

BOARD of SUPERVISORS



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MEMORANDUM

TO: Dr. Grant Colfax, Director, Department of Public Health
Ben Rosenfield, City Controller
Jose Cisneros, Treasurer

FROM: John Carroll, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: February 8, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following hearing request, introduced by Supervisor Stefani on January 31, 2023:

File No. 230113

Hearing on the Health Care Security Ordinance and implementation of the San Francisco City Option Escheatment Policy, approved by the Health Commission on January 4, 2022; and requesting Department of Public Health (DPH), Office of the Controller, Office of the Treasurer and Tax Collector, and San Francisco Health Plan to report.

If you have any 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.

C:
Office of Chair Stefani
Greg Wagner, Department of Public Health, San Francisco Health Plan
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Ana Validzic, Department of Public Health
Todd Rydstrom, Controller's Office
Mark dela Rosa, Controller's Office
Amanda Khan Fried, Office of the Treasurer & Tax Collector



City and County of San Francisco
London Breed
Mayor

MEMORANDUM

DATE: December 22, 2021

TO: Dan Bernal, President, San Francisco Health Commission and
Members of the Health Commission

THROUGH: Grant Colfax, Director of Health
Naveena Bobba, Deputy Director

FROM: Greg Wagner, Chief Operation Officer

RE: Proposed Approval of SFCO Escheatment Policy

This memorandum outlines a proposed policy for escheating inactive San Francisco City Option (SFCO) employee funds to the San Francisco General Fund. Escheatment is a process governed by the California Government Code Sections 50050 et seq. and used by existing San Francisco programs, where unused and unclaimed funds, after a three-year period, are remitted to the local agency holding the funds.

Background

The Health Care Security Ordinance (HCSO) passed by the San Francisco Board of Supervisors in 2006 established the Healthy San Francisco Program (HSF) and an employer spending requirement (ESR). San Francisco Department of Public Health (DPH) contracted with the San Francisco Health Plan (SFHP) to provide third party administrator (TPA) services for HSF and to administer the Medical Reimbursement Account program (SF MRA). The ESR became effective in 2008 and SFCO began operations. The main employee benefit offered through SFCO is the SF MRA benefit, where ESR funds are placed into an individual account for a covered employee. Employees can then reimburse themselves from available funds in their SF MRA for eligible health care expenses incurred on behalf of themselves and their family members.

The SFCO has grown significantly over time, particularly after the Board of Supervisors continued ESR after the implementation of the Affordable Care Act in 2014 and amended the HCSO to make all health care expenditures paid by employers irrevocable. Since 2008, nearly 4,300 employers have chosen to meet the ESR through SFCO, and over 500,000 employees have received contributions.

The growth in SFCO participation has meant that over time, employee accounts with unused funds have also grown. In 2015, SFCO established a policy that was approved by the Health Commission to deactivate unused SF MRA funds. Employee accounts are deactivated after 24 months if there have been no employer deposits nor any employee claims. Employees are notified and provided six (6) months to prevent their funds from being deactivated. Employees are allowed to reactivate their accounts at any time in the future by contacting the program. Current reactivation rates are approximately 10%.

In 2016, SFCO established a Pool Account where funds for new covered employees are initially deposited. This was due to the establishment of the SF Covered MRA program, an affordability program for SFCO employees enrolled in Covered CA. SFCO employees needed to be screened for eligibility into SF MRA, SF Covered MRA, or HSF before their funds in the Pool Account could be transferred to the correct program. The Pool Account holds money for employees who have not yet completed enrollment into any SFCO program. Over time, and due to the growth in SFCO, unused funds have accumulated. Unlike SF MRA, there is no deactivation process for the Pool Account.

