

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

May 31, 2022

File No. 220640

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

The following proposed Charter Amendment for the November 8, 2022, Election was received by the Board of Supervisors' Rules Committee:

File No. 220640 Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director

Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to eliminate the full funding requirement for supplemental cost of living benefit payments to members of the San Francisco Employees' Retirement System who retired before November 6, 1996, subject to a monthly monetary cap for retirees and their qualified survivors and beneficiaries in years that the Retirement System is not fully funded; adjust the base retirement allowance for these retirees, or their qualified survivors and beneficiaries, to account for supplemental cost of living adjustments not received in the years 2013, 2014, 2017, 2018 and 2019; and authorize the Retirement Board to enter into an individual contract with any Retirement System executive director hired on or after January 1, 2023; at an election to be held on November 8, 2022.

This legislation is being transmitted to you for environmental review.

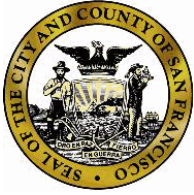
Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Victor Young".

By: Victor Young, Assistant Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning
Laura Lynch, Environmental Planning



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 220640 **File Type:** Charter Amendment **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director **Date Introduced:** 05/24/2022

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Charter Amendment (First Draft) to amend the Charter of the City and County of San Francisco to eliminate the full funding requirement for supplemental cost of living benefit payments to members of the San Francisco Employees' Retirement System who retired before November 6, 1996, subject to a monthly monetary cap for retirees and their qualified survivors and beneficiaries in years that the Retirement System is not fully funded; adjust the base retirement allowance for these retirees, or their qualified survivors and beneficiaries, to account for supplemental cost of living adjustments not received in the years 2013, 2014, 2017, 2018 and 2019; and authorize the Retirement Board to enter into an individual contract with any Retirement System executive director hired on or after January 1, 2023; at an election to be held on November 8, 2022.

Sponsors: Safai; Melgar and Peskin

History of Legislative File 220640

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	05/24/2022	ASSIGNED UNDER 30 DAY RULE	Rules Committee	06/23/2022	

1 [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board
2 Contract with Executive Director]

3 **Describing and setting forth a proposal to the voters at an election to be held on November**
4 **8, 2022, to amend the Charter of the City and County of San Francisco to eliminate the full**
5 **funding requirement for supplemental cost of living benefit payments to members of the**
6 **San Francisco Employees' Retirement System who retired before November 6, 1996,**
7 **subject to a monthly monetary cap for retirees and their qualified survivors and**
8 **beneficiaries in years that the Retirement System is not fully funded; adjust the base**
9 **retirement allowance for these retirees, or their qualified survivors and beneficiaries, to**
10 **account for supplemental cost of living adjustments not received in the years 2013, 2014,**
11 **2017, 2018 and 2019; and authorize the Retirement Board to enter into an individual**
12 **contract with any Retirement System executive director hired on or after January 1, 2023.**

13
14 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City
15 and County, at an election to be held on November 8, 2022, a proposal to amend the Charter of
16 the City and County by revising Sections A8.526-3 and 12.100, to read as follows:

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

22 **A8.526-3 SUPPLEMENTAL COST OF LIVING BENEFIT ON AND AFTER**
23 **JANUARY 10, 2009**

24 (a) Notwithstanding the provisions of Section A8.526-1 or any other provision of this
25 Charter to the contrary, effective January 10, 2009, all supplemental cost of living benefits
adjustments payable, including retirement allowances subject to change when the salary rate of a

1 member is changed, shall be determined pursuant to the provisions of this Section A8.526-3 and
2 not Section A8.526-1.

3 (b)(1) On July 1, 2009 and July 1 of each succeeding year, the retirement board shall
4 determine whether, in the previous fiscal year, there were earnings in excess of the expected
5 earnings on the actuarial value of the assets. In those years when the previous year's earnings
6 exceeded the expected earnings on the actuarial value of the assets, then on July 1 each
7 retirement allowance or death allowance payable on account of a member who died, including
8 retirement allowances subject to change when the salary rate of a member is changed, shall be
9 increased by an amount equal to three and one-half percent (3.5%) of the allowance as of June
10 30, less the amount of any cost of living adjustment provided pursuant to Section A8.526-2 and
11 less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of
12 a change in the salary of the member.

