

File No. 190680

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: Sept. 5, 2019

Board of Supervisors Meeting:

Date: _____

Cmte Board

- | | | |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <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 |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>SFERS Letter - July 25, 2019</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referral FYI - June 19, 2019</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Presidential Action Transfer Memo -June 21, 2019</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: John Carroll

Date: August 30, 2019

Prepared by: John Carroll

Date: _____

1 [Administrative Code - Heart Trouble and Pneumonia Presumptions for Fire and Police
2 Retirement Benefits]

3 **Ordinance amending the Administrative Code to amend heart trouble and pneumonia**
4 **presumptions for firefighter and police officer industrial disability and death as a result**
5 **of duty retirement benefits.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. Findings.

15 (a) San Francisco firefighters and police officers are more susceptible to developing
16 heart disease as well as suffering traumatic heart attacks due to the inherent nature of their
17 job duties (including the very high physiological demands) as well as the myriad of chemical
18 agents they are exposed to during the course of their work.

19 (b) A 2012 summary of studies released by the International Association of
20 Firefighters' Division of Occupational Health, Safety, and Medicine, concerning the
21 association of heart disease with the occupation of firefighting supports the premise that
22 firefighters are at an increased risk of cardiovascular disease, particularly acute coronary
23 disease, due to the work they perform.

24 (c) Police officers as well are exposed to health and safety risks in their occupation.
25 Several studies show that police officers have a higher risk of developing heart disease
compared to the general population due to the work they perform. (See e.g., Vasileia

1 Varvarigou et al., Law Enforcement Duties and Sudden Cardiac Death Among Police Officers
2 in the United States: Case Distribution Study, British Medical Journal (2014), Tara A. Hartley
3 et al., Health Disparities in Police Officers: Comparisons to the U.S. General Population, Int. J.
4 Emerg. Ment. Health (2011).)

5 (d) California workers' compensation laws, which provide benefits to employees for
6 industrial injuries, include a heart trouble and pneumonia presumption for firefighters and
7 police officers. Under those laws, specifically California Labor Code Sections 3212 and
8 3212.5, heart trouble and pneumonia are presumed industrial if either malady develops or
9 manifests itself during a period in which the member is in the service of a fire or police
10 department. This presumption is disputable and may be controverted by other evidence, but
11 unless so controverted, the Workers' Compensation Appeals Board is bound to find in
12 accordance with it. Additionally, heart trouble or pneumonia for firefighters and police officers
13 so developing or manifesting itself cannot be attributed to any disease existing prior to such
14 development or manifestation.

15 (e) Currently, Administrative Code Sections 16.85 and 16.86 create a presumption for
16 firefighters and police officers applying for retirement benefits under the San Francisco City
17 and County Employees' Retirement System (SFERS) who meet certain eligibility criteria that
18 any heart trouble or pneumonia arises out of the course of the member's employment, unless
19 there is evidence to the contrary.

20 (f) Section 16.85, however, sets a more difficult standard of proof for firefighters and
21 police officers than is in the Labor Code because under Section 16.85, SFERS may attribute a
22 prior disease to the disability asserted by a member. Currently a San Francisco firefighter or
23 police officer who applies to SFERS for an industrial disability retirement must establish that
24 his or her injury or illness is industrially caused and that it incapacitates the member for the
25 performance of his or her work duties. When a member seeks an industrial disability

1 retirement based on heart trouble or pneumonia, the member must establish that the heart
2 trouble or pneumonia developed or manifested while in service, is incapacitating, and cannot
3 be attributed to any disease existing prior to such development or manifestation. Under the
4 proposed ordinance, for San Francisco firefighters or police officers who meet certain
5 eligibility requirements, the heart trouble or pneumonia will be presumed in the SFERS benefit
6 application process to arise out of the member's employment. SFERS can offer specified
7 evidence to rebut the presumption but may not attribute the malady to any prior existing
8 disease. The rebuttal and attribution standards in the proposed ordinance mirror the
9 standards in the California workers' compensation heart trouble and pneumonia
10 presumptions.