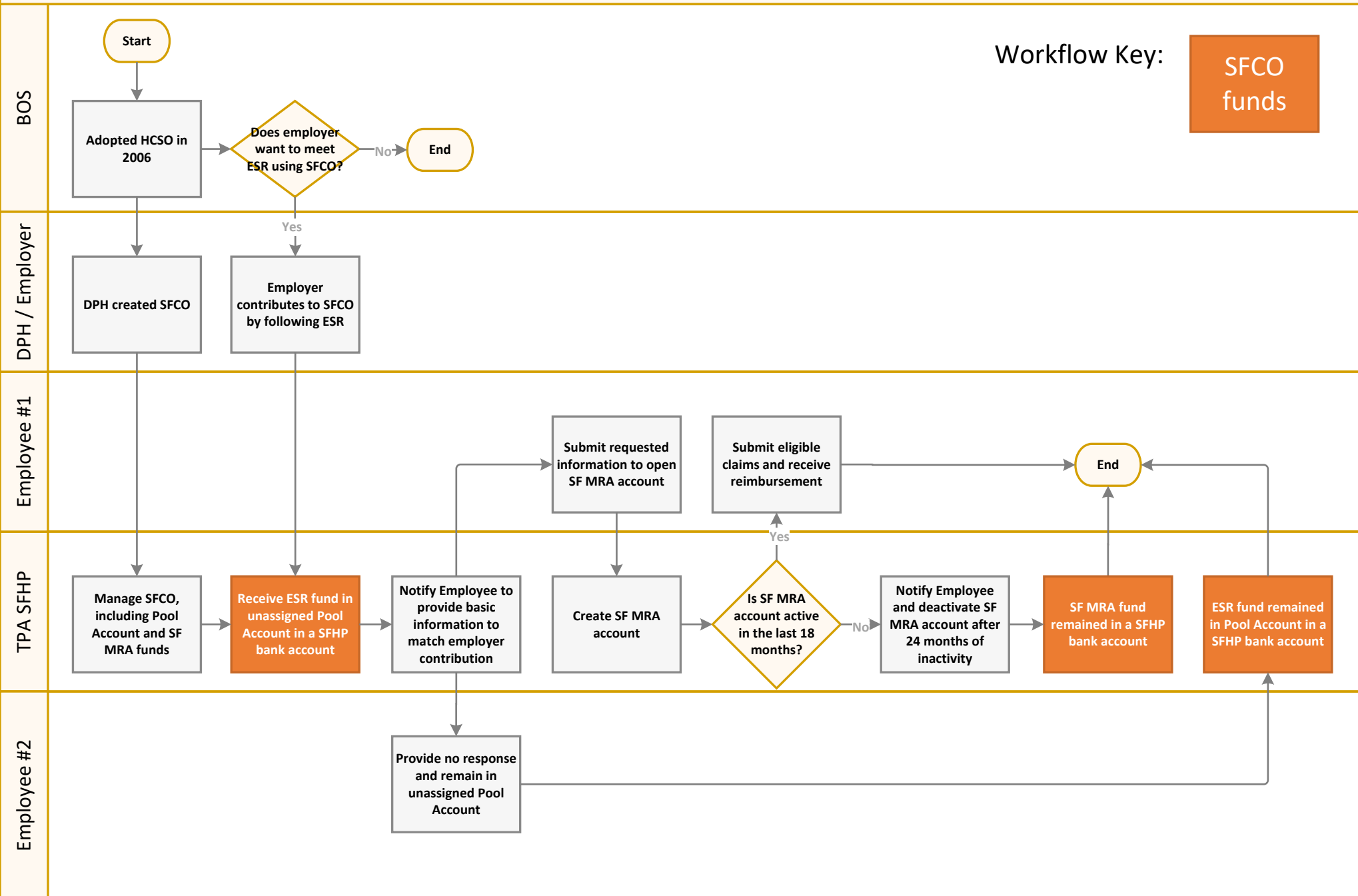
DPH and SFHP were aware of the need to update and simplify the SFCO program to make it easier for employees to understand and use their benefit. In June 2021, the Health Commission approved the SFCO Simplification Project (SFCO Simplification), a major update of the program, consisting of multiple projects to establish SF MRA as the sole employee benefit, given its broad use and popularity, to streamline enrollment into the program, to improve data quality and to increase employee engagement and utilization.

