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MEMORANDUM

TO: Members, San Francisco Elections Commission
John Arntz, Director of Department of Elections

FROM: Ana Flores
Deputy City Attorney

DATE: December 8, 2023

RE: Assembly Bill 764, Fair And Inclusive Redistricting for Municipalities And Political Subdivisions Act of 2023

You requested that we provide a summary of Assembly Bill 764 (“AB 764”), the Fair And Inclusive Redistricting for Municipalities and Political Subdivisions Act of 2023, legislation Governor Newsom signed into law on October 7, 2023. We attach a copy of the bill. AB 764 expands and reauthorizes Assembly Bill 849 (2019), also known as the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act (“Fair Maps Act”). The legislation governs aspects of the process local government entities with district-based elections for their governing bodies must follow when adjusting district boundaries following the decennial census.

Like the Fair Maps Act, several provisions of AB 764 do not apply to San Francisco, because the bill includes exceptions for a charter city that has adopted its own redistricting legislation. In particular, AB 764 sets out factors the redistricting body must consider in adopting district maps, but it contains an exception for a charter city that has adopted redistricting criteria. San Francisco’s redistricting criteria are specified in Charter Section 13.110. Similarly, AB 764 sets a deadline for adoption of a final map, but there is an exception for a charter city like San Francisco that has established its own deadline.

The following changes in AB 764 apply to San Francisco:

- Number of required meetings. The Fair Maps Act required the redistricting body to hold at least four public meetings before adopting a final map. AB 764 requires at least one workshop (not necessarily held by the redistricting body), two public meetings before drawing a draft map, and three public meetings after drawing a draft map. Elec. Code § 21150. The redistricting body in San Francisco is the Redistricting Task Force (RETF). Charter § 13.110(d).
- Public education and outreach plan. AB 764 requires the Board of Supervisors or the redistricting body to adopt a public education and outreach plan to inform residents about the redistricting process prior to March 1, 2031, and every ten years thereafter. The plan has to cover a number of different topics specified in the bill. Elec. Code § 21160.
- Analysis of majority minority districts. Under the federal Voting Rights Act, the City must determine whether it is possible to create a district or districts in which

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PAGE: 2

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a minority group is sufficiently large and geographically compact to constitute a majority in a single member district. AB 764 requires the redistricting body to publish on its redistricting web page, at a minimum, the results of its analysis within seven days of completing the analysis or prior to adopting election district boundaries, whichever occurs first. Elec. Code § 21130 (b)(1).

- Final report. The Fair Maps Act did not require the redistricting body to issue a final report, though the RETF has done so. AB 764 requires the redistricting body to issue a final report within 21 days of adopting a map that explains the basis on which the body made its decisions in achieving compliance with state law requirements, including as to each neighborhood, community of interest, or census designated place that was split into two or more districts, the reason for that split. Elec. Code § 21130 (f).
- Steps when the redistricting deadline is missed. Under the Charter, the RETF must complete redrawing district lines before April 15 of the year the City will hold the first election using the redrawn lines. Charter § 13.110(d). San Francisco does not have a method for adopting district boundaries if the deadline is missed. AB 764 requires San Francisco to petition the Superior Court within five days of missing the deadline for an order adopting election district boundaries. If San Francisco does not file a petition, any City resident may do so. Elec. Code § 21180.

We are available to answer any further questions you have concerning AB 764.