11 (g) Firefighters and police officers whose retirement benefits are under CalPERS or a
12 public pension plan under the County Employees Retirement Act of 1937 receive the benefit
13 of the workers' compensation heart trouble and pneumonia presumptions in connection with
14 their retirement benefits, because the Workers' Compensation Appeals Board's determination
15 of industrial causation, based on the Labor Code heart trouble and pneumonia presumptions,
16 is determinative for the purpose of the retirement process. This ordinance will give San
17 Francisco's firefighters and police officers the benefit of these worker's compensation
18 presumptions in the retirement benefit process as is available to those other California
19 firefighters and peace officers, as well as deputized members of the San Francisco Sheriff's
20 Department hired before January 7, 2012.

21
22 Section 2. Article IV of Chapter 16 of the Administrative Code is hereby amended by
23 revising Section 16.85 and deleting Section 16.86, to read as follows:
24
25

1 **SEC. 16.85. POLICEMEN POLICE OFFICERS AND FIREMEN FIREFIGHTERS**
2 **INCAPACITATED WITH HEART TROUBLE OR PNEUMONIA – WHEN PRESUMED**
3 **CONTRACTED IN COURSE OF EMPLOYMENT.**

4
5 (a) Whenever any member of the Police Department or Fire Department shall
6 become incapacitated for the performance of his the member's duty on account of heart trouble
7 or pneumonia, which develops or manifests itself while such member is in the service of his
8 the member's department, such heart trouble and such pneumonia shall be presumed to arise
9 out of and in the course of his the member's employment, ~~unless there is evidence to the contrary~~
10 This presumption is disputable and may be controverted by other evidence, but unless so controverted,
11 the hearing officer assigned to hear the application under Charter Section 12.102 and Charter Section
12 A8.518 is bound to find in accordance with it.

13 (b) Such heart trouble or pneumonia so developing or manifesting itself as described in
14 subsection (a) shall in no case be attributed to any disease existing prior to such development or
15 manifestation.

16 (c) Subsections (a) and (b) apply only to:

17 (1) Sworn members of the Fire Department or Police Department who have served a
18 total of five years or more in the Fire Department or Police Department. For purposes of determining
19 whether the member has five or more years of service, time served in another fire or police department
20 in the State of California shall be combined with service in the Fire Department or Police Department,
21 provided that the member (A) was entitled to the same presumption of subsection (a) and prohibition
22 against attribution of subsection (b) in the member's prior employment and (B) became a member of
23 the Fire Department of Police Department within six months after separating from the prior
24 employment.

1 (2) Applications for industrial disability retirement or death as a result of duty benefits
2 under the San Francisco City and County Employees' Retirement System ("Retirement System").

3 (3) Applications for benefits in connection with heart trouble or pneumonia injuries or
4 deaths filed on or after January 1, 2015, provided that the prohibition against attribution of subsection
5 (b) shall not apply to an application if, as of the effective date of the amendment to this Section 16.85 in
6 Board of Supervisors File No. 190680, the hearing officer assigned to hear the application under
7 Charter Section 12.102 and Charter Section A8.518 either (A) has rendered an initial decision on the
8 application and the member did not request rehearing within the time specified under the Charter, or
9 (B) has rendered an initial decision and the member timely requested rehearing under the Charter, and
10 the hearing officer has issued a decision on rehearing.

11 (d) Neither subsection (a) nor subsection (b) shall apply to any of the following:

12 (1) incapacitation on account of heart trouble if there was any evidence of heart trouble
13 identified in the physical examination of the member conducted as part of the member's initial hire in
14 the Fire Department or Police Department, as applicable, and

15 (2) incapacitation on account of pneumonia if there was any evidence of pneumonia
16 identified in the physical examination of the member conducted as part of the member's initial hire in
17 the Fire Department or Police Department, as applicable.

18 (e) The Retirement System shall use the member's eligible prior safety service in another fire or
19 police department under subsection (c)(1) to measure the date upon which the member would be
20 qualified for service retirement.

