

LEGAL TEXT OF PROPOSITIONS P AND Q

(b) The voters urge the Transportation Authority, as a matter of City policy, to maximize efficiency by having staff functions for the Transportation Authority performed, to the extent practicable, by agencies and departments of the City and County, to maximize fiscal accountability by obtaining expert financial review before adoption of Authority budgets, and to maximize public accountability by adopting the same ethics and public records laws that apply to the City and County.

PROPOSITION Q

Ordinance *submitting to the voters an ordinance amending the Business and Tax Regulations Code by (1) amending Section 902.1 and adding Section 902.2 to clarify the tax liability of “pass through entities” under the Payroll Expense Tax Ordinance, including partnerships, Subchapter S corporations, limited liability companies, limited liability partnerships and other persons or entities not subject to federal income tax or which are allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such persons or entities and specifying safe harbor measure of taxable payroll expense for owners of pass through entity (200% of compensation for its most highly paid quartile of employees, provided entity has at least 4 employees); and (2) amending Section 905-A to increase the Small Business Tax Exemption to include all taxpayers whose taxable payroll expense is \$250,000 or less.*

Note: Additions are *single-underline italics Times New Roman*.
Deletions are *strikethrough italics Times New Roman*.

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

Section 1. ORDAINED that Pursuant to Article XIII C of the Constitution of the State of California, the Board of Supervisors hereby submits this ordinance shall be submitted to the qualified electors of the City and County of San Francisco; at the November 4, 2008 general municipal election and that this ordinance shall become operative only if approved by the qualified electors at such election.

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

Section 12. The San Francisco Business and Tax Regulations Code is hereby amended by amending Section 902.1 and adding Section 902.2 to read as follows:

SEC. 902.1. PAYROLL EXPENSE. (a) The term “Payroll Expense” means the compensation paid to, on behalf of, or for the benefit of an individual, *including shareholders of a professional corporation or a Limited Liability Company (“LLC”),* including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), *compensation for services to owners of pass-through entities,* and any other form of compensation, who during any tax year, perform work or render services, in whole or in part in the City; and if more than one individual or *shareholders of a professional corporation or members of an LLC,* during any tax year performs work or renders services in whole or in part in the City, the term “Payroll Expense” means the total compensation paid including salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services (including but not limited to stock options), *in addition to any compensation for services to owners of pass-through entities,* and any other form of compensation *for services,* to all such individuals *and shareholders of a professional corporation or members of an LLC.*

(b) Any person that grants a service provider a right to acquire an ownership interest in such person in exchange for the performance of services shall include in its payroll expense for the tax year in which such right is exercised an amount equal to the excess of

(i) the fair market value of such ownership interest on the date such right is exercised over

(ii) the price paid for such interest.

(c) Any individual compensated in his or her capacity as a real estate salesperson or mortgage processor shall be deemed an employee of the real estate broker or mortgage broker for or under whom such individual performs services, and any compensation received by such individual, including compensation by way of commissions, shall be included in the payroll expense of such broker. For purposes of this Section, “real estate broker” and “mortgage broker” refer to any individual licensed as such under the laws of the State of California who engages the services of salespersons or a salesperson, or of mortgage processors or a mortgage processor, to perform services in the business which such broker conducts under the authority of his or her license; a “salesperson” is an individual who is engaged by a real estate broker to perform services, which may be continuous in nature, as a real estate salesperson under an agreement with a real estate broker, regardless of whether the individual is licensed as a real estate broker under the laws of the State of California; a “mortgage processor” is an individual who is engaged by a real estate broker or mortgage broker to perform services, which may be continuous in nature, as a mortgage processor under an agreement with such real estate broker or mortgage broker, regardless of whether the mortgage processor is also licensed as a mortgage broker under the laws of the State of California.

