employee served.

12 (3) Employment With Parties That Contract With The City.

13 No current or former officer or employee of the City shall be employed by or otherwise
14 receive compensation from a person or entity that entered into a contract with the City within
15 the preceding 12 months where the officer or employee personally and substantially
16 participated in the award of the contract.

17 (b) Mayor, Members of the Board of Supervisors, and their Senior Staff Members.

18 (1) One year restriction on communicating with City departments. For purposes of the
19 one-year restriction under subsection (a)(2), the "department" for which a former Mayor, a
20 former member of the Board of Supervisors, or a former senior staff member to either the
21 Mayor or a member of the Board of Supervisors served shall be the City and County and the
22 prohibition in subsection (a)(2) shall extend to communications with:

23 (A) a board, department, commission or agency of the City and County;

24 (B) an officer or employee of the City and County;

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1 (C) an appointee of a board, department, commission, agency, officer, or employee of
2 the City and County; or

3 (D) a representative of the City and County.

4 For the purposes of this subsection, "a former senior staff member to either the Mayor
5 or a member of the Board of Supervisors" means an individual employed in any of the
6 following positions at the time the individual terminated his or her employment with the City:
7 the Mayor's Chief of Staff, the Mayor's Deputy Chief of Staff, a Legislative Aide to a member
8 of the Board of Supervisors or a position that the Ethics Commission determines by regulation
9 is an equivalent position based on an analysis of the functions and duties of the position.

10 (2) City service. No former Mayor or member of the Board of Supervisors shall be
11 eligible for a period of one year after the last day of service as Mayor or member of the Board
12 of Supervisors, for appointment to any ~~full-time~~, compensated employment with the City and
13 County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of
14 the City and County, appointed to fill a vacancy in an elective office of the City and County, or
15 appointed to a board or commission in the executive branch.

16 (c) Waiver.

17 (1) At the request of a current or former City employee or officer, the Ethics
18 Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) if the
19 Commission determines that granting a waiver would not create the potential for undue
20 influence or unfair advantage.

21 (2) At the request of a current or former City employee or officer, the Ethics
22 Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) for members of
23 City boards and commissions who, by law, must be appointed to represent any profession,
24 trade, business, union or association.

1 (3) At the request of a current or former City officer or employee, the Ethics
2 Commission may waive the prohibition in Subsection (a)(3) if the Commission determines that
3 imposing the restriction would cause extreme hardship for the City officer or employee.

4 (4) The Ethics Commission may adopt regulations implementing these waiver
5 provisions.

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

10 By: _____
11 JON GIVNER
12 Deputy City Attorney
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