21
22
23 ~~**SEC. 16.86. POLICEMEN AND FIREMEN INCAPACITATED WITH HEART TROUBLE**~~
24 ~~**OR PNEUMONIA APPLICATION TO MEMBERS WITH FIVE OR MORE YEARS OF**~~
25 ~~**SERVICE.**~~

1
2 ~~The provisions of the preceding section shall apply only to members of the Police and Fire~~
3 ~~Departments, respectively, who shall have served a total of five or more years:~~
4 ~~(a) in one or both of such departments; or,~~
5 ~~(b) as a San Francisco Airport police officer; or,~~
6 ~~(c) in another police or fire department in the State of California, provided that the member~~
7 ~~was entitled to the same presumption in his or her prior employment, and provided that the member~~
8 ~~became a member of the San Francisco Police or Fire Department within six months of separating~~
9 ~~from such prior employment. The provisions of subsections (b) and (c) of this section shall apply only~~
10 ~~to injuries or deaths occurring after January 1, 2000, and only to applications for benefits under the~~
11 ~~San Francisco City and County Employees' Retirement System. In such cases, the member's prior safety~~
12 ~~service in another police or fire department shall be used by the Retirement System to measure the date~~
13 ~~upon which said member would have completed at least twenty five (25) years of service in the~~
14 ~~aggregate.~~

15
16 Section 3. Supermajority Vote. Pursuant to Section A8.500 of the Charter, this
17 ordinance requires enactment by a vote of three-fourths of the members of the Board of
18 Supervisors.

19
20 Section 4. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: 
12 ROBERT A. BRYAN
Deputy City Attorney

13 n:\legana\as2019\1900596\01369507.docx
14
15
16
17
18
19
20
21
22
23
24
25

REVISED LEGISLATIVE DIGEST

(Substituted, 6/18/2019)

[Administrative Code - Heart Trouble and Pneumonia Presumptions for Fire and Police Retirement Benefits]

Ordinance amending the Administrative Code to amend heart trouble and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits.

Existing Law

Currently, for purposes of applying for industrial disability or death retirement benefits under the San Francisco City and County Employees' Retirement System (SFERS), San Francisco firefighters and police officers are entitled to a presumption that any heart trouble or pneumonia arises out and in the course of their employment, unless there is evidence to the contrary. Contrary evidence includes evidence attributing the disability to a pre-existing disease.

Amendments to Current Law

For applications for disability based on heart troubles or pneumonia, the proposed ordinance prevents the attribution of the cause of the disability to any prior existing disease.

Background Information

Firefighters and peace officers whose retirement benefits are under CalPERS or a public pension plan under the County Employees Retirement Act of 1937 ("CERL") receive the benefit of the workers' compensation heart trouble and pneumonia presumption under California Labor Code Sections 3212 and 3212.5. The presumption under the Labor Code prevents any pre-existing disease from being attributed as the cause of the heart trouble or pneumonia upon which those firefighters and peace officers have filed applications for disability retirement. The proposed ordinance would apply this same Labor Code standard to San Francisco firefighters and police officers as is applied to firefighters and peace officers who are members of CalPERS and CERL public pension systems, except that the presumption for heart trouble would not apply if there was any evidence of heart trouble identified in the physical examination of a member conducted as part of the member's initial hire, and the presumption for pneumonia would not apply if there was any evidence of

FILE NO. 190680

pneumonia identified in the physical examination of a member conducted as part of the member's initial hire.

n:\legana\as2019\1900596\01369079.docx

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

August 30, 2019

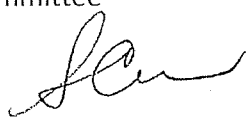
TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: September 5, 2019 Government Audit and Oversight Committee Meeting

TABLE OF CONTENTS

Item	File	Page
1	19-0680 Administrative Code - Heart Trouble and Pneumonia Presumptions for Fire and Police Retirement Benefits	1
2	19-0660 Campaign and Governmental Conduct Code - Public Campaign Financing	5

