

File No. 110546

Committee Item No. _____
Board Item No. 45

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date July 26, 2011

Cmte Board

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Small Business Commission Recommendation</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>S.F. Chamber of Commerce</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Office of Economic Analysis - Economic Impact Report</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>OLSE - Summary of Reimbursement Plans</u> |

Completed by: Andrea Ausberry Date July 21, 2011

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

100

1 [Administrative Code - Health Care Security Ordinance]

2
3 **Ordinance amending the San Francisco Administrative Code by amending Sections**
4 **14.1, 14.3 and 14.4 of the Health Care Security Ordinance to provide that only amounts**
5 **actually paid or irrevocably committed to pay for providing employee health care**
6 **services shall satisfy the employer expenditure requirements of the Ordinance, add an**
7 **employee notification requirement, and to modify penalty provisions.**

8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are *strike through italics Times New Roman*.
10 Board amendment additions are double-underlined;
11 Board amendment deletions are ~~strikethrough normal~~.

12 Section 1. The San Francisco Administrative Code is hereby amended by amending
13 Sections 14.1, 14.3 and 14.4, to read as follows:

14 **SEC. 14.1. SHORT TITLE; DEFINITIONS.**

15 (a) **Short title.** This Chapter shall be known and may be cited as the "San Francisco
16 Health Care Security Ordinance."

17 (b) **Definitions.** For purposes of this Chapter, the following terms shall have the
18 following meanings:

19 (1) "City" means the City and County of San Francisco.

20 (2) "Covered employee" means any person who works in the City where such
21 person qualifies as an employee entitled to payment of a minimum wage from an employer
22 under the Minimum Wage Ordinance as provided under Chapter 12R of the San Francisco
23 Administrative Code and has performed work for compensation for his or her employer for
24 ninety (90) days, provided, however, that:
25

1 (A) ~~(a)~~ From the effective date of this Chapter through December 31,
2 2007, "at least twelve (12) hours" shall be substituted for "at least two (2) hours" where such
3 term appears in Section 12R.3(a);

4 (B) ~~(b)~~ From January 1, 2008 through December 31, 2008, "at least ten
5 (10) hours" shall be substituted for "at least two (2) hours" where such term appears in
6 Section 12R.3(a);

7 (C) ~~(c)~~ Beginning January 1, 2009, "at least eight (8) hours" shall be
8 substituted for "at least two (2) hours" where such term appears in Section 12R.3(a);

9 (D) ~~(d)~~ The term "employee" shall not include persons who are
10 managerial, supervisory, or confidential employees, unless such employees earn annually
11 under \$72,450.00 or in 2007 and for subsequent years, the figure as set by the administering
12 agency;

13 (E) ~~(e)~~ The term "employee" shall not include those persons who are
14 eligible to receive benefits under Medicare or TRICARE/CHAMPUS;

15 (F) ~~(f)~~ The term "covered employees" shall not include those persons
16 who are "covered employees" as defined in Section 12Q.2.9 of the Health Care Accountability
17 Ordinance, Chapter 12Q of the San Francisco Administrative Code, if the employer meets the
18 requirements set forth in Section 12Q.3 for those employees; and

19 (G) ~~(g)~~ The term "covered employees" shall not include those persons
20 who are employed by a nonprofit corporation for up to one year as trainees in a bona fide
21 training program consistent with Federal law, which training program enables the trainee to
22 advance into a permanent position, provided that the trainee does not replace, displace, or
23 lower the wage or benefits of any existing position or employee.

24 (H) ~~(h)~~ Nor shall "covered employees" include those persons whose
25 employers verify that they are receiving health care services through another employer, either

1 as an employee or by virtue of being the spouse, domestic partner, or child of another person;
2 provided that the employer obtains from those persons a voluntary written waiver of the health
3 care expenditure requirements of this Chapter and that such waiver is revocable by those
4 persons at any time.