13 (b)(2) If on July 1, 2009 and July 1 of each succeeding year, the previous fiscal year's
14 earnings exceeded the expected earnings on the actuarial value of the assets, but they were
15 insufficient to increase said allowances by three and one-half percent (3.5%) as provided in
16 Subsection (b)(1), then to the extent of excess earning, said allowances shall be increased in
17 increments of one-half percent (0.5%) up to the maximum three and one-half percent (3.5%) of
18 the allowance as of June 30, less the amount of any cost of living adjustment provided pursuant
19 to Section A8.526-2 and less the amount of any cost of living adjustment, payable in that fiscal
20 year, which is the result of a change in the salary of the member.

21 (c) When the previous fiscal year's earnings exceeded the expected earnings on the
22 actuarial value of the assets but were not sufficient to fund any supplemental cost of living
23 benefit adjustment pursuant to either Subsection (b)(1) or (b)(2), the Retirement Board shall
24 reserve the excess earnings for that year. Said reserved earnings shall accumulate only until such
25 time that said reserved earnings, plus the next year's earnings in excess of the expected earnings

1 on the actuarial value of the assets, are sufficient to fund one fiscal year's increase in the
2 supplemental cost of living benefit adjustment, at which time the earnings in reserve shall be
3 withdrawn and used to fund a supplemental cost of living benefit adjustment as provided in
4 either Subsection (b)(1) or (b)(2).

5 (d) ~~To clarify the intent of the voters when originally enacting this Section in 2008,~~
6 ~~Beginning on July 1, 2012 and July 1 of each succeeding year, no supplemental cost of living~~
7 ~~benefit adjustment shall be payable unless the Retirement System was also fully funded based on~~
8 ~~the market value of the assets for the previous year. Except as qualified in subsection (g), this~~
9 ~~subsection (d) shall apply only to employees and retirees hired on or after January 7, 2012.~~

10 (e) Any supplemental cost of living benefit adjustment, once paid to a member, shall
11 not be reduced thereafter.

12 (f) Any Section or part of any Section in this Charter, insofar as it should conflict with
13 the provisions of Section A8.526-3 or with any part thereof shall be superseded by the contents
14 of Section A8.526-3. Section A8.526-3 shall be interpreted to be consistent with all federal and
15 state laws, rules, and regulations. If any words, phrases, clauses, sentences, subsections,
16 provisions or portions of Section A8.526-3 are held to be invalid or unconstitutional by a final
17 judgment of a court, such decision shall not affect the validity of the remaining words, phrases,
18 clauses, sentences, subsections, provisions or portions of Section A8.526-3. If any words,
19 phrases, clauses, sentences, subsections, provisions or portions of Section A8.526-3 are held
20 invalid as applied to any person, circumstance, employee or category of employee, such
21 invalidity shall not affect any application of Section A8.526-3 which can be given effect. Section
22 A8.526-3 shall be broadly construed to achieve its stated purposes.

23 (g) Effective January 1, 2023, subsection (d) shall not apply to any members who
24 retired before November 6, 1996, or their qualified survivors and beneficiaries. But in any year
25 that the Retirement System is not fully funded based on the market value of the assets for the

1 previous year, the supplemental cost of living adjustment for these retirees, their qualified
2 survivors, and beneficiaries shall be limited to \$200 per month if their monthly gross pension
3 allowance exceeds \$4,167.

4 The Retirement System shall adjust the base retirement allowance of members who
5 retired before November 6, 1996, or their qualified survivors and beneficiaries, to account for
6 supplemental cost of living adjustments not received in 2013, 2014, 2017, 2018 and 2019, due to
7 the full funding requirement in subsection (d). This aggregate base allowance adjustment shall
8 not exceed \$200 per month for those receiving a monthly gross pension allowance over \$4,167.
9 This subsection (g) does not entitle these retirees, their qualified survivors, or beneficiaries to
10 any retroactive supplemental cost of living adjustment payments.