Proposed Policy

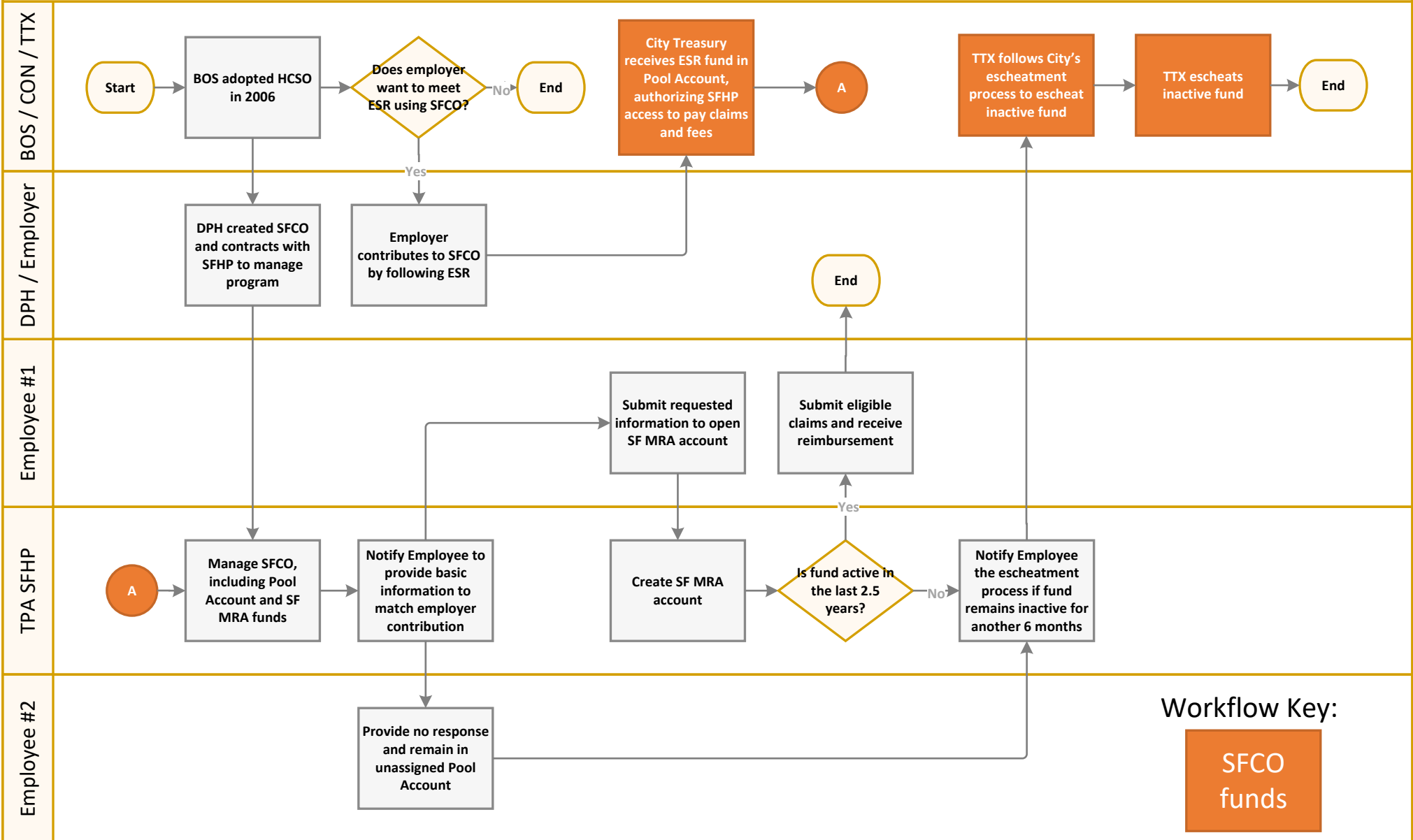
SFCO Simplification will help increase employee utilization of the SFCO benefit on an ongoing and future basis. However, given the size of the program, there will always be some level of unused funds in the program. Additionally, there is a current one-time backlog of deactivated funds that remain unclaimed by employees. DPH has been aware of the need to establish a permanent policy for how to handle deactivated SFCO funds. DPH, Controller, and Treasurer & Tax Collector (TTX) have agreed that all inactive SFCO funds, both the Pool Account and SF MRA, after three (3) years of inactivity and following State statutory requirements, should be escheated to the General Fund following the City's current escheatment process managed by TTX.

We are recommending that the Health Commission approve this SFCO escheatment policy. Should the Health Commission approve this policy, DPH will work with the City departments mentioned above and SFHP to create and transfer SFCO funds to a new bank account within the City Treasury, to replace current SFCO account deactivation policy with this new escheatment policy, and to align other program modifications and notifications with this new policy. For your reference, we have provided the current state of the inactive SFCO funds and a draft of the future state in Appendix 1, and the projected total funds to be escheated in Appendix 2 assuming the three-year period starts on July 1, 2022. We will report back to the Health Commission on our progress within the next six months.

Appendix 1: SFCO Inactive Fund: Current State



Appendix 1: SFCO Inactive Fund: Future State (DRAFT)



Appendix 2: Projection of Total Escheatment Funds (November 2021)

SFCO currently has a backlog of approximately \$104M in contributions or accounts that has been inactive for over three (3) years, including \$50M from SF MRA and \$54M from SFCO Pool Account contributions. Since no money has ever been escheated, this is an unusually large amount that represents 13 years of accumulated funds and 7.6% of the total employer contributions.

For this one-time backlog, those employees would have had nearly seven (7) years to come forward to reactivate their MRA account before their funds are escheated in calendar year 2025, assuming the three-year escheatment period starts in July 2022. To emphasize, it is DPH's goal to ensure participants to maximize their utilization of the SFCO benefits. Escheatment of the unused fund is our very last resort as we cannot leave these unclaimed funds in the SFCO program in perpetuity.

Future annual projected escheatment amounts are estimated to be lower, at \$2M from SF MRA accounts and \$36M from Pool Account contributions. The actual amounts, of course, will not be known until the outreach work is conducted through the SFCO Simplification and escheatment process, which will affect these estimates, and until the escheatment is completed.



