



## Legislation Text

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**File #:** 2019-0206, **Version:** 1

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**To:** Board of Supervisors of Sonoma County

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:** Angie Dillon-Shore, 565-6627; Barbie Robinson, 565-7876

**Vote Requirement:** Majority

**Supervisorial District(s):** Countywide

### **Title:**

Ordinance to Establish First 5 Sonoma County as an Independent Public Agency and Authorization to Implement Layoff Procedures within the Department of Health Services

### **Recommended Actions:**

A) Adopt a resolution introducing, reading the title of, and waiving further reading of a proposed ordinance amending Ordinance Number 5142 (establishing the Sonoma County Children and Families First Commission) as amended by Ordinance Numbers 5236, 5807, and 5881, to establish First 5 Sonoma County Commission as an independent public agency and establish Commission membership, terms, powers, and duties.

B) Authorize the Department of Health Services, in coordination with and oversight by the Human Resources Department, to administer layoff proceedings and to mitigate layoffs to the extent possible, in accordance with Civil Service Rule 11: Layoffs.

### **Executive Summary:**

On December 4, 2018, First 5 Sonoma County presented findings of a report supporting the conversion of First 5 to an independent public agency and made a formal recommendation that the Board amend the ordinance establishing First 5. The Board accepted the recommendation and directed First 5 to move forward with planning and procedures to separate operations from the County. The Board directed First 5 to return to the Board in February 2019 with a proposed ordinance and a plan for developing the required infrastructure to operate First 5 as an independent public agency, effective July 1, 2019 to coincide with the fiscal year.

Ordinance Number 5142, approved in December 1998, established the *Sonoma County Children and Families First Commission* as a program embedded in the Sonoma County Department of Health Services. Ordinance Number 5142 was previously amended by Ordinance Numbers 5236, 5807, and 5881 to increase the number of Commissioners and change the name of the Commission. The proposed new ordinance will amend Ordinance Number 5142 to establish the First 5 Sonoma County Commission as an independent public entity separate from the County and will also expand Commission membership.

To convert the Commission to an independent agency, all administrative functions must be transitioned from County authority, policy and procedure and then re-established to reflect the new legal status of the First 5 Sonoma County Commission. The Commission has developed a detailed transition plan and is working with independent counsel to negotiate a mutually satisfactory agreement with relevant County departments and divisions to support a smooth transition.

Separation from the County necessitates that First 5 staff allocations are eliminated from the Department of

Health Services budget when the ordinance becomes operatively effective, proposed as July 1, 2019 to coincide with the fiscal year. The Department of Health Services is requesting Board approval to implement the Layoff Provisions of the Rules of the Sonoma County Civil Service Commission, specifically Rule 11: Layoffs.

## **Discussion:**

### **Background**

Faced with a declining revenue stream that supports critical services for children and families, the First 5 Sonoma County Commission undertook a comprehensive study in March 2018 of how existing organizational structure impacts long term sustainability. According to the findings of the independent analysis, the Commission may realize significant savings in administrative costs, increased efficiency of efforts and strengthened strategic position if operated independently, as a public agency separate from the County. These findings compelled the Commission to make a formal recommendation to the Board to exercise its legal authority to amend the existing ordinance to re-establish First 5 as an independent public agency. The findings were presented to the Board on December 4, 2018.

At that time, the Board accepted the recommendation and directed First 5 to move forward with planning and procedures to separate operations from the County and to return to the Board in February 2019 with a proposed ordinance and a plan for building new infrastructure to operate First 5 as an independent public agency, effective July 1, 2019 to coincide with the fiscal year.

### **Ordinance to Re-Establish First 5 Sonoma County Commission**

County Boards of Supervisors are authorized by the California Children and Families Act of 1998 (Proposition 10) to establish a local First 5 Commission. The proposed Sonoma County ordinance amends Ordinance Number 5142 (the original ordinance establishing the *Sonoma County Children and Families First Commission*) and re-establishes the First 5 Sonoma County Commission as an independent public entity as allowed by statute. Ordinance 5142 was previously amended by Ordinance Numbers 5236, 5807, and 5881 to increase the number of Commissioners and change the name of the Commission to align with the state Commission (First 5 California).

The Board of Supervisors retains the statutory authority to appoint new Commissioners. The First 5 Commission makes specific recommendations to the Board with regard to Commission membership as First 5 transitions to independent legal status. The proposed ordinance expands Commission membership to include representatives from the business community and municipal government, and also allows for the directors of Department of Health Services and Human Services Department to designate alternates from their department to fill the ex officio seat on the Commission.

