

[Health Service System.]

## CHARTER AMENDMENT

### PROPOSITION \_\_\_\_

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Sections 10.102, 10.103, 12.200 and 12.201 of the Charter and Sections A8.423, A8.427 and A8.428 of Appendix A of the Charter and adding Section A8.428-1 to Appendix A of the Charter to place administration of the Health Service System under the jurisdiction of the Health Service Board; replace the City Attorney seat on the Health Service Board with an elected seat; adjust the employers' contribution for health benefits; modify the application of the credit for Medicare premiums; and increase the years of service required for new employees to qualify for subsidized health benefits at retirement.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 2, 2004, a proposal to amend the Charter of the City and County by amending Sections 10.102, 10.103, 12.200 and 12.201 of the Charter and Sections A8.423, A8.427 and A8.428 of Appendix A of the Charter and adding Section A8.428-1 to Appendix A of the Charter to read as follows:

Note: Additions are *single-underline italics Times New Roman*.  
Deletions are ~~*strikethrough italics Times New Roman*~~.

#### **SEC. 10.102. DEPARTMENT OF HUMAN RESOURCES.**

The Department of Human Resources shall consist of a Human Resources Director and such employees as may be necessary to carry out its functions and duties.

Pursuant to and in accordance with policies, rules and procedures of the Civil Services Commission governing the merit system, the Department of Human Resources shall be the personnel department for the City and County and shall determine appointments on the basis of

merit and fitness as shown by appropriate test and, except as specifically set forth in this Charter, shall perform all tests, duties and functions previously performed by the Civil Service Commission, including but not limited to authority to recruit, select, certify, appoint, train, evaluate, promote career development, classify positions, administer salaries, administer employee discipline, discharge and other related personnel activities in order to maintain an effective and responsive work force.

The Department of Human Resources shall be responsible for coordination of all state, local and federal health and safety mandates, programs and requirements relating to employees including but not limited to industrial hygiene programs, health and safety programs, OSHA compliance and return to work programs. Department heads shall coordinate such activities of employees under their jurisdiction with the Human Resources Director.

The Department of Human Resources shall be responsible for policy, management and administration of the worker's compensation program and shall review and determine all applications for disability leave.

Subject to Section 11.100 hereof, the Department of Human Resources shall be responsible for management and administration of all labor relations of the City and County.

*The Department of Human Resources shall be responsible for management and administration of all health services of employees. The transfer of such power and control to the Department of Human Resources shall occur no later than October 1, 1995.*

Except for the purpose of inquiry, the Mayor shall deal with the administration of the civil service merit system solely through the Human Resources Director and the Civil Service Commission or their designees. The Mayor shall not dictate, suggest or interfere with the merit system activities of the Civil Service Commission or Human Resources Department.

Administrative matters shall be dealt with only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited shall constitute official misconduct;

provided that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

**SEC. 10.103. HUMAN RESOURCES DIRECTOR.**

A Human Resources Director shall be selected by the Mayor from candidates nominated by the Civil Service Commission and confirmed by vote of the Board of Supervisors. The Human Resources Director shall possess not less than ten years professional experience in personnel, human resources management, labor or employee relations at least five years of which must be in federal, state or local governmental personnel management and such other qualifications as determined by the Commission. Notwithstanding any other provisions of this Charter, the Human Resources Director shall be appointed by and serve at the pleasure of the Mayor, provided that the Mayor's removal of the Human Resources Director may be rejected by a four-fifths vote of the Commission. Failure of the Commission to act within 30 days shall be deemed approval of the Mayor's action. The nominee of the Mayor may be appointed acting Human Resources Director pending confirmation. The person so appointed shall, before taking office, make under oath and file in the Office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the Office of Human Resources Director in the spirit of this declaration."

The appointment of the Director of the Human Resources Department as of the effective date of this Charter shall be effective until July 1, 1996, after which time he may be reappointed to the position in accordance with the appointment method provided herein.

The Human Resources Director shall have full power to administer the affairs of the Department. He or she shall have all powers of a department head and may appoint a Director of Employee Relations, ~~a Health Services administrator~~, an executive assistant and one confidential secretary, each of whom shall be exempt from the civil service provisions of this Charter, to assist in the administration and management of the functions of the department.

The Human Resources Director shall review and resolve allegations of discrimination as defined in Article XVII of this Charter against employees or applicants, or otherwise prohibited nepotism or favoritism. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Human Resources Director shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission in accordance with Section 10.101.

The Human Resources Director shall investigate all employee complaints concerning job-related conduct of City and County employees and shall promptly report to the source of the complaint.

The Human Resources Director shall promote effective and efficient management through personnel programs that encourage productivity, job satisfaction and exemplary performance.