11 **SEC. 12.100. RETIREMENT BOARD.**

12 (a) The Retirement Board shall consist of seven members as follows: one member of
13 the Board of Supervisors appointed by the President, three public members to be appointed by
14 the Mayor pursuant to Section 3.100, and three members elected by the active members and
15 retired persons of the Retirement System from among their number. The public members
16 appointed by the Mayor shall be experienced in life insurance, actuarial science, employee
17 pension planning or investment portfolio management, or hold a degree of doctor of medicine.
18 There shall not be, at any one time, more than one retired person on the Board. The term of the
19 members, other than the Board of Supervisors member, shall be five years, one term expiring on
20 February 20~~th~~ of each year. The three elected members need not be residents of the City and
21 County. Vacancies on the Board shall be filled by the Mayor for the remainder of the unexpired
22 term, except that in the case of elected employee members, a vacancy shall be filled by a special
23 election within 120 days after the vacancy occurs unless the next regularly scheduled employee
24
25

1 member election is to be held within six months after such vacancy occurred. Elections shall be
2 conducted by the Director of Elections in a manner prescribed by ordinance.

3 (b) The Board shall appoint and may remove an executive director and an actuary. The
4 executive director may be a joint Chief Executive Officer-Chief Investment Officer, or a Chief
5 Executive Officer only. The Board may employ a consulting actuary.

6 Any executive director hired on or after January 1, 2023, shall be employed under an
7 individual contract. Under the contract, the executive director's compensation shall be
8 comparable to the compensation of executive directors of public retirement systems in the United
9 States who perform similar functions and that the Board, after an independent survey,
10 determines most closely resemble the Retirement System in size, mission, and complexity. In
11 addition, the Board may provide an incentive compensation bonus plan for the executive director
12 based on performance goals established by the Board. For purposes of approving the executive
13 director's individual employment contracts, the Board may exercise all powers of the City and
14 County, the Board of Supervisors, the Mayor, and the Director of Human Resources under
15 Article XI of this Charter. The executive director's individual employment contract shall not
16 alter or interfere with the Retirement or Vacation provisions of this Charter or the Health Plans
17 established by the City's Health Service Board; provided however, that the Board may contribute
18 toward defraying the cost of the executive director's health premiums and retirement pick-up.

19 (c) In accordance with Article XVI, Section 17, of the California Constitution, the
20 Retirement Board shall have plenary authority and fiduciary responsibility for investment of
21 monies and administration of the Retirement System.

22 The Board shall be the sole authority and judge, consistent with this Charter and
23 ordinances, as to the conditions under which members of the Retirement System may receive and
24 may continue to receive benefits under the Retirement System, and shall have exclusive control
25 of the administration and investment of such funds as may be established.

1 The Retirement Board shall discharge its duties with respect to the system with the
2 care, skill, prudence and diligence under the circumstances then prevailing that a prudent person
3 acting in a like capacity and familiar with these matters would use in the conduct of an enterprise
4 of a like character and with like aims.

5 The Board shall determine City and County and District contributions on the basis of a
6 normal contribution rate which shall be computed as a level percentage of compensation which,
7 when applied to the future compensation of the average new member entering the System,
8 together with the required member contribution, will be sufficient to provide for the payment of
9 all prospective benefits of such member. The portion of liability not provided by the normal
10 contribution rate shall be amortized over a period not to exceed twenty years.

11 (d) The Board may act by a majority of the members present at a meeting so long as a
12 quorum is in attendance.

13
14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

16 By: /s/ _____
17 KELLY COLLINS
18 Deputy City Attorney

19 n:\legana\as2022\2200400\01600938.docx

LEGISLATIVE DIGEST

(First Draft, 5/24/2022)

[Charter Amendment — Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director]

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2022, to amend the Charter of the City and County of San Francisco to eliminate the full funding requirement for supplemental cost of living benefit payments to members of the San Francisco Employees' Retirement System who retired before November 6, 1996, subject to a monthly monetary cap for retirees and their qualified survivors and beneficiaries in years that the Retirement System is not fully funded; adjust the base retirement allowance for these retirees, or their qualified survivors and beneficiaries, to account for supplemental cost of living adjustments not received in the years 2013, 2014, 2017, 2018 and 2019; and authorize the Retirement Board to enter into an individual contract with any Retirement System executive director hired on or after January 1, 2023.

Existing Law

1. Supplemental Cost of Living Benefits for Members who Retired Before November 6, 1996. Charter Section A8.526-3 sets forth how supplemental cost of living benefits are determined. As a condition for payment of the supplemental cost benefit to members who retired before November 6, 1996 (and their qualified survivors and beneficiaries), SFERS must be fully funded based on the market value of the assets for the previous year.