City and County of San Francisco
London Breed
Mayor

MEMORANDUM

DATE: June 23, 2022

TO: Dan Bernal, President, San Francisco Health Commission and
Members of the Health Commission

THROUGH: Grant Colfax, Director of Health
Naveena Bobba, Deputy Director

FROM: Greg Wagner, Chief Operating Officer

RE: SF City Option Escheatment and Outreach Updates

This memorandum provides a six-month update on the activities related to the San Francisco City Option (SFCO) Escheatment Policy approved by the Health Commission (or “Commission”) in January for inactive employee funds. This new policy specifies that unused SFCO employee funds will be escheated to the General Fund of City and County of San Francisco (the “City”) after a three-year period of inactivity, following the California Government Code Sections 50050 et seq. This policy will become effective once SFCO funds currently held by the San Francisco Health Plan (SFHP) are transferred to a new City bank account (or “City Treasury”). At the January meeting where this policy was approved, San Francisco Department of Public Health (DPH) was to update the Commission at the July 2022 meeting on implementation of the policy. Additionally, Commission members requested an update on outreach activities to employers and employees notifying them of the new policy and encouraging them to use their funds to avoid escheatment.

Transfer of Funds from SFHP's Account to City Treasury Still in Process

DPH, Controller, Treasurer & Tax Collector (TTX) and SFHP (collectively, the “Parties”) are collaborating on transferring over \$775 million in total active and inactive SFCO funds¹ to the City Treasury. In order to make such change seamless to the program operations, meaning that said changes should continue allowing SFHP to pay employee Medical Reimbursement Account (MRA) claims, deposit employer contributions and pay for operating expenses timely, the

¹ DPH's projection of the inactive funds to be escheated can be found in Appendix 2 of the Memo linked here under Item #8 (San Francisco Option Escheatment Proposal): <https://sf.gov/meeting/january-4-2022/january-4-2022-health-commission-meeting>.

Parties have discussed two options. One would require SFHP to have access to the funds in this City Treasury, and two is for SFHP to reserve a portion of the funds in a SFHP bank account. Either option will require multiple new processes and financial controls. Given the priorities associated with the City budget process, City agencies have decided to postpone this fund transfer, and will resume implementation in the fall. Once the transfer of SFCO funds to the City Treasury has occurred, the counting of the three-year period of inactivity of the funds discussed above will commence. And only after three-year inactivity of the funds and no response from unenrolled employees or the SF MRA participants in the program, DPH will follow City's escheatment process to escheat the inactive funds through TTX.

Notification to Employers and Employees on New Escheatment Policy

To prepare for the implementation, changes are being made to all program materials and its website to reflect the new escheatment policy. Once the effective date of the transfer of funds to the City Treasury is determined, the program will provide prior notice to all stakeholders, including employers, employees and the Office of Labor Standards and Enforcement.

SF City Option Outreach Activities

In addition to the program simplification changes implemented this year, the program continues to build SFCO outreach and communication capacity, all aimed at increasing utilization of funds.

- **New Website.** The SFCO website (sfcityoption.org) has been overhauled to improve readability and functionality and is offered in English, Spanish, Chinese and Tagalog.
- **New Logo & Branding.** SFCO has changed its logo to adopt the Seal of the City to increase trust in the program and emphasize that it is a City-sponsored program. Focus groups findings indicated that employees were largely unaware that SFCO had any affiliation with the City. Please see the Appendix for the new logo and updated branding.
- **Improved Readability of Program Materials.** Outreach and enrollment materials to employees have been redesigned and rewritten to require no greater than an 8th grade reading level. Please see the Appendix for samples of updated program materials.
- **Unenrolled Employee Outreach.** In the next six months, the program is implementing an ongoing, focused outreach campaign to approximately 135,000 employees with employer funds that have yet to enroll in the SF MRA program (the "Unenrolled Employees"), reminding them to enroll via mail and email. Reminders for the Unenrolled Employees will be sent on an ongoing basis, at a six-month cadence.
- **Enrolled Employees Who Have Unused Funds.** Beginning Q3 of FY22-23, and once the effective date for transfer of funds to City Treasury is known, the program will outreach to employees with SF MRA accounts that have not been used for 24 months to encourage them to use their funds or risk having their funds escheated. Employees will be noticed at least twice prior to a final notice of escheatment of funds.

DPH will continue to keep the Health Commission informed of our progress on implementing this Escheatment Policy and the results of these outreach activities.

Introduction Form

By a Member of the Board of Supervisors or Mayor

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 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):

Stefani

Subject:

Hearing on Department of Public Health activities related to the Health Care Security Ordinance and the San Francisco City Option Escheatment Policy

The text is listed:

Requesting that the Department of Public Health, the Controller, the Treasurer and Tax Collector, and the San Francisco Health Plan present on activities related to the implementation of the San Francisco City Option Escheatment Policy approved by the Health Commission on January 4, 2022.

Signature of Sponsoring Supervisor: /s/Catherine Stefani

For Clerk's Use Only