

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 28, 2024
To: Planning Department / Commission
From: Victor Young, Clerk of the Rules Committee *Victor Young*
Subject: Board of Supervisors Legislation Referral - File No. 240552
Charter Amendment - Fire Department Service Retirement Pension

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Victor Young at Victor.Young@sfgov.org.

LEGISLATIVE DIGEST

(First Draft, 05/21/24)

[Charter Amendment – Fire Department Service Retirement Pension]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2024, to amend the Charter of the City and County of San Francisco to shorten to one year the period to calculate “final compensation” for retirement benefits for persons who have or will become members of the Fire Department on and after July 7, 2010; calculate “final compensation” on the basis of average compensation earnable rather than compensation earned for persons who have or will become members of the Fire Department on and after July 7, 2010; change the age factor percentage for benefit calculations such that persons who have or will become members of the Fire Department on and after January 7, 2012 reach a higher age factor percentage at earlier ages; and lower from 58 to 55 the retirement age at which persons who have or will become members of the Fire Department on and after January 7, 2012 reach the highest age factor percentage.

Existing Law

1. Definition of “Final Compensation”

Currently, persons who have or will become members of the Fire Department on and after July 7, 2010, have a different final compensation period and type of compensation included for benefits calculations than those hired earlier than that date. For persons who became members of the Fire Department between July 7, 2010 and January 7, 2012, Charter Section A8.601-1 defines “final compensation” as the average monthly compensation earned by a member during the higher of any two consecutive fiscal years of earnings immediately before retirement. For persons who have or will become members of the Fire Department on and after January 7, 2012, Charter Section A8.604-1 defines “final compensation” as the average monthly compensation earned by a member during the higher of any three consecutive fiscal years of earnings immediately before retirement. In contrast, persons who became members of the Fire Department before July 7, 2010 have a retirement benefit calculation based on a one-year period. In addition, their compensation potentially earnable – rather than earned – is the basis for the final compensation calculation.

2. Changing Age Factor Percentages and Lowering Retirement Age

Persons who are members of the Fire Department and meet age and service requirements receive a service retirement allowance based on their age, final compensation, and years of service. Under Charter Section A8.604-2, persons who have or will become members of the Fire Department on and after January 7, 2012 attain their highest age factor percentage when they reach age 58. In contrast, persons who became members of the Fire Department before January 7, 2012 attain their highest age factor percentage when they reach age 55. Similarly, persons who became members of the Fire Department before January 7, 2012 attain higher

age factor percentages at earlier ages than those who have or will become members of the Fire Department on and after January 7, 2012.

Amendments to Current Law

1. Definition of "Final Compensation"

This amendment would change the definition of final compensation so that persons who have or will become members of the Fire Department on and after July 7, 2010 have a final compensation calculation based on one year of credited service as do those who became members of the Fire Department before that date. In addition, the final compensation calculation for persons who have or will become members of the Fire Department on and after July 7, 2010 would be based on what they could have earned rather than what they actually earned during any one year of credited service in which the member's average compensation is the highest.

2. Changing Age Factor Percentages and Lowering Retirement Age

This amendment would: 1) align the age factor percentage for persons who have or will become members of the Fire Department on and after January 7, 2012 with those who became members of the Fire Department before that date; and 2) lower from 58 to 55 the retirement age at which persons who have or will become members of the Fire Department on and after January 7, 2012 reach the highest age factor percentage, consistent with persons who join the Fire Department before that date.

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1 [Charter Amendment - Fire Department Service Retirement Pension]

2
3 **Describing and setting forth a proposal to the voters at an election to be held on November**
4 **5, 2024, to amend the Charter of the City and County of San Francisco to shorten to one**
5 **year the period to calculate “final compensation” for retirement benefits for persons who**
6 **have or will become members of the Fire Department on and after July 7, 2010; calculate**
7 **“final compensation” on the basis of average compensation earnable rather than**
8 **compensation earned for persons who have or will become members of the Fire**
9 **Department on and after July 7, 2010; change the age factor percentage for benefit**
10 **calculations such that persons who have or will become members of the Fire Department**
11 **on and after January 7, 2012 reach a higher age factor percentage at earlier ages; and**
12 **lower from 58 to 55 the retirement age at which persons who have or will become members**
13 **of the Fire Department on and after January 7, 2012 reach the highest age factor**
14 **percentage.**

15
16 Section 1. Findings.