<p>Item 1 File 19-0680</p>	<p>Department: Retirement System</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend the City’s Administrative Code to add heart diseases, and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • City Administrative Code Sections 16.85 and 16.86 create a presumption for firefighters and police officers applying for retirement benefits under the San Francisco City and County Employees’ Retirement System (SFERS) who meet certain eligibility criteria that any heart disease or pneumonia arises out of the course of the member’s employment. However, Section 16.85 sets a higher standard for proof than the standard established under the California Labor Code. • Under the proposed ordinance, the hearing officer assigned to hear the application for retirement benefits is bound to find in accordance with evidence presented that heart disease or pneumonia results from the firefighters’ or police officers’ employment. Further, the amendment adds that heart disease or pneumonia shall not be attributed to any disease existing prior to the development or manifestation of the heart disease or pneumonia. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The San Francisco Employees’ Retirement System consulting actuary, Cheiron, estimates that the proposed ordinance would increase the City’s contribution to SFERS by approximately \$350,000 to \$701,000 in FY 2019-20. The City’s contribution to SFERS is calculated as a percent of payroll. According to Cheiron, the City’s contribution to SFERS for (a) police officers would increase from 31.56 percent to approximately 31.61 percent of payroll, and (b) firefighters would increase from 32.63 percent to approximately 32.72 percent of payroll. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

In accordance with Charter Section A8.500, ordinance provisions already existing with respect to the Retirement System shall continue in force until amended or revoked by the Board of Supervisors as provided in Charter Section A8.500. The Board of Supervisors, by a vote of three-fourths of its members, can approve any and all ordinances necessary to carry into effect the provisions of Charter Sections 12.100 to 12.103 pertaining to the Retirement Board and Trust Fund, and the Retirement System provisions of the Charter, as set forth in Appendix Sections A8.500 et. seq.; provided that the Board of Supervisors shall secure, through the Retirement Board, an actuarial report of the cost and effect of any proposed change in the benefits under the Retirement System, before enacting an ordinance or before voting to submit any proposed Charter amendment providing for such change.

BACKGROUND

San Francisco firefighters and police officers are more susceptible to developing heart disease due to the nature of their job duties, including the many chemical agents they are exposed to during the course of their work. California workers compensation laws provide benefits to employees for work place injuries, which include heart disease and pneumonia presumption for firefighters and police officers. Under California Labor Code Section 3212 and 3212.5, heart disease and pneumonia are presumed an industrial injury if either condition develops or manifests during a time that the member is in the service of a fire or police department.

City Administrative Code Sections 16.85 and 16.86 create a presumption for firefighters and police officers applying for retirement benefits under the San Francisco City and County Employees' Retirement System (SFERS) who meet certain eligibility criteria that any heart disease or pneumonia arises out of the course of the member's employment. However, Section 16.85 sets a higher standard for proof than the standard established under the California Labor Code. A San Francisco firefighter who applies to SFERS for an industrial disability retirement must establish that their injury or illness was caused by their work duties, that the heart disease or pneumonia is incapacitating, and that the disease cannot be attributed to a prior condition. The proposed ordinance would make these standards more lenient, and heart disease or pneumonia will be presumed to arise out of the member's employment in the SFERS benefit application process.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend City Administrative Code Section 16.85 and Section 16.86 to presume that police officers' and firefighters' heart disease and pneumonia which develop or manifest when the member is in the service of the Police or Fire Department were a result of the member's employment. The presumption is disputable, but unless controverted by other evidence, the hearing officer assigned to hear the application is bound to find in accordance with it. Further, the amendment adds that heart disease or pneumonia shall not be attributed to any disease existing prior to the development or manifestation of the heart disease or pneumonia. Under the ordinance, the sections apply to:

1. Sworn members of the Fire Department or Police Department who have served a total of five years or more in the Fire Department or Police Department. For the purpose of determining whether the member has five or more years of service, time served in another fire or police department in the State of California shall be combined with service in the Fire Department or Police Department, provided that the member was entitled to the same presumption of subsection and prohibition of subsection and became a member of the Police or Fire department within six months of the prior employment.
2. The application must be for industrial disability retirement or death as a result of duty benefits under the SFERS.
3. The heart disease and pneumonia presumption applies only to applications for benefits in connection with injuries or deaths filed on or after January 1, 2015. However, the presumption does not apply to such an application, if as of the effective date of the proposed new Administrative Code Section 16.85, the hearing officer assigned to hear the application under Charter Section 12.102, and Charter Section A8.518 either: (a) has rendered an initial decision on the application and the member did not request rehearing within the time specified under the Charter, or (b) has rendered an initial decision and the member timely requested a rehearing under the Charter, and the hearing officer has issued a decision on rehearing.

The subsection does not apply if:

1. Incapacitation on account of heart disease if there was any evidence of heart disease identified in the physical examination of the member conducted as part of the member's initial hire in the Fire Department or Police Department.
2. Incapacitation on account of pneumonia if there was any evidence of pneumonia identified in the physical examination of the member conducted as part of the member's initial hire in the Fire Department or Police Department.

Finally, the ordinance amends Administrative code 16.85 to state that the Retirement System shall use the member's eligible prior safety service in another fire or police department to measure the date upon which the member would be qualified for service retirement.

FISCAL IMPACT

The San Francisco Employees' Retirement System consulting actuary, Cheiron, estimates that the proposed ordinance would increase the City's contribution to SFERS by approximately \$350,000 to \$701,000 in FY 2019-20. The City's contribution to SFERS is calculated as a percent of payroll. According to Cheiron, the City's contribution to SFERS for (a) police officers would increase from 31.56 percent to approximately 31.61 percent of payroll, and (b) firefighters would increase from 32.63 percent to approximately 32.72 percent of payroll.^{1,2}

¹ The range cited by Cheiron for police officers was 31.60 percent to 31.62 percent, and for firefighters was 32.70 percent to 32.74 percent.

Cheiron's estimate is based on information provided by SFERS, Cheiron found that there were 190 industrial disabilities granted since July 2013, and that five to eight industrial disabilities claims related to heart disease or pneumonia were denied during the same period. These claims may have been considered an industrial disability under the proposed ordinance. The disability rate increases were based on five additional disabilities granted at the low end, and eight additional disabilities granted at the high end.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

² Total estimated City payroll in FY 2019-20 is \$3.5 billion, of which the contribution to SFERS is \$620.6 million. The increase of \$350,000 to \$700,000 in the City's contribution to SFERS as a result of the proposed ordinance increases the City's contribution by less than one-tenth of a percent.



SFERS

San Francisco Employees' Retirement System

San Francisco City and County Employees' Retirement System

July 25, 2019

Angela Calvillo
Clerk of the Board
Board of Supervisors
Room 244, City Hall
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Victor Young
Clerk – Rules Committee
Board of Supervisors
Room 244, City Hall
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Re: File No. 190680 – Ordinance amending the Administrative Code to amend heart trouble and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits

Dear Ms. Calvillo and Mr. Young,

The Retirement System acknowledges receipt of your referral of the above referenced proposed amendment to the Administrative Code and request for our actuarial review and a cost and effect report under Charter Section A8.500.

Effect of the Proposed Amendment to the Administrative Code

This proposed ordinance will amend the Administrative Code to amend heart trouble and pneumonia presumptions for San Francisco police officer and firefighter industrial disability and death as a result of duty retirement benefits. Under the proposed amendment, for safety members who become incapacitated due to heart trouble or pneumonia, the illness would be presumed to be related to their employment as a police officer or firefighter. This presumption can be rebutted, but cannot be attributed to any prior illness or disease. The current presumptions can be rebutted by medical evidence attributed to a prior illness or disease or as otherwise specified in the ordinance. These presumptions also apply to qualified survivors who apply for death as a result of duty survivor benefits.