2. SFERS Executive Director Contract. The Retirement Board does not have authority to enter into an individual contract with the executive director of the San Francisco Employees' Retirement System (SFERS) but rather must follow employment terms set out in Civil Service Commission Rules, the San Francisco Charter and Administrative Code, and the Memorandum of Understanding with the Municipal Executives Association.

Amendments to Current Law

1. Supplemental Cost of Living Benefits for Members who Retired Before November 6, 1996.

The amendment:

- eliminates the full-funding requirement for members who retired before November 6, 1996 (and their qualified survivors and beneficiaries);
- provides that SFERS will adjust the base retirement allowance to account for the supplemental cost of living adjustment payments not received by this group in 2013, 2014, 2017, 2018, and 2019 due to the full funding requirement; and

- caps the monthly supplemental cost of living adjustment payments at \$200 for members who retired before November 6, 1996 whose gross monthly retirement allowance exceeds \$4,167 per month.

The amendment does not provide for retroactive supplemental cost of living adjustment payments.

2. SFERS Executive Director Contract. The amendment allows the Retirement Board to enter into an individual contract with executive directors hired on or after January 1, 2023. The amendment does not apply to the current executive director.

Background Information

1. Supplemental Cost of Living Benefits for Members who Retired Before November 6, 1996. For many years, retirees have been entitled to a “basic” cost of living adjustment. At the November 6, 1996 election, the voters adopted a “supplemental” cost of living benefit for retirees. At the November 8, 2011 election, the voters added a “full funding” requirement to the supplemental benefit, meaning that, to pay supplemental cost of living benefits, SFERS had to be fully funded based on the market value of the previous year’s assets. That requirement was challenged as an unconstitutional impairment of a vested contractual right. In *Protect Our Benefits v. City and County of San Francisco* (2015) 235 Cal.App.4th 619, the Court of Appeal held that the full funding requirement could not be applied to current employees or to those who retired on or after November 6, 1996, but could be applied to those who retired before November 6, 1996.

This amendment in essence overrides the *Protect Our Benefits* decision as to members who retired before November 6, 1996, allowing them to receive supplemental cost of living benefits even if the full funding requirement is not satisfied – except that in years when that requirement is not satisfied, the supplemental cost of living benefit is capped at \$200 per month for this group of retirees (and their qualified survivors and beneficiaries) if their gross monthly pension allowance exceeds \$4,167 (the equivalent of \$50,000 yearly). And SFERS will adjust the base allowance for this group to account for supplemental cost of living adjustment payments not received in 2013, 2014, 2017, 2018 and 2019, as a result of the full funding requirement (subject to a \$200 monthly cap for those receiving a gross monthly pension allowance over \$4,167).

2. SFERS Executive Director Contract. Due to the complexity of the executive director job and the expertise/experience required, as well as the desire to recruit the highest quality candidates, the amendment authorizes the Retirement Board in the future to enter into individual contracts with executive directors.

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):

Ahsha Safai

Subject:

Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director

The text is listed:

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2022, to amend the Charter of the City and County of San Francisco to eliminate the full funding requirement for supplemental cost of living benefit payments to members of the San Francisco Employees' Retirement System who retired before November 6, 1996, subject to a monthly monetary cap for retirees and their qualified survivors and beneficiaries in years that the Retirement System is not fully funded; adjust the base retirement allowance for these retirees, or their qualified survivors and beneficiaries, to account for supplemental cost of living adjustments not received in the years 2013, 2014, 2017, 2018 and 2019; and authorize the Retirement Board to enter into an individual contract with any Retirement System executive director hired on or after January 1, 2023.

Signature of Sponsoring Supervisor: []



From: [Low, Jen \(BOS\)](#)
To: [Chung, Lauren \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Cc: [Imperial, Megan \(BOS\)](#); [Carrillo, Lila \(BOS\)](#); [Fieber, Jennifer \(BOS\)](#); [Melgar, Myrna \(BOS\)](#)
Subject: Re: Confirming Co-Sponsors - [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director]
Date: Tuesday, May 24, 2022 4:27:22 PM
Attachments: [01602678.pdf](#)
[01602680.pdf](#)

Thank you Lauren and Clerk Staff. Confirming Supervisor Melgar as a co-sponsor for this Charter Amendment.