The Human Resources Director shall provide a procedure for resolution of employee disputes which shall be consistent with other provisions of this Charter and shall be utilized by all department heads and appointing officers in the absence of an applicable grievance procedure in a binding labor agreement.

The Human Resources Director shall verify that all persons whose names appear on City and County payrolls have been legally appointed to or employed in positions legally established under this Charter. The Controller shall not draw his or her warrant for any claim for salary, wages or compensation which has been disapproved by the Human Resources Director.

Consistent with the foregoing and other applicable provisions of this Charter, the Human Resources Director may delegate to the various appointing officers appropriate personnel responsibilities, and shall consult with appointing officers with respect to Civil Service Commission rules affecting their operations.

The Human Resources Director shall establish a system of job classification. The decision of the Human Resources Director regarding classification matters shall be final unless

appealed to the Commission; provided, however, that nothing herein shall be construed to alter the scope of bargaining set forth in the following sections of the 1932 Charter: 8.400, 8.403, 8.404, 8.405, 8.407-1, 8.409 et seq. and 8.590-1 et seq.

The allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which the person has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which the employee's department head may temporarily assign the employee.

**SEC. 12.200. HEALTH SERVICE BOARD.**

There shall be a Health Service Board which shall consist of seven members as follows: one member of the Board of Supervisors, to be appointed by the President of the Board of Supervisors; the City Attorney or designated deputy city attorney, except that on May 15, 2005, the City Attorney's tenure on the Health Service Board shall expire and that seat shall be filled by a member elected from the active and retired members of the System from among their number; two members appointed by the Mayor pursuant to Section 3.100, one of whom shall be an individual who regularly consults in the health care field, and the other a doctor of medicine; and three members (in addition to the elected member assuming the seat vacated by the City Attorney) elected from the active and retired members of the System from among their number. Elections shall be conducted by the Director of Elections in a manner prescribed by ordinance. Elected members need not reside within the City and County. The terms of members, other than the ~~two~~ ex officio members, shall be five years, ~~one term expiring and shall expire~~ on May 15 of each year.

A vacancy on the Board appointed by the Mayor shall be filled by the Mayor. A vacancy in an elective office on the Board shall be filled by a special election within 90 days after the vacancy occurs unless a regular election is to be held within six months after such vacancy shall have occurred.

The Health Service Board shall:

1. Establish and maintain detailed historical costs for medical and hospital care and conduct an annual review of such costs;
2. Apply benefits without special favor or privilege;
3. Put such plans as provided for in Section A8.422 into effect and, ~~through the Human Resources Department,~~ conduct and administer the same and contract therefor and use the funds of the System;
4. Make rules and regulations for the administration of business of the Health Service System, the granting of exemptions and the admission to the System of persons who are hereby made members, and such other officers and employees as may voluntarily become members with the approval of the Board; and
5. Receive, consider and, within 60 days after receipt, act upon any matter pertaining to the policies of, or appeals from, the Health Service System submitted to it in writing by any member or any person who has contracted to render medical care to the members.

Except as otherwise specifically provided, the Health Service Board shall have the powers and duties and shall be subject to the limitations of Charter sections 4.102, 4.103 and 4.104.

**SEC. 12.201. MEDICAL DIRECTOR AND HEALTH SERVICES ADMINISTRATOR.**

The Health Service Board may appoint a full-time or part-time medical director. He or she shall hold office at its pleasure. The medical director shall be responsible to the Board as a board, but not to any individual member or committee thereof. The ~~Human Resources Director~~ Health Service Board shall appoint a full-time administrator with experience in administering health plans or in comparable work, who shall hold office at the ~~Human Resources Director's~~ Health Service Board's pleasure. The Health Services administrator shall administer the Health Service System in accordance with the provisions of this Charter and the rules, regulations and policies of the Health Service Board. The Board and each committee of the Board shall confine

its activities to policy matters and to matters coming before it as an appeals board. The Board shall prepare its rules, regulations and policies so that they are clear, definite and complete and so that they can be readily administered by the ~~Human Resources Department~~ Health Services administrator.

#### **A8.423 REVISION OF SCHEDULES AND COMPENSATION**

In January of each year, at a public hearing, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable but such revisions shall not become effective until approved by ordinance of the board of supervisors adopted by three-fourths of its members.

Commencing in 1973, the health service board shall conduct a survey of the 10 counties in the State of California, other than the City and County of San Francisco, having the largest populations to determine the average contribution made by each such county toward the providing of health care plans, exclusive of dental ~~or optical~~ care, for each employee of such county. The survey shall determine the amount contributed by the county per full time employee using a weighted average, taking into consideration both the cost of the county's contribution for each plan and the distribution of full time employees by health plan. Notwithstanding the above, the Health Service Board may promulgate rules and regulations for the survey to allow for unavoidable gaps in survey data and to insure a consistent methodology from year to year. In accordance with said survey, the health service board shall determine the average contribution made with respect to each employee by said 10 counties toward the health care plans provided for their employees and on or before the second Monday in January of each year, the health service board shall certify to the board of supervisors the amount of such average contribution. For the purposes of Section A8.428, the amount of such average contribution shall be “the average contribution.”