Stated in the proposed ordinance is an *operative* date of July 1, 2019. This will allow for a four-month transition period that will provide First 5 with a legal basis to begin procurement of business services from independent vendors, as well as recruitment for new staff. No employees would be formally hired until July 1, 2019 when the ordinance would be operative.

### **Transition of Administrative Functions**

The First 5 Executive Director and First 5 Commission are working together with independent counsel, James Harrison of the firm Remcho, Johansen and Purcell, to explore and where appropriate, negotiate a mutually satisfactory interagency agreement for transition and a post-conversion relationship with County departments and divisions. Relevant entities include the Auditor-Controller, Purchasing, Human Resources, County Counsel,

Information Systems Department, and Department of Health Services.

All administrative functions will be transitioned from County authority, policy and procedure and re-established to reflect the new legal status of the First 5 Sonoma County Commission. An operative date that coincides with the start of the fiscal year (July 1, 2019) is critical to support a smooth transition of fiscal oversight including contracts, budgeting and accounting functions. The Department of Health Services has begun budget development for fiscal year 2019-2020 which excludes assumption of First 5 revenue and expenses.

An element of the interagency agreement will be a financial services redundancy plan. The plan will articulate a protocol for parallel and concurrent processing of transactions to test accuracy of First 5's new systems and provide a safety net for a 2-3 month transition period as the separation becomes operative.

All current contractual agreements executed by the County on behalf of First 5 Sonoma County Commission will be ended, effective June 30, 2019. New contracts with those vendors and service providers will be developed by First 5 and executed on or soon after July 1, 2019.

Other critical issues being addressed include the disposition of First 5 staff upon conversion (see below); potential retention of limited County services as a vendor to First 5; transfer of fiscal, programmatic and personnel data; and determination of First 5 physical assets (equipment, furniture). Retention of County business services (a common practice for independent First 5 commissions) will be dependent on cost efficiency and terms. For example, First 5 may consider retaining legal services through County Counsel if deemed more cost effective based on the County's best estimate of actual costs incurred to provide services and an agreement to itemized tasks and/or hours as a vendor.

The First 5 Executive Director, with the support and oversight of the Commission's Executive Committee, is implementing a plan to reconstitute First 5's infrastructure. The major areas of infrastructure development are: 1) fiscal policies, procedures and oversight systems; 2) personnel management policies and procedures; 3) personnel compensation structure, including employer paid benefits; 4) determination of business needs and procurement of services, including legal, accounting, insurance, information technology, and telecommunications; and 5) regulatory filings with the Internal Revenue Service, Employment Development Department, California Secretary of State, and County Clerk.

Development of new fiscal infrastructure is well underway. The Commission is developing the fiscal year 2019-2020 budget which reflects resource requirements and detailed assumptions for an independently operating agency. Budget tracking tools have been designed that also track the Commission's strategic allocations and feed into the existing long-term financial planning processes.

Development of accounting and budgeting policies and procedures is also underway. A network of independent First 5 commissions across the state and the First 5 Association are providing extensive assistance and sharing templates, policies and procedures that First 5 Sonoma County can adapt for use. Procedures for accounting functions will include cash management, payroll, accounts payable and accounts receivable, purchasing, asset tracking and general ledger.

First 5 already implements best practices with regard to grant making and will be streamlining and adapting current procedures for competitive procurement, scoping, budgeting and monitoring grantee contracts and performance. An enterprise database currently used for data collection on grantee deliverables may be built out to integrate contracting and general accounting functions.

The First 5 Commission will revise and adopt their conflict of interest code to reflect its independent status, as

well as review and revise procedures, as needed, to ensure compliance with the Brown Act, Public Records Act, Political Reform Act, Government Code section 1090, Health Insurance Portability and Accountability Act of 1996, and employment law.

**Authorization to Administer Layoff Proceedings**

Separation from the County necessitates that First 5 staff allocations be eliminated from the Department of Health Services budget when the ordinance becomes operatively effective, proposed as July 1, 2019 to coincide with the fiscal year. First 5 currently has eight allocations, as listed in the table below:

Job Classification	FTE - Total	Vacant
Administrative Aide	1.00	1.0
First 5 Section Manager	1.00	
Health Information Specialist II	3.00	1.0
Health Program Manager	1.00	
Program Planning and Evaluation Analyst	1.00	
Senior Office Assistant	1.00	1.0
<b>TOTAL</b>	<b>8.00</b>	<b>3.0</b>

At this time, 1.0 FTE Administrative Aide, 1.0 FTE Senior Office Assistant, and 1.0 FTE Health Information Specialist allocations in First 5 are vacant and will remain vacant through the conversion process. 1.0 FTE Health Information Specialist II, 1.0 FTE Health Program Manager, and 1.0 FTE Program Planning and Evaluation Analyst vacancies currently exist elsewhere within the Department of Health Services and will be used as landing spots for impacted staff. Should no further vacancies occur within the Department of Health Services for the affected job classifications before July 1, 2019, it is anticipated that only 1.0 FTE First 5 Section Manager and 1.0 FTE Health Information Specialist would be laid off. The Department of Health Services is requesting Board approval to begin implementing the Layoff Provisions of the Rules of the Sonoma County Civil Service Commission, specifically Rule 11: Layoffs. The authority to delete allocations associated with the specific positions will be requested by the Department of Health Services with their fiscal year 2019-2020 budget.