Cost of the Proposed Amendment to the Administrative Code

As required under Charter Section A8.500, Cheiron, the SFERS consulting actuary, has conducted its analysis to estimate the cost and effect of the proposed legislation. I have summarized Cheiron's analysis below. The full Cheiron report is attached.

The proposed change in presumptions may result in an increase in the number of disabilities and deaths that are classified as industrial for police officers and firefighters. As a result, additional benefits may be payable for certain retirees and their beneficiaries. In particular, for a SFERS industrial disability, a) benefits payable to qualified survivors are higher than those paid for service pensions and b) the minimum industrial disability benefit of 50% of final compensation may be higher than for a service retirement benefit for the same member.

Cheiron has determined, based on its analysis of SFERS historical data, that the additional costs associated with the proposed ordinance would be minor.

There have been 190 industrial disabilities granted for SFERS safety members since July 2013. Within that same period of time, between five and eight industrial disability applications related to heart trouble or pneumonia were denied, but could have potentially been granted under the proposed amendment to the ordinance. Cheiron estimated the potential cost impact of the proposed ordinance by increasing the rate of disability incidence during this period to calculate the increase in SFERS' liabilities based on two scenarios: a) an additional five industrial disabilities granted during this period (low-end adjustment) and b) an additional eight industrial disabilities granted during this period. All other assumptions, methods, and data used to calculate the cost impact are based on the July 1, 2018 actuarial valuation.

Since the proposed amendment to the ordinance will not be applied retroactively to grant previously denied applications, the proposed amendment should only impact the cost of benefits accruing in the future, or the SFERS normal cost rate. Cheiron estimates that the cost impact of the proposed amendment to the ordinance will be in the range of a 1 to 2 bps increase in the SFERS total normal cost rate or \$350,000 (low-end with five additional industrial disabilities granted) to \$700,000 (high-end with eight additional industrial disabilities granted) per year. These amounts compare to an actuarial liability for the SFERS retirement system of over \$27 billion as of July 1, 2018.

Representatives of the Retirement System will appear at the Rules Committee hearing on this subject and address questions of the Committee members.

Best regards,



Jay Huish
Executive Director
San Francisco Employees' Retirement System

Attachment: Cheiron report dated July 23, 2019

cc: President Norman Yee
Board of Supervisors
Room 244, City Hall
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Monica Balanoff
Budget and Legislative Analyst's Office
Board of Supervisors
Room 244, City Hall
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102

Via Electronic Mail

July 23, 2019

Mr. Jay Huish, Executive Director
San Francisco Employees' Retirement System
1145 Market Street, 6th Floor
San Francisco, CA 94103

Re: *Heart Trouble and Pneumonia Presumptions for granting Industrial Disability and Death Ordinance No. 190680*

Dear Jay:

As requested, we have analyzed the effect of implementing Ordinance No. 190680, which would amend heart trouble and pneumonia presumptions for San Francisco police officer and firefighter industrial disability and death as a result of duty retirement benefits. For members who become incapacitated due to heart trouble or pneumonia, the illness would be presumed to be employment related. This presumption can be disputed, but cannot be attributed to any prior disease. Under the current presumptions, evidence to the contrary can eliminate the presumption and the heart trouble or pneumonia can be attributed to a prior disease. We understand this change is to align the presumptions with the standards used for workers compensation claims.

The change in presumptions may result in an increase in the number of disabilities and deaths that are classified as industrial for police officers and firefighters. As a result, additional benefits may be payable for certain retirees and their beneficiaries. In particular, under an industrial disability, benefits payable to qualified survivors are higher and the minimum industrial disability benefit of 50% of final compensation may be higher than the service retirement benefit.

Based on historical data provided by SFERS staff, there have been 190 industrial disabilities granted since July 2013. Within that same time period, it is our understanding that between five and eight industrial disabilities related to heart trouble or pneumonia were denied, but could have potentially been considered an industrial disability under the proposed ordinance. We estimated the potential cost impact of the ordinance by increasing the rate of industrial disability incidence to calculate the SFERS' liabilities based on this disability experience. The potential disability rate increases were based on five additional disabilities granted (low-end adjustment) and eight additional disabilities (high-end adjustment) per 190 granted during this time period. All other assumptions, methods, and data are based on the July 1, 2018 actuarial valuation and can be found in our report dated February 2019.

