



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Counsel



Date: June 25, 2012
Board Meeting Date: July 10, 2012
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John C. Beiers, County Counsel

Subject: Introduction of (1) an Ordinance proposing an amendment to Section 403 (Controller) of the San Mateo County Charter and ordering the amendment to be submitted to the eligible registered voters at the November 6, 2012, election, and (2) an Ordinance to amend and restate Chapter 2.82 (Controller) of the San Mateo County Ordinance Code to be effective only upon approval of the proposed Charter amendment by the electorate.

RECOMMENDATION:

Introduce two ordinances:

1. An Ordinance proposing an amendment to Section 403 (Controller) of the San Mateo County Charter to convert the Office of the Controller from an elected position to an appointed position and ordering the amendment to be submitted to the eligible registered voters at the November 6, 2012, election; and
2. An Ordinance amending and restating Chapter 2.82 (Controller) of the San Mateo County Ordinance Code, to be effective only upon approval of the electorate of the proposed amendment of Section 403 (Controller) of the San Mateo County Charter.

BACKGROUND:

At its March 13, 2012 meeting, the Board created an ad-hoc committee consisting of Supervisors Carole Groom and Don Horsley to examine the possible conversion of the Controller to an appointed, as opposed to an elected, position. Thereafter, the committee, with the assistance of the Office of the County Counsel, gathered and reviewed information from other counties that appoint their controller or finance director concerning issues such as the appointment process, reporting structure, term of office, removal process, and additional controller qualifications.

At its June 19, 2012, meeting, the Board reviewed and discussed the committee's recommendations and directed the Office of the County Counsel to prepare an ordinance for the Board's consideration to amend Section 403 of the County Charter to change the Controller from an elected to an appointed position and to order the

amendment to be submitted to the eligible registered voters at the November 6, 2012 election. The Board further directed this office to prepare amendments to the San Mateo County Ordinance Code to address the appointment process, reporting structure, term of office, removal process, and additional qualifications for the position of Controller. These revisions to the Ordinance Code would be effective only upon approval of the proposed Charter amendment by the electorate.

DISCUSSION:

The current term of office for the elected Controller position expires on December 31, 2014. The proposed Charter Amendment would provide that the Office of Controller be an appointed, rather than an elected, position and would further provide that the conversion of the Office of the Controller from an elected to an appointed position would be effective January 1, 2013, notwithstanding Section 416 of the County Charter, which generally requires that, for any office which had previously been elective, the first appointment shall not be effective until the conclusion of the elective term of office. The proposed revisions to the County Ordinance Code, which would only be effective upon the electorate's approval of the proposed Charter amendment, would provide the following:

- Appointment: The County Manager shall nominate a candidate for consideration by the Board. The Board would interview the candidate at a public meeting and Board approval of the nominee would require a 4/5ths vote of the Board of Supervisors.
- Reporting Structure: The Controller would report to, and be evaluated by, the County Manager.
- Term of Office: The Controller would be appointed for a term of six years. The first term of office would commence on January 1, 2013, and the regular term of office would commence on January 1 of the year 2019 and on January 1 of every sixth year thereafter. In the event of a vacancy, any person appointed to fill such vacancy would serve out the unexpired term of office that was terminated. No individual could be appointed to more than two consecutive six-year terms in office.
- Removal: The Controller would be an at-will employee serving at the pleasure of the Board of Supervisors. Removal of the Controller prior to the expiration of his or her term of office could not be initiated without the recommendation of the County Manager and such removal would require a 4/5ths vote of the Board of Supervisors.
- Qualifications: No person could be appointed to the Office of Controller unless the person meets the criteria set forth in either Sections 26945(a) or (b) of Article 4, Chapter 4, Part 3, Division 2 of Title 3 of the Government Code as of January 1, 2001. The Board of Supervisors would use its best efforts to ensure that the individual appointed to the Office of Controller possesses such high levels of experience and education, exceeding the minimum qualifications set by state

law, as may be deemed necessary and appropriate by the Board in order to achieve the County's financial goals and objectives, including, but not limited to, knowledge of public administration principles and practices, strategic planning, goal setting, program development, implementation, and evaluation, budgeting, fiscal administration and control, administrative organization, and effective personal administration, employee relations, and management in a public setting.

FISCAL IMPACT:

The estimated fiscal impact of placing a Charter amendment on the November 6, 2012, ballot is \$40,000. While staff time and resources will be required in connection with the recruitment, nomination, and approval process each time a new Controller is appointed, these processes will not impact the County's General Fund.