Labor unions representing four First 5 allocated positions (Service Employees International Union Local 1021 and Engineers and Scientists of California Local 20) were notified in November 2018 of the recommendation to the Board to convert First 5 to an independent agency. Service Employees International Union Local 1021 represents the Senior Office Assistant position. Engineers and Scientists of California Local 20 represents the three Health Information Specialist II positions.

If approved, the Board’s action today will authorize the Department, in coordination with the Human Resources Department, to develop a timeline, create and audit seniority lists and layoff notices, and engage Engineers and Scientists of California Local 20 in the meet and confer process.

With the Board’s action today, over the next several weeks and until adoption of the fiscal year 2019-2020 budget, the Department, in coordination with Human Resources, plans to continue monitoring vacancies closely for opportunities to mitigate any layoffs to the maximum extent possible. Notably, it is anticipated that the First 5 Section Manager (Executive Director) will resign from County service and accept employment with the new First 5 Sonoma County Commission.

The proposed ordinance amending Ordinance Number 5142 is attached. In addition, the report summarizing the findings of the analyses supporting the conversion of First 5 to an independent agency, the current First 5 Commission Strategic Plan, a copy of the California Children and Families Act of 1998, the Board's ordinance originally establishing the local Commission and subsequent amendments, and the Commission bylaws are on file with the Clerk of the Board.

**Prior Board Actions:**

On December 4, 2018 the Board was presented with findings from a fiscal analysis and accepted a recommendation from the First 5 Sonoma County commission to move forward with planning to convert the Commission to an agency separate from the County.

On October 16, 2018 the Board approved a contract with James Harrison at Remcho Johansen & Purcell for independent legal consultation related to First 5 Sonoma County's governance structure and implications for sustainability.

On May 8, 2018 the Board accepted the First 5 Sonoma County *2017 Strategic Plan Update: Framing the Future*.

On June 16, 2015 the Board accepted the First 5 Sonoma County Commission Strategic Plan 2011-2020 Update.

On May 19, 2015 the Board allocated \$305,000 to develop the Sonoma County Preschool Facilities Grant Program, with additional investment of \$350,000 from the First 5 Sonoma County Commission.

On March 16, 2010 the Board adopted Ordinance No. 5881: Changed name of Commission to "First 5 Sonoma County Commission" to conform to state Commission's name change to "First 5 California."

On October 14, 2008 the Board adopted Ordinance No. 5807: (1) Increase the number of Commissioners from seven to nine, (2) increase a Commissioner's term of office from two to three years, and (3) establish term limits of a maximum of three consecutive terms.

On June 6, 2000 the Board adopted Ordinance No. 5236: (1) Increase the number of Commissioners from five to seven, and (2) rename the Commission as "Sonoma County Children and Families Commission."

On December 15, 1998 the Board adopted Ordinance No. 5142: Board established the Children and Families First Commission and trust fund. The Department of Health Services was designated as the administrative agent of the Commission.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 18-19 Adopted</b>	<b>FY19-20 Projected</b>	<b>FY 20-21 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Funding Sources</b>			
General Fund/WA GF			

State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Narrative Explanation of Fiscal Impacts:**

There are no costs directly associated with this action. The action authorizes the initiation of layoff procedures in preparation for adoption of the FY 19-20 budget. Actual reductions to appropriations and positions in the DHS budget will be made in the FY 19-20 budget hearings with the Board in June 2019.

**Staffing Impacts:**

<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A - I Step)</b>	<b>Additions</b>
<b>(number)</b>	<b>Deletions (number)</b>	

**Narrative Explanation of Staffing Impacts (If Required):**

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**Attachments:**

Resolution, proposed ordinance

**Related Items "On File" with the Clerk of the Board:**

- 1) *Summary of Findings Supporting Conversion of First 5 Sonoma County to an Independent Public Agency*, 2) Proposition 10 statute: California Children and Families Act of 1998, 3) ordinance establishing the First 5 Sonoma County Commission and amendments, 4) current First 5 Sonoma County Commission Bylaws, and 5) First 5 Sonoma County *2017 Strategic Plan Update: Framing the Future*