The health service board shall have the responsibility to obtain and disseminate information to its members with regard to plan benefits and costs thereof. All expenses in connection with obtaining and disseminating said information and the investment of such fund or funds as may be established, including travel and transportation costs, shall be borne by the system from reserves in the health service fund but only upon adoption of a resolution by the health service board approving such expenses.

**A8.427 EFFECT OF OTHER CHARTER PROVISIONS**

Except as otherwise specifically provided herein, all provisions of the charter shall be fully applicable to the health service board, the health service system and its administrator, medical director and employees in the same manner that they apply to other boards, commissions, and departments of the city and county.

**A8.428 HEALTH SERVICE SYSTEM FUND.**

There is hereby created a health service system trust fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the Parking Authority of the City and County of San Francisco, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons. For employees hired before January 1, 2005, a A retired person as used in this section means a former member of the health service system retired under the San Francisco City and County Employees' Retirement System (SFERS), and the surviving spouse or surviving domestic partner of an active employee and the surviving spouse or surviving domestic partner of a retired employee, provided that the surviving spouse or surviving domestic partner and the active or retired employee have been married or registered as domestic partners for a period of at least one year prior to the death of the active or retired employee.



The city and county, the school district and the community college district shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

(a) All funds necessary to efficiently administer the health service system.

(b) The city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to the lesser of "the average contribution," as certified by the health service board in accordance with the provisions of Section A8.423, or the cost of the health plan selected by the member.

(c) Monthly contributions required from retired persons and the surviving spouses and surviving domestic partners of active employees and retired persons participating in the system shall be equal to the monthly contributions required from members in the system for health coverage—excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining, with the following modifications:

~~(2)~~ because the monthly cost of health coverage for retired persons may be higher than the monthly cost of health coverage for active employees, the city and county, the school district and the community college district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired persons and the surviving spouses and surviving domestic partners of active employees and retired persons as is provided for active employee members excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining;

~~(3)~~ after application of Section (c) and subsections (c)(1) ~~and (c)(2)~~, the city and county, the school district and the community college district shall contribute 50% of retired persons' ~~remaining~~ monthly contributions.

(~~13~~) the ~~total~~ remaining contributions required from retired persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare;

(d) The city and county, the San Francisco Unified School District and the San Francisco Community College District shall contribute to the health service system fund 50% of the monthly contributions required for the first dependent of retired persons in the system.

Except as hereinbefore set forth, the city and county, the San Francisco Unified School District and the San Francisco Community College District shall not contribute to the health service system fund any sums on account of participation in the benefits of the system by members' dependents, except surviving spouses and surviving domestic partners, retired persons' dependents, except surviving spouses and surviving domestic partners, persons who retired and elected not to receive benefits from San Francisco City and County Employees' Retirement System; resigned employees and teachers defined in Section A8.425, and any employee whose compensation is fixed in accordance with Sections A8.401, A8.403, or A8.404 of this charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the board of supervisors.

It shall be the duty of the board of supervisors, the board of education and the governing board of the community college district annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the city and county, the San Francisco Unified School District and the San Francisco Community College District hereby imposed. Contributions to the health service system fund of the city and county, of the school district and of the community college district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 7, 2000 shall be effective July 1, 2001.

**A8.428-1 DEFINITION OF RETIRED PERSON.**

Notwithstanding any other provision of this Charter or ordinance of the City and County of San Francisco, for employees hired on or after January 1, 2005, a retired person as used in section A8.428 means any of the following persons:

(a) A former member of the health service system who;

(1) retired under SFERS within 18 months of separation from employment with 10 or more years of credited service; or

(2) retired under SFERS with 20 or more years of credited service; or

(3) retired under SFERS for disability.

(b) The surviving spouse or surviving domestic partner of an active employee formerly a member of the health service system with 10 or more years of credited service or a retired employee as set forth in subsection (a) above, provided that the surviving spouse or surviving domestic partner and the active or retired employee have been married or registered as domestic partners for a period of at least one year prior to the death of the active or retired employee.

As used in this section, all references to SFERS apply equally to any other retirement system provided by Charter or ordinance. Credited service shall be determined by the appropriate pension plan, except that for employees hired after January 1, 2005, credited service shall include only service rendered to employers participating in the Health Service System.

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

By: \_\_\_\_\_  
MOLLY S. STUMP  
Deputy City Attorney