

[Paid Parental Leave For City Employees]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter regarding compensation during parental leave.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County at an election to be held therein on November 5, 2002, a proposal to amend the Charter of said City and County by adding section A8.365 to read as follows:

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

A8.365 COMPENSATION DURING PARENTAL LEAVE

Under federal, state and local law, employees are entitled to take an unpaid leave of absence in the event of pregnancy disability or to care for a child after birth or placement for adoption or foster care. But employees may not have the financial resources to take advantage of this leave. This section provides compensation to supplement state disability insurance payments, paid sick leave, compensatory time, and other forms of paid leave, to ensure that an employee will receive the equivalent of the

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employee's salary for 12 weeks or, if the employee is temporarily disabled by pregnancy, up to 16 weeks, while on approved leave.

In accordance with this section, eligible employees on approved Parental Leave shall receive supplemental compensation as set forth herein.

Nothing in this section shall be construed to expand, reduce or otherwise affect the total amount of leave time available to employees under federal, state, or local law, Civil Service Commission rules, or applicable memoranda of understanding between the City and County of San Francisco and employee organizations. This section is intended to supplement other available sources of income during specified periods of leave to which the employee is otherwise eligible. Except for leave mandated by law, requests for leave continue to be subject to the approval of the appointing officer.

A8.365-1 Definitions

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Domestic Partner" shall have the same meaning as set forth in Administrative Code Section 62.1 et seq.

"Employee" shall mean any person who is appointed to a position created by or which is under the jurisdiction of the City and County, whose compensation is paid by the City and County, and who is under the control of the City and County as to employment,

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direction and discharge and does not include persons who occupy classified or certificated positions with the San Francisco Unified School District or the Community College District or who work for the City as independent contractors.

"Paid Leave" shall mean all paid time-off provided by the Charter, the Administrative Code, the Civil Service Rules or through a collective bargaining agreement and shall include but not be limited to vacation, sick leave, compensatory time, administrative or executive leave and floating holidays. For purposes of this section, "Paid Leave" shall not include statutory holidays.

"Parental Leave" shall mean (a) Family Medical Leave as defined below; (b) Temporary Pregnancy Disability Leave as defined below:

(a) "Family Medical Leave" shall mean leave taken pursuant to the Family and Medical Leave Act, the California Family Rights Act, or Civil Service Commission Rules, where such leave is taken after the birth of a child to the employee, the employee's spouse or the employee's domestic partner or for placement of a child with the employee's family for adoption or foster care, and has been requested and approved in accordance with the procedures set forth in those respective statutes or rules.

(b) "Temporary Pregnancy Disability Leave" shall mean disability leave taken in accordance with State law or the Civil Service Commission Rules because of an employee's inability to work, as certified by a health care provider, for reasons of

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pregnancy, childbirth, or related conditions, as defined by the California Fair Employment and Housing Act, Govt. Code Section 12945(b)(2) et seq.

"Supplemental Compensation" shall mean compensation paid by the City to eligible employees on Parental Leave. The amount of Supplemental Compensation shall be the employee's regular base wage less (1) accrued paid leave from the City and (2) any payments received by the employee from a federal, state or other local government agency in lieu of compensation.

A8.365-2 Eligibility

The following employees shall be eligible to receive compensation as set forth herein:

(a) Permanent, provisional, and exempt employees whose normal work week is not less than twenty (20) hours upon completion of six months of continuous service; and

(b) All other employees of the City and County of San Francisco, including "as needed" employees, who have worked one thousand and forty hours (1040) in the twelve (12) months prior to the beginning of the parental leave and whose average work week is not less than twenty hours.

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A8.365-3 Duration

Employees shall receive supplemental compensation as set forth herein for a period not to exceed twelve weeks while on approved Family Medical Leave. Employees who take approved Temporary Pregnancy Disability Leave shall receive up to an additional four weeks of compensation. Such compensation shall be subject to the conditions set forth in Section A8.365-4.

A8.365-4 Supplemental Compensation

(a) Employees shall receive their regular base wage while on approved Parental Leave subject to the following conditions:

(1) Employees on approved Parental Leave shall first exhaust all accrued paid leave before receiving any Supplemental Compensation under this section. If an employee chooses not to exhaust these leaves, the total amount of the benefit for which the employee would otherwise have been eligible will be reduced by the amount of paid leave accrued by the employee as of the start of the leave.

(2) The amount of Supplemental Compensation shall be reduced by any payments received by the employee from a federal, state or other local government agency while on Parental Leave.

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(3) Supplemental Compensation shall be provided for no more than twelve weeks, in the case of employees taking Family Medical Leave, or sixteen weeks, in the case of employees who take Temporary Pregnancy Disability Leave. For employees eligible for both Family Medical Leave and Temporary Pregnancy Disability Leave, Supplemental Compensation shall be provided for no more than sixteen weeks total. The twelve or sixteen week period shall be reduced by any paid leave taken after the birth of a child to the employee, the employee's spouse, or the employee's domestic partner, placement of a child with the employee's family for adoption or foster care, or taken for temporary pregnancy disability, within twelve months prior to the commencement of Parental Leave as defined herein.

(4) Under no circumstance shall an employee receive from the City supplemental compensation under this Charter section which would result in an employee receiving total compensation while on Parental Leave which is greater than the employee's regular base wage.

(b) During parental leave, the City shall continue to pay the contributions required by this Charter for retirement and health benefits, and any employer-paid employee retirement and health contributions required under the memorandum of understanding or unrepresented ordinance covering the employee. Retirement

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contributions shall be based on the actual amount of City pay received during the period of parental leave.

A8.365-5 Reimbursement

Any individual receiving compensation pursuant to this section shall execute an agreement providing that if the individual voluntarily separates from City service prior to returning to work for at least six months, the compensation described in Section A8.365-4 shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Unless an alternative repayment schedule is agreed to by the City and the individual, such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 30 days following the individual's separation from City employment.

A8.365-6 Non-Vested Benefit

This Charter section creates no vested benefits. The voters expressly reserve the right to review the City's parental leave policy and the benefits provided in this section and may alter or repeal such benefits for any or no reason.

A8.365-7 Rules for Administration, Interpretation and Regulation of Parental Leave

Within 120 days of approval by the voters of this Amendment, the Department of Human Resources shall develop any procedures necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by ordinance by the Board of Supervisors.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 5, 2002 shall be effective July 1, 2003.

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
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Chief Labor Attorney

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