

1 [Health Care Accountability Components.]

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3 **Ordinance amending Health Code Section 12Q.3 on the calculation of the health care**  
4 **accountability fee for covered contracting parties and increasing the existing fee and**  
5 **amending Section 12Q.2.9 to increase the number of hours an employee must work to**  
6 **be considered a covered employee.**

7 Note: Additions are single-underline italics Times New Roman;  
8 deletions are ~~striketrough italics Times New Roman~~.  
9 Board amendment additions are double underlined.  
Board amendment deletions are ~~striketrough normal~~.

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

11 Section 1. The San Francisco Health Code is hereby amended by amending Sections  
12 12Q.2.9 and 12Q.3, to read as follows:

13 SEC. 12Q.2.9. COVERED EMPLOYEE.

14 (a) "Covered Employee" shall mean:

15 (1) An Employee of a Contractor of Subcontractor who works on a City Contract or  
16 Subcontractor for 20 hours or more per Week:

17 (A) Within the geographic boundaries of the City; or

18 (B) On real property owned or controlled by the City, but outside the geographic  
19 boundaries of the City; or

20 (C) Elsewhere in the United States; and

21 (2) An Employee of a Tenant or Subtenant who works 20 hours or more per Week on  
22 property that is covered by a Lease of Sublease; and

23 (3) An Employee of a Contractor or Subcontractor that has a Contract or Subcontract  
24 to perform services on property covered by a Lease or Sublease if the Employee works 20  
25 hours or more per Week on the property.

1 (4) A Contractor or Subcontractor may not divide an employee's time between working  
2 on a City contract and working on other duties with the intent of reducing the number of  
3 Covered Employees working on the Contract to evade compliance with this Chapter. Such  
4 action shall constitute a violation of this Chapter. *Beginning on July 1, 2002, the number of hours*  
5 *an employee must work per Week in order to be considered a "Covered Employee" pursuant to this*  
6 *Subsection (a)(1), (2) and (3) shall be 15 or more.*

7 (b) Notwithstanding the foregoing, the term "Covered Employee" does not include the  
8 following:

9 (1) Any Employee (A) under the age of eighteen (18) who is a student, provided that  
10 the Employee does not replace, displace or lower the wage or benefits of any existing position  
11 or Employee, or (B) who is (i) a temporary Employee hired for a time-limited period, and (ii) for  
12 that period is receiving academic credit or completing mandatory hours for professional  
13 licensure or certification, and (iii) the Employee does not replace, displace, or lower the wage  
14 or benefits of an existing position or Employee; or

15 (2) Any Employee employed as a trainee in a bona fide training program consistent  
16 with Federal law, which training program enables the Employee to advance into a permanent  
17 position, provided that the Employee does not replace, displace or lower the wage or benefits  
18 of any existing position or Employee; or

19 (3) Any Employee that the Contracting Party is required to pay no less than the  
20 "prevailing rate of wage" in accordance with Section A7.204 of Appendix A to the City's  
21 Charter or any provision of the San Francisco Administrative Code; or

22 (4) Any disabled Employee who:

23 (A) Is covered by a current sub-minimum wage certificate issued to the employer by  
24 the U.S. Department of Labor; or  
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1 (B) Would be covered by such a certificate but for the fact that the employer is paying  
2 a wage equal to or higher than the minimum wage.

3 (5) Any Employee of a Nonprofit-Corporation who is a temporary employee, hired on  
4 an hourly or per diem basis to replace a regular employee during a temporary absence from  
5 the workplace.

6 SEC. 12Q.3. HEALTH CARE ACCOUNTABILITY COMPONENTS.

7 (a) With respect to each Covered Employee who either resides in San Francisco  
8 (regardless of where the Covered Employee provides services) or provides services covered  
9 by this Chapter in San Francisco, each Contracting Party shall do one of the following, at the  
10 Contracting Party's option:

11 (1) Offer to the Covered Employee health plan benefits that meet minimum standards  
12 prepared by the Health Director and approved by the Health Commission. The minimum  
13 standards shall provide for a maximum period for each Covered Employee's health benefits to  
14 become effective, no later than the first of the month that begins after 30 days from the start of  
15 employment on a covered Contract, Subcontract, Lease or Sublease. The Health Commission  
16 shall review such standards at least once every two years to ensure that the standards stay  
17 current with State and Federal regulations and existing health benefits practices; or