17 (a) In November 2011, San Francisco voters approved Proposition C to reform the
18 City and County of San Francisco’s (City) retirement and health benefits systems. This reform
19 was a response to the disastrous fiscal impacts of the 2008 Great Recession that significantly
20 reduced the City’s revenues and caused the retirement fund to drop from being fully funded to
21 being only partially funded. This drop in funding status required the City to substantially
22 increase its employer contributions, further exacerbating the City’s budget deficit.

23 (b) Proposition C amended the Charter to increase pension contribution rates for
24 employees hired on and after January 7, 2012. In addition, it increased to three years the final
25 compensation time period for calculating retirement benefits for employees who were hired on
and after January 7, 2012. Further, it raised the retirement ages for which members of the Fire

1 Department hired on and after January 7, 2012 receive the highest percentage for each year of
2 credited service for retirement benefit calculations and raised the age at which employees reach
3 the highest percentage from age 55 to 58.

4 (c) In the more than 12 years since this pension reform, the financial outlook of the
5 San Francisco Employees' Retirement System has improved significantly.

6 (d) Members of the Fire Department uniquely face both short- and long-term health
7 complications as a result of their occupation. The City relies on our firefighters to be the first
8 responders to a plethora of dangerous circumstances, most notably active fires but also many
9 other instances of trauma or tragedy. Beyond these immediate high-risk threats, the conditions
10 that City firefighters endure have demonstrably increased their risk of adverse long-term health
11 impacts. According to the San Francisco Firefighters Cancer Prevention Foundation, San
12 Francisco's female firefighters have a rate of breast cancer that is six times higher than the
13 national average, and over the past 20 years, the Fire Department has lost more than 300
14 firefighters to cancer. Furthermore, national research shows that firefighters experience higher
15 rates of behavioral health issues than the general public. According to the International
16 Association of Fire Fighters, 20% of firefighters and paramedics meet the criteria for post-
17 traumatic stress at some point during their careers, while the National Fallen Firefighters
18 Foundation reports that the suicide rate for firefighters is higher than the rate for the general
19 public.

20 (e) Additionally, the Fire Department has few positions that are not directly in the
21 field, meaning that members of the Fire Department are asked to enter active fires and other
22 dangerous circumstances regardless of their age. In 2024, only approximately 180 out of 1800
23 positions in the San Francisco Fire Department are not "in the field" or on frontline service
24 delivery, and these jobs are dependent on promotions, not seniority of employee tenure. As a
25 result, the risk of severe injury and health complications is further heightened for members of the

1 Fire Department over age 55, as demonstrated by data from the Department of Human Resources
2 that show a positive correlation between increased age, number of injuries, and workers’
3 compensation claim costs.

4 (f) This Charter amendment aims to recognize the distinctive and brave work of the
5 members of the Fire Department and to lessen the adverse health impacts firefighters experience.
6 By allowing members of the Fire Department to retire with up to 90% of their final
7 compensation at age 55 while maintaining the increased contribution rates for employees
8 imposed by Proposition C in 2011, the City simultaneously accomplishes these important goals.
9 In doing so, the City ensures that our firefighters can enter retirement with financial security
10 without facing an additional three years of potential health risks.

11 Section 2. The Board of Supervisors hereby submits to the qualified voters of the City
12 and County, at an election to be held on November 5, 2024, a proposal to amend the Charter of
13 the City and County by revising Sections A8.601, A8.601-1, A8.604, A8.604-1, and A8.604-2,
14 and adding Sections A8.601-17 and A8.604-17, to read as follows:

15 NOTE: **Unchanged Charter text and uncodified text** are in plain font.
16 **Additions** are *single-underline italics Times New Roman font*.
17 **Deletions** are ~~*strike-through italics Times New Roman font*~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Charter
19 subsections.

