



**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**  
Board of Supervisors



**DATE:** June 6, 2012  
**BOARD MEETING DATE:** June 19, 2012  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors  
**FROM:** Supervisors Carole Groom and Don Horsley  
**SUBJECT:** Converting the Controller from an Elected to an Appointed Position

**RECOMMENDATION:**

Direct County Counsel to draft an ordinance for the Board's consideration proposing an amendment to Section 403 (Controller) of the San Mateo County Charter to change the Controller from an elected position to an appointed position, and ordering the amendment to be submitted to the qualified electors at the November 6, 2012 election.

**BACKGROUND:**

At its March 13, 2012, meeting, the Board created a committee consisting of Supervisor Carole Groom and Supervisor Don Horsley to examine the possible conversion of the Controller to an appointed, as opposed to an elected, position. Since that time, the committee, with the assistance of the Office of the County Counsel, has gathered and reviewed information from other counties that appoint their controller concerning issues such as the appointment process, reporting structure, removal process, term of office, and additional controller qualifications. After review and consideration of this information, the committee recommends that the Board direct County Counsel to draft an ordinance for the Board's consideration which would amend Section 403 of the County Charter to change the Controller from an elected position to an appointed position.

**DISCUSSION:**

Presently, nine of California's 58 counties have appointed, as opposed to elected, controllers: Glenn, Kings, Los Angeles, Marin, Mono, Sacramento, San Diego, San Francisco, and Santa Clara. Of those nine counties, six have a consolidated department of finance (combining the offices of Controller, Treasurer, and Tax Collector) pursuant to Government Code section 26970, and four have converted their controller position from an elected to an appointed one in conjunction with their consolidation (with Marin County's conversion in 2008 being the most recent).

**Appointing Authority:**

Counties that appoint their controllers have taken three general approaches to such an appointment: 1) appointment by the board; 2) appointment by the county executive; or

3) appointment through a “hybrid” process whereby the county executive nominates, and the board must approve, the appointee.

#### Reporting Structure:

County controllers generally report directly to their appointing authority. For example, when the controller is appointed by the Board of Supervisors, the controller reports to, and is evaluated directly by, the Board. Similarly, when the controller is appointed by the county executive, the controller reports to and is evaluated by the county executive. The County Counsel is aware of only one county (Mono) where the reporting structure does not follow the appointment structure (*i.e.*, the controller was appointed by the Board but reports to, and is evaluated by, the county executive).

#### Removal Process:

In four of the nine appointing counties, the controller’s employment is “at will” and he or she can be removed by the appointing authority without cause. The other five appointing counties have adopted special processes and/or standards, such as requiring a showing of “cause” and/or a public hearing, prior to the removal of their controllers. Of the nine counties, two utilize a “hybrid” removal process in which removal must first be initiated by the county executive and approved by the board. Finally, in two counties, the removal of the controller by the board requires a supermajority vote.

#### Term of Office:

Seven of the counties with appointed controllers do not have a set “term of office” for the position. The controllers in those counties serve at the pleasure of the appointing authority subject to any removal restrictions discussed above. It should be noted that, of the appointed controllers without a set term of office, two have employment agreements with provisions that function similarly to a term of office. Of the two counties that have defined terms of office for their appointed controller, one county’s (San Francisco) charter sets forth a ten year term and the other county (Glenn) provides for a two year term in its ordinance code.

#### Qualifications:

Government Code section 26945 sets forth the minimum qualifications for a person elected or appointed to the office of county auditor. Such a person must meet *at least one* of the following criteria: 1) be a certified CPA; 2) hold a baccalaureate degree in accounting or its equivalent and not less than three years experience within the last five years in a senior management position in a public agency, private firm, or nonprofit organization; 3) be a designated professional internal auditor with at least sixteen college semester units in accounting, auditing, or finance; or 4) have at least three years of continuous service as a county auditor, chief deputy county auditor, or chief assistant county auditor. Of the nine counties with appointed controllers, only one (Mono) has codified additional minimum qualifications beyond those set forth in the Government Code.