18 (2) For each Week in which the Covered Employee works the applicable minimum  
19 number of hours set forth in Section 12Q.2.9(a) (definition of "Covered Employee"), pay to the  
20 City ~~\$2.80~~ ~~\$2.00~~ per hour for each hour the Covered Employee is employed by the Contracting  
21 Party on the Contract or Subcontract or on property covered by a Lease, but not to exceed  
22 ~~\$112~~ ~~\$80~~ in any Week. The City shall appropriate money received pursuant to this Subsection  
23 (a)(2) for the use of the Department of Public Health. The Department of Public Health shall  
24 use the monies appropriated for staffing and other resources to provide medical care for the  
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1 uninsured. Beginning with fiscal year 2009-2010, and each following year, the Health Director shall  
2 propose adjustments to the hourly rate and weekly maximum fee provided in this Section, based on  
3 changes since the prior year in the Bureau of Labor Statistics Consumer Price Index for Medical Care  
4 in the San Francisco Bay Area or average Health Maintenance Organization (HMO) premiums in  
5 California. The Health Director shall submit the proposed adjustments to the Controller by March 1.  
6 The Controller shall make appropriate adjustments to the hourly rate and weekly maximum fee without  
7 further action by the Board of Supervisors. The adjusted hourly rate and weekly maximum fee shall  
8 take effect on July 1. The Health Commission may increase this hourly rate and Weekly maximum in  
9 accordance with either the Bureau of Labor Statistics Consumer Price Index for Medical Care in the  
10 San Francisco Bay Area or the increase in average Health Maintenance Organization (HMO)  
11 premiums in California, depending on which the Health Commission determines better reflects the cost  
12 of providing health care in the Bay Area; provided, however, the Health Commission shall take this  
13 action no more than once a year and any adjustments in such hourly rate or Weekly maximum must be  
14 approved by the Board of Supervisors by resolution;

15 or

16 (3) Participate in a health benefits program developed by the Health Director in  
17 consultation with the Agency. The Health Director shall obtain Health Commission approval  
18 of the program before implementing it. The Health Director shall seek such approval within  
19 twelve (12) months after this Chapter is finally approved. Prior to implementation of the health  
20 benefits program provided in this Subsection (a)(3), each Contracting Party shall comply with  
21 Subsection (a)(1) or (a)(2). After the Health Director implements the program, in addition to  
22 the options provided in Subsections (a)(1) and (a)(2), Contracting Parties may satisfy their  
23 obligations under this Chapter by complying with the requirements of the health benefits  
24 program. In developing the program, the Health Director shall (i) attempt to make health  
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1 coverage available for uninsured Covered Employees and, if feasible, any other person  
2 employed by a Contracting Party who works less than 20 hours per week on a City contract,  
3 or other uninsured City residents; (iii) use public health facilities to the maximum extent  
4 practicable; (ii) make the program economically viable; and (iii) provide a mechanism for  
5 funding which relies, as much as possible, on contributions by participating employers and  
6 employees.

7 (b) With respect to each Covered Employee who does not reside in San Francisco, but  
8 who provides services covered by this Chapter at the San Francisco Airport or at the San  
9 Bruno Jail, each Contracting Party shall do one of the options set forth in Subsection (a), at  
10 the Contracting Party's option.

11 (c) With respect to each Covered Employee who does not reside in San Francisco, and  
12 does not provide services covered by this Chapter in San Francisco, at the San Francisco  
13 Airport or at the San Bruno Jail, each Contracting Party shall do one of the following, at the  
14 Contracting Party's option:

15 (1) Offer to the Covered Employee health plan benefits that meet minimum standards  
16 prepared by the Health Director and approved by the Health Commission pursuant to  
17 Subsection 12Q.3(a)(1) above; or