18 **A8.601 MEMBERS OF THE FIRE DEPARTMENT ON AND AFTER JULY 1,**
19 **2010**

20 Persons who become members of the fire department, as defined in Section A8.601-1,
21 on and after July 1, 2010, shall be members of the Retirement System subject to the provisions of
22 Sections A8.601 through A8.601-17~~6~~ (which shall apply only to members under Section A8.601)
23 in addition to the provisions contained in Sections 12.100 to 12.103 and Sections A8.500,
24 A8.510, A8.520, A8.526-2₂ and A8.526-3 of this Charter, notwithstanding the provisions of any
25

1 other section of this Charter, and shall not be subject to any of the provisions of Sections A8.598
2 of this Charter.

3 The provisions of Section A8.601 shall not apply to any member of the Retirement
4 System before July 1, 2010, or any member who separated from service, retired, or died before
5 July 1, 2010, or to ~~his or her~~ the member's continuant.

6 **A8.601-1 DEFINITIONS**

7 The following words and phrases as used in this section, Section A8.601, and Sections
8 A8.601-2 through A8.601-176, unless a different meaning is plainly required by the context,
9 shall have the following meanings:

10 "Retirement allowance," "death allowance," or "allowance," shall mean equal monthly
11 payments, beginning to accrue upon the date of retirement, or upon the day following the date of
12 death, as the case may be, and continuing for life unless a different term of payment is definitely
13 provided by the context.

14 "Compensation," as distinguished from benefits under the Workers' Compensation
15 Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash,
16 by the City and County, without deduction except for absence from duty, for time during which
17 the individual receiving such remuneration is a member of the fire department, but excluding
18 remuneration paid for overtime. Subject to the requirement that it be payable in cash and that
19 overtime be excluded, "compensation" for pension purposes may be defined in a collective
20 bargaining agreement.

21 "Compensation earnable" shall mean the compensation which would have been earned
22 had the member received compensation without interruption throughout the period under
23 consideration and at the rates of remuneration attached at that time to the ranks or positions held
24 by ~~him or her~~ the member during such period, it being assumed that during any absence, ~~he or~~
25 ~~she~~ the member was in the rank or position held by ~~him or her~~ the member at the beginning of

1 the absence, and that prior to becoming a member of the fire department, ~~he or she~~ the member
2 was in the rank or position first held by ~~him or her~~ the member in such department.

3 "Benefit" shall include "allowance," "retirement allowance," "death allowance," and
4 "death benefit."

5 "Final compensation" shall mean the average monthly compensation ~~earned~~ earnable
6 by a member during any one year of credited service in which the member's average
7 compensation is the highest~~the higher of any two consecutive fiscal years of earnings or the~~
8 ~~twenty four months of earnings immediately prior to retirement.~~

9 For the purpose of Sections A8.601 through A8.601-176, the terms "member of the fire
10 department," "member of the department," or "member" shall mean any officer or employee of
11 the fire department employed on and after July 1, 2010, who was or shall be subject to the
12 Charter provisions governing entrance requirements of members of the uniformed force of said
13 department and said terms shall further mean persons employed on and after July 1, 2010, at an
14 age not greater than the maximum age then prescribed for entrance into employment in said
15 uniformed force, to perform duties now performed under the titles of pilot of fireboats, or marine
16 engineer of fireboats; provided, however, that said terms shall not include any person who has
17 not satisfactorily completed such course of training as may be required by the fire department
18 prior to assignment to active duty with said department.

19 "Retirement System" or "system" shall mean San Francisco City and County
20 Employees' Retirement System as created in Sections 12.100 and A8.500 of the Charter.

21 "Retirement Board" shall mean "Retirement Board" as created in Section 12.100 of the
22 Charter.

23 "Charter" shall mean the Charter of the City and County of San Francisco.

24
25 * * * *

1 "Interest" shall mean interest at the rate adopted by the Retirement Board.

2
3 **A8.601-17 APPLICABILITY**

4 The amendment to Section A8.601-1 effective January 1, 2025 shall not apply to any
5 member of the Retirement System who separated from service, retired, or died before that date,
6 or to that member's continuant.