## **ANALYSIS:**

The committee is of the opinion that the controller position is a highly technical position that is increasingly at the center of complex issues such as property tax apportionment and the dissolution of redevelopment agencies. As a result, the committee believes it is critical for the County Controller to have significant professional knowledge and expertise and, further, that the stability and continuity of the office is better insured by filling the position by the appointment, as opposed to the election.

The committee believes that the appointment process will allow for a more thorough vetting of candidates' qualifications. While an elected controller is accountable to the public, it is difficult for the electorate to effectively evaluate the professional, technical, and managerial expertise that is increasingly required of candidates for the Office of Controller. By converting the Controller to an appointed position, the County can actively recruit and evaluate candidates who exceed the minimum statutory qualifications as well as highly-skilled and well-qualified candidates who might not necessarily be interested in (or successful at) running for elected office. Converting the Controller to an appointed position would also allow the County to take more immediate action to remedy poor performance.

With respect to the specific processes and considerations set forth above, the committee recommends the following, which would be set forth in the County Ordinance Code:

- Appointing Authority: The committee recommends appointment through a "hybrid" process whereby the County Manager works with the Human Resources department to initiate the same process currently utilized to recruit other appointed department heads. At the conclusion of the process, the County Manager would select the final candidate for consideration by the Board. The Board will interview the candidate at a public meeting and Board approval of the nominee would require a 4/5ths vote. The hybrid appointment process will increase the likelihood of selecting a qualified appointee as well as provide a transparent process for public input.
- Reporting Structure: As with most appointed department heads in the County, the Controller would report to, and be evaluated by, the County Manager as opposed to the Board.
- Removal Process: The Controller would be an "at will" employee who could be removed without "cause" and without a "public hearing." Removal, however, could not be initiated without the recommendation of the County Manager and would require a 4/5ths vote of the Board. The committee believes that these provisions would be sufficient to insure the Controller's independence and ability to deliver unpopular financial information regarding the County.
- Term of Office: The committee recommends that the County establish a six year term of office for the Controller. The committee further

recommends that the Controller be limited to two terms. The committee believes that a six year term of office provides the appropriate balance in providing an appointee with a sufficient opportunity in which to implement his or her departmental policies while also providing the County with an adequate period of time in which to evaluate the Controller's performance. The maximum term of office of twelve years would be equivalent to that of the Board of Supervisors and such term limits would encourage qualified candidates and facilitate the introduction of new ideas.

Additional Qualifications: The committee recommends that the County require that candidates for the Controller position possess qualifications in excess of the statutory minimum. At least one other county that appoints its controller (Mono) has amended its ordinance code to require that the appointing body "use its best efforts to ensure that the individual appointed to the office of director of finance 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." If the County were to convert the Controller to an appointed position, the committee recommends that the San Mateo County Ordinance Code be similarly revised.

The committee also recommends that candidates for the Controller position be required to either: 1) be a certified CPA; or 2) hold a baccalaureate degree in accounting or its equivalent and not less than three years experience within the last five years in a senior management position in a public agency, private firm, or nonprofit organization (*i.e.*, Government Code sections 26945(a) or (b)). As a result, designation as a professional internal auditor and/or three years service as a county auditor, chief deputy county auditor, or chief assistant county auditor (*i.e.*, satisfaction of Government Code sections 26945(c) or (d)) would not be sufficient to qualify an individual for the position of Controller.

The committee further recommends that candidates for the Controller position have knowledge of public administration principles and practices, including 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.

The committee is of the opinion that a Charter amendment providing for the appointment, as opposed to the election, of the Controller, coupled with appropriate revisions to the County's Ordinance Code as outlined above, would not only address concerns regarding the continued assurance that the County's Controller possesses the highest degree of professional, technical, and managerial expertise, but also that the Controller retains safeguards against removal to insure that he or she would continue to function with a degree of independence sufficient to hold public confidence.

**FISCAL IMPACT:**

The estimated fiscal impact of placing a Charter amendment on the November 6, 2012, ballot is \$40,000.