

1 [Health Care Accountability Components.]

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

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

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

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

13 SEC. 12Q.2.9. COVERED EMPLOYEE.

14 (a) "Covered Employee" shall mean:

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

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

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

20 (C) Elsewhere in the United States; and

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

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

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

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

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

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

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

22 (4) Any disabled Employee who:

23 (A) Is covered by a current sub-minimum wage certificate issued to the employer by
24 the U.S. Department of Labor; or

1 (B) Would be covered by such a certificate but for the fact that the employer is paying
2 a wage equal to or higher than the minimum wage.

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

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

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

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

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

15 or

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

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

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

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

18 (2) For each Week in which the Covered Employee works the applicable minimum
19 number of hours set forth in Section 120.2.9(a) (definition of "Covered Employee"), pay to the
20 Covered Employee an additional ~~\$2.80~~ ~~\$2.00~~ per hour for each hour the Covered Employee is
21 employed by the Contracting Party on the Contract or Subcontract or on property covered by
22 a Lease, but not to exceed ~~\$112~~ ~~\$80~~ in any Week, to enable the employee to obtain health
23 insurance coverage. This represents the City's current estimate of the average cost of
24 obtaining individual health insurance benefits. Beginning with fiscal year 2009-2010, and each
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1 following year, the Health Director shall propose adjustments to the hourly rate and weekly maximum
2 fee provided in this Section, based on changes since the prior year in the Bureau of Labor Statistics
3 Consumer Price Index for Medical Care in the San Francisco Bay Area or average Health
4 Maintenance Organization (HMO) premiums in California. The Health Director shall submit the
5 proposed adjustments to the Controller by March 1. The Controller shall make appropriate
6 adjustments to the hourly rate and weekly maximum fee without further action by the Board of
7 Supervisors. The adjusted hourly rate and weekly maximum fee shall take effect on July 1. The Health
8 Commission may increase this hourly rate and Weekly maximum in accordance with either the Bureau
9 of Labor Statistics Consumer Price Index for Medical Care in the San Francisco Bay Area or the
10 increase in average Health Maintenance Organization (HMO) premiums in California, depending on
11 which the Health Commission determines better reflects the cost of providing health care in the Bay
12 Area; provided, however, the Health Commission shall take this action no more than once a year and
13 any adjustments in such hourly rate or Weekly maximum must be approved by the Board of Supervisors
14 by resolution.

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

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

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8 APPROVED AS TO FORM:
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10 By: ALEETA M. VAN RUNKLE
11 Deputy City Attorney

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