7 **A8.604 MEMBERS OF THE FIRE DEPARTMENT ON AND AFTER JANUARY**
8 **7, 2012**

9 Persons who become members of the fire department, as defined in Section A8.604-1,
10 on and after January 7, 2012, shall be members of the Retirement System subject to the
11 provisions of Sections A8.604 through A8.604-1~~7~~6 in addition to such other applicable
12 provisions of this Charter, including but not limited to Sections 12.100 and A8.500.

13 **A8.604-1 DEFINITIONS**

14 The following words and phrases as used in this Section, Section A8.604~~2~~, and Sections
15 A8.604-2 through A8.604-1~~7~~6, unless a different meaning is plainly required by the context,
16 shall have the following meanings:

17 "Retirement allowance," "death allowance~~2~~," or "allowance," shall mean equal monthly
18 payments, beginning to accrue upon the date of retirement, or upon the day following the date of
19 death, as the case may be, and continuing for life unless a different term of payment is definitely
20 provided by the context.

21 "Compensation," as distinguished from benefits under the Workers' Compensation laws
22 of the State of California shall mean all remuneration whether in cash or by other allowances
23 made by the City and County, for service qualifying for credit under this Section, but excluding
24 remuneration for overtime and such other forms of compensation excluded by the Board of
25 Supervisors pursuant to Section A8.500 of the Charter. Remuneration shall not mean new

1 premiums or allowances first paid by the City and County after January 7, 2012, that exceed the
2 rate of pay fixed for each classification for service qualifying for credit under this Section. For
3 members with concurrent service in more than one position, "compensation" shall be limited to
4 the first hours paid during any fiscal year equal to one full-time equivalent position.

5 "Compensation" for any fiscal year shall not include remuneration that exceeds 75% of the limits
6 set forth in Internal Revenue Code Section 401(a)(17) and as amended from time to time.

7 Subject to the requirements that it be payable in cash, and that overtime and new
8 premiums or allowances first paid by the City and County after January 7, 2012 are excluded,
9 "compensation" for pension purposes may be defined in a collective bargaining agreement.

10 "Compensation earnable" shall mean the compensation which would have been earned
11 had the member received compensation without interruption throughout the period under
12 consideration and at the rates of remuneration attached at that time to the ranks or positions held
13 by ~~him or her~~ the member during such period, it being assumed that during any absence, ~~he or~~
14 ~~she~~ the member was in the rank or position held by ~~him or her~~ the member at the beginning of
15 the absence, and that prior to becoming a member of the fire department, ~~he or she~~ the member
16 was in the rank or position first held by ~~him or her~~ the member in such department.

17 "Benefit" shall include "allowance," "retirement allowance," "death allowance" and
18 "death benefit."

19 "Final compensation" shall mean the average monthly compensation ~~earned~~ earnable
20 by a member during any one year of credited service in which the member's average
21 compensation is the highest~~the higher of any three consecutive fiscal years of earnings or the~~
22 ~~thirty six consecutive months of earnings immediately prior to retirement.~~

23 For the purpose of Sections A8.604 through A8.604-17~~6~~, the terms "member of the fire
24 department," "member of the department," or "member" shall mean any member of the fire
25 department employed on and after January 7, 2012, who was or shall be subject to the Charter

1 provisions governing entrance requirements of members of the uniformed force of said
2 department and said terms shall further mean persons employed on and after January 7, 2012, at
3 an age not greater than the maximum age then prescribed for entrance into employment in said
4 uniformed force, to perform duties now performed under the titles of pilot of fireboats, or marine
5 engineer of fireboats; provided, however, that said terms shall not include any person who has
6 not satisfactorily completed such course of training as may be required by the fire department
7 prior to assignment to active duty with said department.

8 "Qualified for service retirement," "qualification for service retirement," or "qualified
9 as to age and service for retirement," as used in this Section and other Sections to which persons
10 who are members under Section A8.604 are subject, shall mean completion of 25 years of
11 service and attainment of age 50, said service to be computed under Section A8.604-10.

12 "Retirement System" or "system" shall mean San Francisco City and County
13 Employees' Retirement System as created in Sections 12.100 and A8.500 of the Charter.