18 (2) For each Week in which the Covered Employee works the applicable minimum  
19 number of hours set forth in Section 120.2.9(a) (definition of "Covered Employee"), pay to the  
20 Covered Employee an additional ~~\$2.80~~ ~~\$2.00~~ per hour for each hour the Covered Employee is  
21 employed by the Contracting Party on the Contract or Subcontract or on property covered by  
22 a Lease, but not to exceed ~~\$112~~ ~~\$80~~ in any Week, to enable the employee to obtain health  
23 insurance coverage. This represents the City's current estimate of the average cost of  
24 obtaining individual health insurance benefits. Beginning with fiscal year 2009-2010, and each

1 following year, the Health Director shall propose adjustments to the hourly rate and weekly maximum  
2 fee provided in this Section, based on changes since the prior year in the Bureau of Labor Statistics  
3 Consumer Price Index for Medical Care in the San Francisco Bay Area or average Health  
4 Maintenance Organization (HMO) premiums in California. The Health Director shall submit the  
5 proposed adjustments to the Controller by March 1. The Controller shall make appropriate  
6 adjustments to the hourly rate and weekly maximum fee without further action by the Board of  
7 Supervisors. The adjusted hourly rate and weekly maximum fee shall take effect on July 1. The Health  
8 Commission may increase this hourly rate and Weekly maximum in accordance with either the Bureau  
9 of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or the  
10 increase in average Health Maintenance Organization (HMO) premiums in California, depending on  
11 which the Health Commission determines better reflects the cost of providing health care in the Bay  
12 Area; provided, however, the Health Commission shall take this action no more than once a year and  
13 any adjustments in such hourly rate or Weekly maximum must be approved by the Board of Supervisors  
14 by resolution.

15 (d) When preparing proposed budgets and requests for supplemental appropriations  
16 for contract services, City departments that regularly enter into agreements for the provision of  
17 services by nonprofit corporations shall transmit with their proposal a written confirmation that  
18 the department has considered in its calculation the costs that the nonprofit corporations  
19 calculate that they will incur in complying with the Health Care Accountability Ordinance.

20 (e) Notwithstanding the above, if, at the time a Contract, Subcontract, Lease or  
21 Sublease is executed, the Contracting Party has 20 or fewer employees (or, in the case of a  
22 Nonprofit Corporation, 50 or fewer employees), including any employees the Contracting  
23 Party plans to hire to implement the Contract, Subcontract, Lease or Sublease, the  
24 Contracting Party shall not be obligated to provide the Health Care Accountability  
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1 Components set forth in this Section 12Q.3 to its Covered Employees. In determining the  
2 number of employees had by a Contracting Party, all employees of all entities that own or  
3 control the Contracting Party and that the Contracting Party owns or controls, shall be  
4 included.

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

By:   
ALEETA M. VAN RUNKLE  
Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 090130

**Date Passed:**

Ordinance amending Health Code Section 12Q.3 on the calculation of the health care accountability fee for covered contracting parties and increasing the existing fee and amending Section 12Q.2.9 to increase the number of hours an employee must work to be considered a covered employee.

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April 14, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar,  
Maxwell, Mirkarimi  
Noes: 1 - Daly

April 21, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell  
Noes: 1 - Daly  
Excused: 1 - Mirkarimi

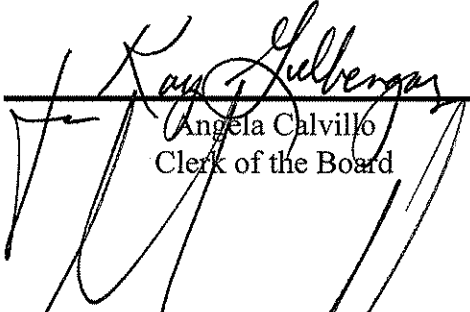


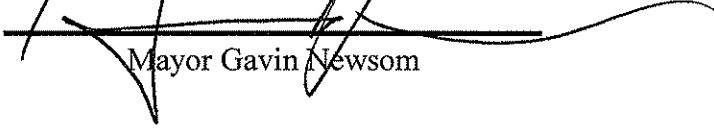
File No. 090130

I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 21, 2009 by the Board of Supervisors of the City and County of San Francisco.

5/1/09

Date Approved

  
Angela Calvillo  
Clerk of the Board

  
Mayor Gavin Newsom