Since we understand the ordinance will not grant any previously denied applications, it should only impact the cost of benefits accruing in the future, or the SFERS normal cost rate. The summary of the results is shown in the table on the following page.

City and County of San Francisco Employees' Retirement System Cost Impact of Heart Trouble or Pneumonia Presumption Ordinance			
	Based on July 1, 2018 Valuation	Disability Rate Adjustment	
		Low ¹	High ²
<u>Police Officers</u>			
Total Normal Cost Rate	31.56%	31.60%	31.62%
Rate Increase		0.04%	0.06%
Dollar Increase		\$128,000	\$191,000
Projected FYE 2020 Payroll	318,936,000		
<u>Firefighters</u>			
Total Normal Cost Rate	32.63%	32.70%	32.74%
Rate Increase		0.07%	0.11%
Dollar Increase		\$162,000	\$254,000
Projected FYE 2020 Payroll	231,101,000		
<u>Total SFERS</u>			
Total Normal Cost Rate	17.71%	17.72%	17.73%
Rate Increase		0.01%	0.02%
Dollar Increase		\$350,000	\$701,000
Projected FYE 2020 Payroll	3,504,010,000		

¹ Assumes 5 additional disabilities per 190 granted, a 2.6% increase in the industrial disability rates.

² Assumes 8 additional disabilities per 190 granted, a 4.2% increase in the industrial disability rates.

Contributions for SFERS are set as an aggregate rate of pay, rounded to the nearest basis point, and then applied to actual total payroll. As a result, the increase on SFERS' total contribution rate for any given year may be 0.00%, 0.01%, or 0.02%, depending on the rounded impact on the aggregate normal cost rate. Assuming the change had been made for the 2018 valuation, the impact on SFERS' total contribution is estimated to be an increase of \$0, \$350,000, or \$701,000 for FYE 2020. These amounts would increase each year as payroll increases. Over time, the rounding is likely to fluctuate such that the annual increase would approximately average closer to \$300,000 under the low cost estimate to approximately \$450,000 under the high cost estimate, ignoring any growth in payroll.

Depending on how the new presumption is administered compared to the prior presumption, it is possible that the actual number of additional disabilities granted will be fewer than our low-end estimate of five such that the cost impact would be smaller than estimated above. It is also possible that experience could change such that the cost is higher than our high-cost estimate above.

Mr. Jay Huish
July 23, 2019
Page 3 of 3

In preparing this letter, we relied on information, some oral and some written, supplied by SFERS. This information includes, but is not limited to, the plan provisions, employee data, and financial information. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice No. 23. For a summary of the plan provisions, assumptions and methods, please refer to the July 1, 2018 actuarial valuation report for SFERS.

This letter and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and practices and our understanding of the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as applicable laws and regulations. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this letter. This letter does not address any contractual or legal issues. We are not attorneys and our firm does not provide any legal services or advice.

This letter was prepared exclusively for the City and County of San Francisco Employees' Retirement System for the purpose described herein. This letter is not intended to benefit any other party, and Cheiron assumes no duty or liability to any such party.

If you have any questions, please let us know.