14 "Retirement Board" shall mean "Retirement Board" as created in Section 12.100 of the
15 Charter.

16 "Charter" shall mean the Charter of the City and County of San Francisco.

17
18 * * * *

19 "Interest" shall mean interest at the rate adopted by the Retirement Board.

20 **A8.604-2 SERVICE RETIREMENT**

21 Any member of the fire department, who completes at least five years of service in the
22 aggregate and attains the age of ~~fifty~~ (50) years, said service to be computed under Section
23 A8.604-10, may retire for service at ~~his or her~~ the member's option. A member retired after
24 meeting the service and age requirements in the preceding sentence, shall receive a retirement
25 allowance equal to the percent of final compensation (as defined in Section A8.604-1) set forth

1 below opposite ~~his or her~~ the member's age at retirement, taken to the preceding completed
 2 quarter year, for each year of service, as computed under Section A8.604-10:

	<i>Age at Retirement</i>	<i>Percent for Each Year of Credited Service</i>
3		
4		
5	<i>50</i>	<i>2.200</i>
6	<i>50¹/₄</i>	<i>2.225</i>
7	<i>50¹/₂</i>	<i>2.250</i>
8	<i>50³/₄</i>	<i>2.275</i>
9	<i>51</i>	<i>2.300</i>
10	<i>51¹/₄</i>	<i>2.325</i>
11	<i>51¹/₂</i>	<i>2.350</i>
12	<i>51³/₄</i>	<i>2.375</i>
13	<i>52</i>	<i>2.400</i>
14	<i>52¹/₄</i>	<i>2.425</i>
15	<i>52¹/₂</i>	<i>2.450</i>
16	<i>52³/₄</i>	<i>2.475</i>
17	<i>53</i>	<i>2.500</i>
18	<i>53¹/₄</i>	<i>2.525</i>
19	<i>53¹/₂</i>	<i>2.550</i>
20	<i>53³/₄</i>	<i>2.575</i>
21	<i>54</i>	<i>2.600</i>
22	<i>54¹/₄</i>	<i>2.625</i>
23		
24		
25		

1	54½	2.650
2	54¾	2.675
3	55	2.700
4	55¼	2.725
5	55½	2.750
6	55¾	2.775
7	56	2.800
8	56¼	2.825
9	56½	2.850
10	56¾	2.875
11	57	2.900
12	57¼	2.925
13	57½	2.950
14	57¾	2.975
15	58	3.0

17		
18	<u>Age at Retirement</u>	<u>Percent for Each Year of Credited Service</u>
19	<u>50</u>	<u>2.400</u>
20	<u>50.25</u>	<u>2.430</u>
21	<u>50.5</u>	<u>2.460</u>
22	<u>50.75</u>	<u>2.490</u>
23	<u>51</u>	<u>2.520</u>
24	<u>51.25</u>	<u>2.550</u>
25		

1	<u>51.5</u>	<u>2.580</u>
2	<u>51.75</u>	<u>2.610</u>
3	<u>52</u>	<u>2.640</u>
4	<u>52.25</u>	<u>2.670</u>
5	<u>52.5</u>	<u>2.700</u>
6	<u>52.75</u>	<u>2.730</u>
7	<u>53</u>	<u>2.760</u>
8	<u>53.25</u>	<u>2.790</u>
9	<u>53.5</u>	<u>2.820</u>
10	<u>53.75</u>	<u>2.850</u>
11	<u>54</u>	<u>2.880</u>
12	<u>54.25</u>	<u>2.910</u>
13	<u>54.5</u>	<u>2.940</u>
14	<u>54.75</u>	<u>2.970</u>
15	<u>55+</u>	<u>3.000</u>

18
19 In no event shall a member's initial retirement allowance exceed ~~90%~~*ninety percent*
20 of ~~his or her~~ the member's average final compensation.

21
22 **A8.604-17 APPLICABILITY**

23 The amendment to Sections A8.604-1 and A8-604-2, effective January 1, 2025, shall
24 not apply to any member of the Retirement System who separated from service, retired, or
25 died before that date, or to that member's continuant.