Jen

From: Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>
Sent: Tuesday, May 24, 2022 4:17 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Imperial, Megan (BOS) <megan.imperial@sfgov.org>; Low, Jen (BOS) <jen.low@sfgov.org>; Carrillo, Lila (BOS) <lila.carrillo@sfgov.org>; Fieber, Jennifer (BOS) <jennifer.fieber@sfgov.org>; Gee, Natalie (BOS) <natalie.gee@sfgov.org>; Burch, Percy (BOS) <percy.burch@sfgov.org>; Gallardo, Tracy (BOS) <tracy.gallardo@sfgov.org>; Evans, Abe (BOS) <abe.evans@sfgov.org>; Lerma, Santiago (BOS) <santiago.lerma@sfgov.org>; Ferrigno, Jennifer (BOS) <jennifer.ferrigno@sfgov.org>; Saini, Nikita (BOS) <nikita.saini@sfgov.org>; Herrera, Ana (BOS) <ana.herrera@sfgov.org>; Yan, Calvin (BOS) <calvin.yan@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>; Souza, Sarah (BOS) <sarah.s.souza@sfgov.org>; Wright, Edward (BOS) <edward.w.wright@sfgov.org>; Lovett, Li (BOS) <li.lovett@sfgov.org>; Wong, Alan (BOS) <alan.wong1@sfgov.org>; Chan, Karen (BOS) <karen.k.chan@sfgov.org>; Barnes, Bill (BOS) <bill.barnes@sfgov.org>; Jones, Ernest (BOS) <ernest.e.jones@sfgov.org>
Subject: Confirming Co-Sponsors - [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director]

Hello,

I am writing to confirm the co-sponsors of [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director] for Supervisors Melgar, Walton, Ronen, Peskin and Mar (in this order).

I've included their staff to confirm.

Best,

Lauren

Lauren Chung 鍾洛藍 | Legislative Aide
Office of District 11 **Supervisor Ahsha Safai**
1 Dr. Carlton B. Goodlett Pl, San Francisco | Room 256
Direct: 415-554-7910 | **Office:** 415-554-6975

From: [Angulo, Sunny \(BOS\)](#)
To: [Chung, Lauren \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Cc: [Imperial, Megan \(BOS\)](#); [Low, Jen \(BOS\)](#); [Carrillo, Lila \(BOS\)](#); [Fieber, Jennifer \(BOS\)](#); [Gee, Natalie \(BOS\)](#); [Burch, Percy \(BOS\)](#); [Gallardo, Tracy \(BOS\)](#); [Evans, Abe \(BOS\)](#); [Lerma, Santiago \(BOS\)](#); [Ferrigno, Jennifer \(BOS\)](#); [Saini, Nikita \(BOS\)](#); [Herrera, Ana \(BOS\)](#); [Yan, Calvin \(BOS\)](#); [Souza, Sarah \(BOS\)](#); [Wright, Edward \(BOS\)](#); [Lovett, Li \(BOS\)](#); [Wong, Alan \(BOS\)](#); [Chan, Karen \(BOS\)](#); [Barnes, Bill \(BOS\)](#); [Jones, Ernest \(BOS\)](#)
Subject: RE: Confirming Co-Sponsors - [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director]
Date: Tuesday, May 24, 2022 4:24:10 PM

Confirmed for Supervisor Peskin.

From: Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>
Sent: Tuesday, May 24, 2022 4:18 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Imperial, Megan (BOS) <megan.imperial@sfgov.org>; Low, Jen (BOS) <jen.low@sfgov.org>; Carrillo, Lila (BOS) <lila.carrillo@sfgov.org>; Fieber, Jennifer (BOS) <jennifer.fieber@sfgov.org>; Gee, Natalie (BOS) <natalie.gee@sfgov.org>; Burch, Percy (BOS) <percy.burch@sfgov.org>; Gallardo, Tracy (BOS) <tracy.gallardo@sfgov.org>; Evans, Abe (BOS) <abe.evans@sfgov.org>; Lerma, Santiago (BOS) <santiago.lerma@sfgov.org>; Ferrigno, Jennifer (BOS) <jennifer.ferrigno@sfgov.org>; Saini, Nikita (BOS) <nikita.saini@sfgov.org>; Herrera, Ana (BOS) <ana.herrera@sfgov.org>; Yan, Calvin (BOS) <calvin.yan@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>; Souza, Sarah (BOS) <sarah.s.souza@sfgov.org>; Wright, Edward (BOS) <edward.w.wright@sfgov.org>; Lovett, Li (BOS) <li.lovett@sfgov.org>; Wong, Alan (BOS) <alan.wong1@sfgov.org>; Chan, Karen (BOS) <karen.k.chan@sfgov.org>; Barnes, Bill (BOS) <bill.barnes@sfgov.org>; Jones, Ernest (BOS) <ernest.e.jones@sfgov.org>
Subject: Confirming Co-Sponsors - [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director]