5 (3) "Covered employer" means any medium-sized or large business as defined
6 below engaging in business within the City that is required to obtain a valid San Francisco
7 business registration certificate from the San Francisco Tax Collector's office or, in the case of
8 a nonprofit corporation, an employer for which an average of fifty (50) or more persons per
9 week perform work for compensation during a quarter. Small businesses are not "covered
10 employers" and are exempt from the health care spending requirements under Section 14.3

11 (4) "Employer" means an employing unit as defined in Section 135 of the
12 California Unemployment Insurance Code or any person defined in Section 18 of the
13 California Labor Code. "Employer" shall include all members of a "controlled group of
14 corporations" as defined in Section 1563(a) of the United States Internal Revenue Code, and
15 the determination shall be made without regard to Sections 1563(a)(4) and 1563(e)(3)(C) of
16 the Internal Revenue Code.

17 (5) "Health Access Program" means a San Francisco Department of Public
18 Health program to provide health care for uninsured San Francisco residents.

19 (6) "Health Access Program participant" means any uninsured San Francisco
20 resident, regardless of employment or immigration status or pre-existing condition, who is
21 enrolled by his or her employer or who enrolls as an individual in the Health Access Program
22 under the terms established by the Department of Public Health.

23 (7) Subject to the limitations set forth in Section 14.3(a), "health "Health care
24 expenditure" means any amount paid by a covered employer to its covered employees or to a
25 third party on behalf of its covered employees for the purpose of providing health care

1 services for covered employees or reimbursing the cost of such services for its covered
2 employees, including, but not limited to (a) contributions by such employer on behalf of its
3 covered employees to a health savings account as defined under section 223 of the United
4 States Internal Revenue Code or to any other account having substantially the same purpose
5 or effect without regard to whether such contributions qualify for a tax deduction or are
6 excludable from employee income; (b) reimbursement by such covered employer to its
7 covered employees for expenses incurred in the purchase of health care services; (c)
8 payments by a covered employer to a third party for the purpose of providing health care
9 services for covered employees; (d) costs incurred by a covered employer in the direct
10 delivery of health care services to its covered employees; and (e) payments by a covered
11 employer to the City to be used on behalf of covered employees. The City may use these
12 payments to: (i) fund membership in the Health Access Program for uninsured San Francisco
13 residents; and (ii) establish and maintain reimbursement accounts for covered employees,
14 whether or not those covered employees are San Francisco residents. Notwithstanding any
15 other provision of this subsection, "health care expenditure" shall not include any payment
16 made directly or indirectly for workers' compensation or Medicare benefits.

17 (8) "Health care expenditure rate" means the amount of health care expenditure
18 that a covered employer shall be required to make for each hour paid for each of its covered
19 employees each quarter. The "health care expenditure rate" shall be computed as follows:

20 (A) ~~(a)~~ From the effective date of this Chapter through June 30, 2007,
21 \$1.60 per hour for large businesses and \$1.06 per hour for medium-sized businesses;

22 (B) ~~(b)~~ From July 1, 2007 through December 31, 2007, January 1, 2008
23 through December 31, 2008, and January 1, 2009 through December 31, 2009, the rates for
24 large and medium-sized businesses shall increase five (5) percent over the expenditure rate
25 calculated for the preceding year;

1 (C) ~~(e)~~ From January 1, 2010 and each year thereafter, the "health care
2 expenditure rate" shall be determined annually based on the "average contribution" for a full-
3 time employee to the City Health Service System pursuant to Section A8.423 of the San
4 Francisco Charter based on the annual ten county survey amount for the applicable fiscal
5 year, with such average contribution prorated on an hourly basis by dividing the monthly
6 average contribution by one hundred seventy-two (172) (the number of hours worked in a
7 month by a full-time employee). The "health care expenditure rate" shall be seventy-five
8 percent (75%) of the annual ten county survey amount for the applicable fiscal year for large
9 businesses and fifty percent (50%) for medium-sized businesses.

10 (9) "Health care services" means medical care, services, or goods that may
11 qualify as tax deductible medical care expenses under Section 213 of the Internal Revenue
12 Code, or medical care, services, or goods having substantially the same purpose or effect as
13 such deductible expenses.