(d) All compensation, including all pass-through compensation for services paid to, on behalf of, or for the benefit of owners of a pass-through entity, shall be included in the calculation of such entity’s payroll expense tax base for purposes of determining such entity’s tax liability under this Article. For purposes of this section, the “pass-through compensation for services” of a pass-through entity shall be the aggregate compensation paid by such entity for personal services rendered by all such owners, and shall not include any return on capital investment. The taxpayer may calculate the amount of compensation to owners of the entity subject to the Payroll Expense Tax, or the taxpayer may presume that, in addition to amounts reported on a W-2 form, the amount subject to the payroll expense tax is, *90% of the amount of net earnings from self-employment derived from the entity for federal income tax purposes for each owner, an amount that is two hundred percent (200%) of the average annual compensation paid to, on behalf of, or for the benefit of the employees of the pass-through entity whose compensation is in the top quartile (i.e., 25%) of the entity’s employees who are based in the City; provided, the total number of employees of the entity based in the City is not less than twenty-four.*

SEC. 902.2. PASS-THROUGH ENTITY. The term “pass-through entity” includes a trust, partnership, corporation described in Subchapter S of the Internal Revenue Code of 1986, as amended, limited liability company, limited liability partnership, professional corporation, and any other person or entity (other than a disregarded entity for federal income tax purposes) which is not subject to the income tax imposed by Subtitle A, Chapter 1 of the Internal Revenue Code of 1986, as amended, or which is allowed a deduction in computing such tax for distributions to the owners or beneficiaries of such person or entity. Any person exempt from payment of the Payroll Expense Tax under Section 905-A or 906 of this Article shall not be disqualified from or denied such exemption as a result of being a “pass-through entity” under this Section.

Section 2. The San Francisco Business and Tax Regulations Code is hereby amended by amending Section 905-A to read as follows:

SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.

(a) Notwithstanding any other provisions of this Article, “small business enterprises” as hereinafter defined, shall be exempt from payment of the Payroll Expense Tax; provided, however, that small business enterprises shall pay the annual registration fee pursuant to Section 855 of Article 12.

(b) The term “small business enterprise” shall mean and include any taxpayer:

(1) Whose tax liability under this Article, but for this exemption provision, would not exceed \$2,500 and or, effective January 1, 2009, whose taxable payroll expense does not exceed \$250,000 and;



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(2) Who has filed a tax return by the last date of February for the preceding tax year. If the taxpayer fails to file a return by that date, the taxpayer shall be subject to a penalty as specified in subsection (d).

(c) For the 2011 tax year, and each second succeeding tax year, the Tax Collector shall increase the ceiling for the Small Business Tax Exemption (rounded to the nearest \$10,000 increment) to reflect increases in the United States Department of Labor's Bureau of Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-San Jose area for each of the preceding two tax years.

(d) In lieu of the penalty specified in Section 6.17-3 of this Article for failing to file a return, any person who otherwise qualifies for the small business exemption set forth in this Section who fails to file a return by the last date of February shall pay a penalty as follows:

(1) If the person's Payroll Expense Tax liability under this Article, but for the small business exemption under this section, would be less than \$1,000, the penalty shall be \$100 plus 10% of the amount of such liability, for each month, or fraction thereof, that the return is delinquent, up to a maximum amount equal to the person's liability for such tax but for the small business exemption;

(2) If the person's Payroll Expense Tax liability under this Article, but for the small business exemption under this section, would be \$1,000 or more, then the penalty shall be \$250 plus 10% of the amount of such liability, for each month, or fraction thereof, that the return is delinquent, up to a maximum amount equal to the person's liability for such tax but for the small business exemption.

(e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in subsection (c) to not less than \$100 upon a showing that the late filing of the return was due to reasonable cause and not due to willful neglect.

Section 3. This ordinance does not change any of the Payroll Expense Tax rates in Section 903.I and reaffirms the current rates.

Note: Additions are single-underline italics Times New Roman; deletions are ~~strikethrough italics Times New Roman~~.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Section 3.26, to read as follows:

SEC. 3.26. BUDGET SET-ASIDES AND MANDATORY EXPENDITURES.