Hello,

I am writing to confirm the co-sponsors of [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director] for Supervisors Melgar, Walton, Ronen, Peskin and Mar (in this order).

I've included their staff to confirm.

Best,

Lauren

Lauren Chung 鍾洛藍 | Legislative Aide
Office of District 11 **Supervisor Ahsha Safai**
1 Dr. Carlton B. Goodlett Pl, San Francisco | Room 256
Direct: 415-554-7910 | **Office:** 415-554-6975

From: [Chung, Lauren \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Barnes, Bill \(BOS\)](#); [Jones, Ernest \(BOS\)](#); [Berenson, Samuel \(BOS\)](#); [Safai, Ahsha \(BOS\)](#)
Subject: FW: Signed Charter Amendment and legislative digest for introduction
Date: Tuesday, May 24, 2022 2:39:59 PM
Attachments: [01602678.DOCX](#)
[01602680.DOCX](#)
[20220524144720475.pdf](#)

Hello,

Please see attached for a Charter Amendment that Supervisor Safai is introducing [Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director].

Thank you,

Lauren

From: Collins, Kelly (CAT) <Kelly.Collins@sfcityatty.org>
Sent: Monday, May 23, 2022 7:53 PM
To: Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>
Cc: MANGOBA, CECILIA (CAT) <Cecilia.Mangoba@sfcityatty.org>; PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>
Subject: RE: Signed Charter Amendment and legislative digest for introduction

I apologize for not including these with the original email – attached please find the Word versions.

Thank you,

Kelly Collins

Deputy City Attorney
Office of City Attorney David Chiu
415-554-3914 (Direct)

This email message and any attachments may contain confidential and/or privileged information. If you are not the intended recipient you are hereby notified that any review, disclosure, copying, distribution or use of any of the information contained herein is prohibited. If you have received this email message in error, please contact the sender by reply email and destroy the original message and attachments without reading or saving in any manner.

From: Collins, Kelly (CAT) <>
Sent: Monday, May 23, 2022 7:46 PM
To: Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>
Cc: Mangoba, Cecilia (CAT) <Cecilia.Mangoba@sfcityatty.org>; Pearson, Anne (CAT) <Anne.Pearson@sfcityatty.org>; Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>
Subject: Signed Charter Amendment and legislative digest for introduction

Good evening Supervisor Safai,

Attached, please find the signed Charter Amendment and the legislative digest for introduction. The use of “/s/” on the signature line of the Charter Amendment is intended to reflect my approval as to form.

Thank you,

Kelly Collins

Deputy City Attorney

Office of City Attorney David Chiu

415-554-3914 (Direct)

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[Charter Amendment - Retiree Supplemental Cost of Living Adjustment; Retirement Board Contract with Executive Director]

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2022, to amend the Charter of the City and County of San Francisco to eliminate the full funding requirement for supplemental cost of living benefit payments to members of the San Francisco Employees' Retirement System who retired before November 6, 1996, subject to a monthly monetary cap for retirees and their qualified survivors and beneficiaries in years that the Retirement System is not fully funded; adjust the base retirement allowance for these retirees, or their qualified survivors and beneficiaries, to account for supplemental cost of living adjustments not received in the years 2013, 2014, 2017, 2018 and 2019; and authorize the Retirement Board to enter into an individual contract with any Retirement System executive director hired on or after January 1, 2023.

