

File No. 091431

Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Rules

Date January 28, 2010

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Charter Amendment</u> |
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Completed by: Linda Wong
Completed by: _____

Date January 25, 2010
Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

[Setting minimum 52-hour work week for firefighters.]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Section A8.452 to: (1) eliminate the 48.7-hour limitation on the work week for uniformed officers and member of the Fire Department, (2) establish a work week of at least 52 hours, on an annualized basis, for uniformed officers and members assigned to fire fighting companies and units, with the minimum 52-hour work week requirement to be effective for any amendment or extension to the current Memorandum of Understanding (MOU) between the City and County of San Francisco (City) and the San Francisco Fire Fighters Union Local 798 (Union) in effect July 1, 2007 through June 30, 2011, and for the successor MOU and each MOU between the City and Union thereafter, and (3) eliminate superseded language regarding holiday schedules and compensation; and by adding Section A8.590-9 to provide that the minimum work week for firefighters assigned to fire fighting companies and units shall be governed by Section A8.452 and not be subject to binding interest arbitration under Charter Section A8.590-5.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on June 8, 2010, a proposal to amend the Charter of the City and County by amending Section A8.452 and adding Section A8.590-9 to read as follows:

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are *strike-through italics Times New Roman*.

SEC. A8.452. FIRE DEPARTMENT

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that the normal work week determined on an annual

basis for such officers and members assigned to fire fighting companies and units, shall ~~not~~ ~~exceed 48.7~~ be at least 52 hours. The 52-hour minimum work week requirement shall apply to any amendment to or extension of the Memorandum of Understanding (MOU) between the City and County of San Francisco and the San Francisco Fire Fighters Union Local 798, effective July 1, 2007 through June 30, 2011, and shall apply to each and every MOU thereafter between the City and County of San Francisco and the exclusive bargaining representative or representatives of officers and members assigned to fire fighting companies and units. All tours of duty established for officers and members assigned to the fire fighting companies and fire fighting units excepting the arson investigation unit, shall start at eight o'clock A.M. No such officer or member shall be required to work more than twenty-four consecutive hours except in a case of conflagration, disaster, or sudden and unexpected emergency of a temporary nature requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation ~~of 48.7 hours in any normal work week nor on working more than~~ 24 consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the chief of department, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in the Charter, said officer or member shall, as requested by the officer or member, be entitled to be compensated at the rate of time and one-half his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off at the rate of time and one-half.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating

to the Retirement System, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

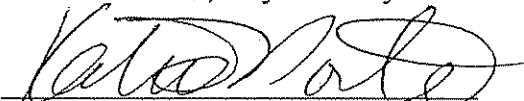
~~Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensation are fixed on a monthly basis in the schedule of compensation adopted by the Board of Supervisors, pursuant to the provisions of Section 8.401 of the Charter, as additional days off with pay. Officers or members shall be compensated for said days on the basis of time and one half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one half, as requested by the officer or member.~~

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation or equivalent time off as provided for in this section, shall be calculated by dividing the annual rates of pay for each fiscal year by two-thirds (2/3) number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

A8.590-9. FIREFIGHTER WORK WEEK

Notwithstanding any other provision of this Charter, including but not limited to Charter Sections A8.590-1 through A8.590-8, the minimum work week for firefighters assigned to fire fighting companies and units shall be governed by Charter Section A8.452, and shall not be subject to the impasse resolution procedures in Charter Section A8.590-5.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
Katharine Hobin Porter
Deputy City Attorney

LEGISLATIVE DIGEST

(First Draft, 12/15/09)

[Setting minimum 52-hour work week for firefighters.]

A proposal to amend the Charter of the City and County of San Francisco at an election to be held on June 8, 2010, by amending Section A8.452 to: (1) eliminate the 48.7-hour limitation on the work week for uniformed officers and member of the Fire Department, (2) establish a work week of at least 52 hours, on an annualized basis, for uniformed officers and members assigned to fire fighting companies and units, with the minimum 52-hour work week requirement to be effective for any amendment or extension to the current Memorandum of Understanding (MOU) between the City and County of San Francisco (City) and the San Francisco Fire Fighters Union Local 798 (Union) in effect July 1, 2007 through June 30, 2011, and for the successor MOU and each MOU between the City and Union thereafter, and (3) eliminate superseded language regarding holiday schedules and compensation; and by adding Section A8.590-9 to provide that the minimum work week for firefighters assigned to fire fighting companies and units shall be governed by Section A8.452 and not be subject to binding interest arbitration under Charter Section A8.590-5.