Sincerely,
Cheiron



William R. Hallmark, ASA, EA, FCA, MAAA
Consulting Actuary



Anne D. Harper, FSA, EA, MAAA
Consulting Actuary

cc: Janet Brazelton

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Jeanine Nicholson, Chief, Fire Department
William Scott, Chief, Police Department
Jay Huish, Executive Director, Retirement Board

FROM: Victor Young, Assistant Clerk *Victor Young*
Rules Committee

DATE: June 19, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation on June 11, 2019:

File No. 190680

Ordinance amending the Administrative Code to amend heart trouble and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c: Theresa Ludwig, Fire Department
Rowena Carr, Police Department
Asja Steeves, Police Department
Deirdre Hussey, Police Department
Darlene Armanino, Retirement Board

President, District 7
BOARD of SUPERVISORS



*Bo -11, Aides, COB,
Peps, Rules, GAO,
Dep. City Atty*
City Hall

1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Norman Yee

PRESIDENTIAL ACTION

Date: 6/20/2019
To: Angela Calvillo, Clerk of the Board of Supervisors

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 JUN 21 PM 3:23

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____
(Primary Sponsor)
Title. _____

Transferring (Board Rule No 3.3)

File No. 190680 Brown
(Primary Sponsor)

Title. Ordinance amending the Administrative Code to amend heart trouble and pneumonia presumptions for firefighter and police officer industrial

From: Rules Committee

To: Government Audit & Oversight Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

Norman Yee, President
Board of Supervisors

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 JUN 18 PM 1:30
Time stamp or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [redacted] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [redacted] 190680
- 9. Reactivate File No. [redacted]
- 10. Topic submitted for Mayoral Appearance before the BOS on [redacted]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Brown, Safai, Stefani, Walton, Yee, Haney

Subject:

[Administrative Code - Heart Trouble and Pneumonia Presumptions for Fire and Police Retirement Benefits]

The text is listed:

Ordinance amending the Administrative Code to amend heart trouble and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits.

Signature of Sponsoring Supervisor:

Valerie Burrell

Carroll, John (BOS)

From: Carroll, John (BOS)
Sent: Monday, July 29, 2019 2:14 PM
To: Huish, Jay (RET)
Cc: Young, Victor (BOS); 'Calvillo, Angela (angela.calvillo@sfgov.org)'; Somera, Alisa (BOS); Yee, Norman (BOS); Balanoff, Monica (BUD)
Subject: RE: File No. 190680 - Heart Trouble and Pneumonia Presumption Amendment - SFERS Cost Effect Report July 25 2019


Categories: 190680

Thank you for this document. I have updated the file to include the required actuarial analysis.

Please note that by action of the Board President, this ordinance was transferred from the Rules committee to the Government Audit and Oversight Committee, where it is pending committee action.

Thanks for the review.

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415) 554-4445

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

From: Young, Victor (BOS)
Sent: Friday, July 26, 2019 10:13 AM
To: Carroll, John (BOS) <john.carroll@sfgov.org>
Subject: FW: File No. 190680 - Heart Trouble and Pneumonia Presumption Amendment - SFERS Cost Effect Report July 25 2019

I believe this item is in your committee.

Victor Young
Assistant Clerk
Board of Supervisors
phone 415-554-7723 | fax 415-554-5163
victor.young@sfgov.org | www.sfbos.org

From: Huish, Jay (RET) <jay.huish@sfgov.org>

Sent: Thursday, July 25, 2019 5:07 PM

To: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Young, Victor (BOS) <victor.young@sfgov.org>

Cc: Yee, Norman (BOS) <norman.yee@sfgov.org>; Balanoff, Monica (BUD) <monica.balanoff@sfgov.org>; Huish, Jay (RET) <jay.huish@sfgov.org>

Subject: File No. 190680 - Heart Trouble and Pneumonia Presumption Amendment - SFERS Cost Effect Report July 25 2019

Please see attached report for the Legislative File.

Best regards.

Jay Huish

Executive Director

San Francisco Employees' Retirement System

1145 Market Street, 7th Floor

San Francisco, CA 94103

(415)487-7015

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 2019 JUN 11 PM 1:58
 Time stamp
 or meeting date: 58
 BY: [Signature]

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Brown, Safai, Stefani, Walton, Yee, Haney

Subject:

[Administrative Code – Heart Trouble and Pneumonia Presumptions for Fire and Police Retirement Benefits]

The text is listed:

Ordinance amending the Administrative Code to amend heart trouble and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits

Signature of Sponsoring Supervisor: [Signature]

For Clerk's Use Only