Section 1. The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 8, 2022, a proposal to amend the Charter of the City and County by revising Sections A8.526-3 and 12.100, to read as follows:

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

**A8.526-3 SUPPLEMENTAL COST OF LIVING BENEFIT ON AND AFTER
 JANUARY 10, 2009**

(a) Notwithstanding the provisions of Section A8.526-1 or any other provision of this Charter to the contrary, effective January 10, 2009, all supplemental cost of living benefits adjustments payable, including retirement allowances subject to change when the salary rate of a

1 member is changed, shall be determined pursuant to the provisions of this Section A8.526-3 and
2 not Section A8.526-1.

3 (b)(1) On July 1, 2009 and July 1 of each succeeding year, the retirement board shall
4 determine whether, in the previous fiscal year, there were earnings in excess of the expected
5 earnings on the actuarial value of the assets. In those years when the previous year's earnings
6 exceeded the expected earnings on the actuarial value of the assets, then on July 1 each
7 retirement allowance or death allowance payable on account of a member who died, including
8 retirement allowances subject to change when the salary rate of a member is changed, shall be
9 increased by an amount equal to three and one-half percent (3.5%) of the allowance as of June
10 30, less the amount of any cost of living adjustment provided pursuant to Section A8.526-2 and
11 less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of
12 a change in the salary of the member.

13 (b)(2) If on July 1, 2009 and July 1 of each succeeding year, the previous fiscal year's
14 earnings exceeded the expected earnings on the actuarial value of the assets, but they were
15 insufficient to increase said allowances by three and one-half percent (3.5%) as provided in
16 Subsection (b)(1), then to the extent of excess earning, said allowances shall be increased in
17 increments of one-half percent (0.5%) up to the maximum three and one-half percent (3.5%) of
18 the allowance as of June 30, less the amount of any cost of living adjustment provided pursuant
19 to Section A8.526-2 and less the amount of any cost of living adjustment, payable in that fiscal
20 year, which is the result of a change in the salary of the member.

21 (c) When the previous fiscal year's earnings exceeded the expected earnings on the
22 actuarial value of the assets but were not sufficient to fund any supplemental cost of living
23 benefit adjustment pursuant to either Subsection (b)(1) or (b)(2), the Retirement Board shall
24 reserve the excess earnings for that year. Said reserved earnings shall accumulate only until such
25 time that said reserved earnings, plus the next year's earnings in excess of the expected earnings

1 on the actuarial value of the assets, are sufficient to fund one fiscal year's increase in the
2 supplemental cost of living benefit adjustment, at which time the earnings in reserve shall be
3 withdrawn and used to fund a supplemental cost of living benefit adjustment as provided in
4 either Subsection (b)(1) or (b)(2).

5 (d) ~~To clarify the intent of the voters when originally enacting this Section in 2008,~~
6 ~~Beginning on July 1, 2012 and July 1 of each succeeding year, no supplemental cost of living~~
7 ~~benefit adjustment shall be payable unless the Retirement System was also fully funded based on~~
8 ~~the market value of the assets for the previous year. Except as qualified in subsection (g), this~~
9 ~~subsection (d) shall apply only to employees and retirees hired on or after January 7, 2012.~~

10 (e) Any supplemental cost of living benefit adjustment, once paid to a member, shall
11 not be reduced thereafter.

12 (f) Any Section or part of any Section in this Charter, insofar as it should conflict with
13 the provisions of Section A8.526-3 or with any part thereof shall be superseded by the contents
14 of Section A8.526-3. Section A8.526-3 shall be interpreted to be consistent with all federal and
15 state laws, rules, and regulations. If any words, phrases, clauses, sentences, subsections,
16 provisions or portions of Section A8.526-3 are held to be invalid or unconstitutional by a final
17 judgment of a court, such decision shall not affect the validity of the remaining words, phrases,
18 clauses, sentences, subsections, provisions or portions of Section A8.526-3. If any words,
19 phrases, clauses, sentences, subsections, provisions or portions of Section A8.526-3 are held
20 invalid as applied to any person, circumstance, employee or category of employee, such
21 invalidity shall not affect any application of Section A8.526-3 which can be given effect. Section
22 A8.526-3 shall be broadly construed to achieve its stated purposes.

23 (g) Effective January 1, 2023, subsection (d) shall not apply to any members who
24 retired before November 6, 1996, or their qualified survivors and beneficiaries. But in any year
25 that the Retirement System is not fully funded based on the market value of the assets for the

1 previous year, the supplemental cost of living adjustment for these retirees, their qualified
2 survivors, and beneficiaries shall be limited to \$200 per month if their monthly gross pension
3 allowance exceeds \$4,167.