Existing Law

Charter Section A8.452 provides that the normal work week for uniformed officers and members of the Fire Department shall not exceed 48.7 hours on an annualized basis. That Section also provides that officers and members are entitled to days off with pay on days declared to be holidays in the "schedule of compensation" adopted by the Board of Supervisors under Charter Section 8.401, and that if they work on those days, they are entitled to overtime at the rate of time and one half or equivalent time off duty with pay at the rate of time and one half, as requested by the officer or member.

In addition, the current Memorandum of Understanding (MOU) between the City and County of San Francisco (City) and the San Francisco Fire Fighters Union Local 798 (Union), which represents uniformed members of the Fire Department at the rank of Firefighter through the rank of Assistant Chief, provides that Fire Department "field personnel" shall work a 48.7-hour average work week. That MOU also specifies the legal holidays for Fire Department officers and members, and provides either for days off work with pay on those holidays, compensation for working on a holiday at the rate of time and one half, or "holiday premium" pay for officers and members in "suppression" assignments. The term of the current MOU is July 1, 2007 through June 30, 2011.

Finally, Charter Sections A8.590-1 through A8.590-8 set the requirements, scope and procedures for negotiations between the City and the Union on matters within the scope of representation for employees represented by the Union. Employee work hours, including the length of the work week, is a matter within the scope of representation. Section A8.590-5 establishes binding interest arbitration as the procedure to use to resolve negotiation impasses, with certain exceptions specified in the Charter.

Amendments to Current Law

The proposed Charter amendment would amend Section A8.452 to eliminate the 48.7-hour limit on the average work week for Fire Department officers and members, and would set an average work week of at least 52 hours for Fire Department officers and members assigned to fire fighting companies and units. The 52-hour minimum work week requirement would apply to any amendment or extension to the current MOU and to the successor MOU and all future MOUs between the City and the Union.

The proposed amendment would also eliminate superseded language in Section A8.452 for determining holidays for Fire Department officers and members, as well as setting compensation for working on holidays. The language proposed to be eliminated is outdated, referencing Charter Section 8.401, which is no longer in the Charter. In addition, the current MOU between the City and Union specifies the days declared to be holidays for Fire Department officers and members, and provides for time off or compensation related to holidays for those employees.

Finally, the proposed amendment would add Section A8.590-9 to the Charter. That new section would provide that the minimum work week for firefighters assigned to fire fighting companies and units would be governed by Section A8.452, and would not be subject to the binding interest arbitration impasse procedures in Charter Section A8.590-5.



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

C: Rules members

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

January 19, 2010

Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place Room 244
San Francisco, CA 94102-4689

RE: File 091431 – Charter amendment eliminating the 48.7 hour limit on firefighter(s) workweek and providing for a 52 hour workweek minimum

Dear Ms. Calvillo,

Should the proposed Charter amendment be approved, in my opinion, it would decrease the cost of government through allowing the City to increase the firefighter workweek from its current 48.7 hours to a 52 hours minimum length. Under the Fire Department's current staffing models, the savings in moving from a 48.7-hour workweek to a 52-hour workweek would be an estimated \$6.9 million as of the fiscal year 2009-2010 budget.

Under the 48.7 hour schedule, firefighters in San Francisco work fewer hours than firefighters in many cities. A workweek of 52 hours is used in other California localities, and other cities including Oakland, Los Angeles, San Jose, Fremont and Richmond use a 56 hour workweek.

Under the Charter, pay rates and most other economic and working conditions matters are subject to negotiation, collective bargaining and, ultimately, binding arbitration processes between the City and its employee unions. The proposed charter amendment would provide that the firefighter workweek would not be subject to arbitration, but would instead be specified by this charter section.

Sincerely,


Ben Rosenfield
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.