(a) Findings.

1. Various voter-approved provisions of the Charter require the City to set aside portions of the property tax levy or the General Fund for particular purposes or otherwise mandate continuing annual appropriations for specific programs. In addition, voter approved ordinances, although not fiscally binding, also have the same practical effect. This initiative ordinance refers to all these measures, including increases to existing mandates, as "Set-Asides". Only the voters at another election have the authority to change the provisions of these Set-Asides.

2. The City's total revenue for fiscal year 2007-08 was approximately \$6.07 billion. But only \$2.83 billion of that revenue was General Fund money. And of the General Fund portion of the budget, only approximately \$1.11 billion or 18% of the total revenue remained available for discretionary spending for any lawful governmental purpose.

3. While these Set-Asides often individually promote laudable public purposes, collectively they impair the capacity of the Mayor and the Board of Supervisors to carry out one of the most important functions they are elected to perform under the Charter: allocating the City's limited resources to best serve the public interest. The impact of these Set-Asides also has limited the ability of the Mayor and Board of Supervisors to effectively respond to recurring budget deficits, and has led to reductions in important public services due to the declining portion of the budget available for discretionary spending.

(b) Policy Regarding New Set-Asides and Mandatory Expenditures. The voters adopt the following as official policy of the City and County of San Francisco:

1. The voters will not approve the addition to the City Charter of any Set-Aside or other measures that has the effect of limiting the spending discretion of the Mayor and the Board of Supervisors unless the measure adding the new Set-Aside also provides a specific, adequate new source of funds so that the implementation of the Set-Aside will not cause a net decrease in General Fund revenues that the Mayor and Board would otherwise have the discretion to allocate through the budget process. Growth in revenues from existing funding sources shall not be considered a new source of funding for the purpose of this measure.

2. The voters will not approve any annual cost-of-living adjustment or other escalation in the dollar amount of any new Set-Aside that exceeds the amount of the prior year's Set-Aside by more than 2%; and,

3. The voters will not approve any new Set-Aside or proposed extension of an existing Set-Aside unless it expires automatically no later than 10 years after the effective date of its adoption.

Section 2. The San Francisco Municipal Elections Code is hereby amended by adding Section 521, to read as follows:

SEC. 521. CONTROLLER'S STATEMENT ON SET-ASIDES.

(a) Purpose. The ordinance is adopted to promote the policy contained in Administrative Code Section 3.26.

(b) Controller's Statement. Whenever a proposal appears on the ballot that includes a Set-Aside, as that term is defined in Administrative Code Section 3.26, the Controller shall prepare and the Director of Elections shall caused to be printed in the voter information pamphlet a statement analyzing the impact of the measure on the City's budget and finances during the term of the measure, considered alone and in combination with existing Set-Asides. The Controller's statement shall inform the voters of both the policy that this section of the Charter adopts and whether the proposal identifies a specific, adequate new funding source for the proposed Set Aside so that the implementation of the Set-Aside

PROPOSITION R

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

Section 1: The Oceanside Wastewater Treatment Facility, a public sewage and wastewater treatment facility serving the people of the City and County of San Francisco, shall be permanently renamed the George W Bush Sewage Plant.

Section 2: This name change shall take effect immediately upon the inauguration of the next US President.

Section 3: The facility's outdoor signage and website shall be updated when the name change takes effect.

Section 4: Stationary, business cards, city maps and other public references to the facility shall also be updated, but may be updated when old materials are replenished or reprinted.

PROPOSITION S

Ordinance amending the San Francisco Administrative Code by adding Section 3.26, to establish as official City policy that the voters will not approve new set-asides or other mandated levels of spending without identifying a new funding source for the program, and that the duration and any annual growth in the set-aside or mandated level of spending be limited, and amending the San Francisco Municipal Elections Code by adding Section 521, to require that the voter information pamphlet include a specific Controller's analysis of the fiscal impact of a proposed new set-aside.