4 The Retirement System shall adjust the base retirement allowance of members who
5 retired before November 6, 1996, or their qualified survivors and beneficiaries, to account for
6 supplemental cost of living adjustments not received in 2013, 2014, 2017, 2018 and 2019, due to
7 the full funding requirement in subsection (d). This aggregate base allowance adjustment shall
8 not exceed \$200 per month for those receiving a monthly gross pension allowance over \$4,167.
9 This subsection (g) does not entitle these retirees, their qualified survivors, or beneficiaries to
10 any retroactive supplemental cost of living adjustment payments.

11 **SEC. 12.100. RETIREMENT BOARD.**

12 (a) The Retirement Board shall consist of seven members as follows: one member of
13 the Board of Supervisors appointed by the President, three public members to be appointed by
14 the Mayor pursuant to Section 3.100, and three members elected by the active members and
15 retired persons of the Retirement System from among their number. The public members
16 appointed by the Mayor shall be experienced in life insurance, actuarial science, employee
17 pension planning or investment portfolio management, or hold a degree of doctor of medicine.
18 There shall not be, at any one time, more than one retired person on the Board. The term of the
19 members, other than the Board of Supervisors member, shall be five years, one term expiring on
20 February 20~~th~~ of each year. The three elected members need not be residents of the City and
21 County. Vacancies on the Board shall be filled by the Mayor for the remainder of the unexpired
22 term, except that in the case of elected employee members, a vacancy shall be filled by a special
23 election within 120 days after the vacancy occurs unless the next regularly scheduled employee
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1 member election is to be held within six months after such vacancy occurred. Elections shall be
2 conducted by the Director of Elections in a manner prescribed by ordinance.

3 (b) The Board shall appoint and may remove an executive director and an actuary. The
4 executive director may be a joint Chief Executive Officer-Chief Investment Officer, or a Chief
5 Executive Officer only. The Board may employ a consulting actuary.

6 Any executive director hired on or after January 1, 2023, shall be employed under an
7 individual contract. Under the contract, the executive director's compensation shall be
8 comparable to the compensation of executive directors of public retirement systems in the United
9 States who perform similar functions and that the Board, after an independent survey,
10 determines most closely resemble the Retirement System in size, mission, and complexity. In
11 addition, the Board may provide an incentive compensation bonus plan for the executive director
12 based on performance goals established by the Board. For purposes of approving the executive
13 director's individual employment contracts, the Board may exercise all powers of the City and
14 County, the Board of Supervisors, the Mayor, and the Director of Human Resources under
15 Article XI of this Charter. The executive director's individual employment contract shall not
16 alter or interfere with the Retirement or Vacation provisions of this Charter or the Health Plans
17 established by the City's Health Service Board; provided however, that the Board may contribute
18 toward defraying the cost of the executive director's health premiums and retirement pick-up.

19 (c) In accordance with Article XVI, Section 17, of the California Constitution, the
20 Retirement Board shall have plenary authority and fiduciary responsibility for investment of
21 monies and administration of the Retirement System.

22 The Board shall be the sole authority and judge, consistent with this Charter and
23 ordinances, as to the conditions under which members of the Retirement System may receive and
24 may continue to receive benefits under the Retirement System, and shall have exclusive control
25 of the administration and investment of such funds as may be established.

1 The Retirement Board shall discharge its duties with respect to the system with the
2 care, skill, prudence and diligence under the circumstances then prevailing that a prudent person
3 acting in a like capacity and familiar with these matters would use in the conduct of an enterprise
4 of a like character and with like aims.

5 The Board shall determine City and County and District contributions on the basis of a
6 normal contribution rate which shall be computed as a level percentage of compensation which,
7 when applied to the future compensation of the average new member entering the System,
8 together with the required member contribution, will be sufficient to provide for the payment of
9 all prospective benefits of such member. The portion of liability not provided by the normal
10 contribution rate shall be amortized over a period not to exceed twenty years.

11 (d) The Board may act by a majority of the members present at a meeting so long as a
12 quorum is in attendance.

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14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

16 By: /s/ _____
17 KELLY COLLINS
18 Deputy City Attorney

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