14 (10) "Hour paid" or "hours paid" means a work hour or work hours for which a
15 person is paid wages or is entitled to be paid wages for work performed within the City,
16 including paid vacation hours and paid sick leave hours, but not exceeding 172 hours in a
17 single month. For salaried persons, "hours paid" shall be calculated based on a 40-hour work
18 week for a full-time employee.

19 (11) "Large business" means an employer for which an average of one hundred
20 (100) or more persons per week perform work for compensation during a quarter.

21 (12) "Medium-sized business" means an employer for which an average of
22 between twenty (20) and ninety-nine (99) persons per week perform work for compensation
23 during a quarter.

24 (13) "Person" means any natural person, corporation, sole proprietorship,
25 partnership, association, joint venture, limited liability company, or other legal entity.

1 (14) "Required health care expenditure" means the total health care
2 expenditure that a covered employer is required to make every quarter for all its covered
3 employees.

4 (15) "Small business" means an employer for which an average of fewer than
5 twenty (20) persons per week perform work for compensation during a quarter.
6

7 **SEC. 14.3. REQUIRED HEALTH CARE EXPENDITURES.**

8 **(a) Required Expenditures.**

9 (1) Covered employers shall make required health care expenditures to or on
10 behalf of their covered employees each quarter. The required health care expenditure for a
11 covered employer shall be calculated by multiplying the total number of hours paid for each of
12 its covered employees during the quarter (including only hours starting on the first day of the
13 calendar month following ninety (90) calendar days after a covered employee's date of hire)
14 by the applicable health care expenditure rate. In determining whether a covered employer
15 has made its required health care expenditures, payments to or on behalf of a covered
16 employee shall not be considered if they exceed the following amount: the number of hours
17 paid for the covered employee during the quarter multiplied by the applicable health care
18 expenditure rate. The City's Office of Labor Standards Enforcement (OLSE) shall enforce the
19 health expenditure requirements under this Section.

20 (2) "Health care expenditure" shall only include an amount irrevocably paid by a
21 covered employer to a covered employee or to a third party on behalf of a covered employee. An
22 amount that is retained by the employer or that may be recovered by or returned to the employer shall
23 not constitute a valid "health care expenditure." An amount paid to a third party for the purpose of
24 reimbursing a covered employee for expenses incurred in the purchase of health care services shall not
25 constitute a valid "health care expenditure" unless any unused funds carry over from quarter to

1 quarter and from year to year and remain available to the covered employee or to a surviving spouse,
2 registered domestic partner, or dependent, for reimbursement of future health care expenses.

3 (b) **Employer Notice to Employees.** Each covered employer shall provide its covered
4 employees with a written notice of the employer's obligation under this Chapter to make health care
5 expenditures and how the employer is meeting this obligation. The City shall develop and promulgate
6 rules regarding the content and timing of the required notice.

7 (c) ~~(b)~~ **Additional Employer Responsibilities.** A covered employer shall: (i) maintain
8 accurate records of health care expenditures, required health care expenditures, and proof of
9 such expenditures made each quarter each year, and allow OLSE reasonable access to such
10 records, provided, however, that covered employers shall not be required to maintain such
11 records in any particular form; and (ii) provide information to the OLSE, or the OLSE's
12 designee, on an annual basis containing such other information as OLSE shall require, but
13 OLSE may not require an employer to provide information in violation of State or federal
14 privacy laws. Where an employer does not maintain or retain adequate records documenting
15 the health expenditures made, or does not allow OLSE reasonable access to such records, it
16 shall be presumed that the employer did not make the required health expenditures for the
17 quarter for which records are lacking, absent clear and convincing evidence otherwise. The
18 Office of Treasurer and Tax Collector shall have the authority to provide any and all
19 nonfinancial information to OLSE necessary to fulfill the OLSE's responsibilities as the
20 enforcing agency under this Ordinance. With regard to all such information provided by the
21 Office of Treasurer and Tax Collector, OLSE shall be subject to the confidentiality provisions
22 of Subsection (a) of Section 6.22-1 of the San Francisco Business and Tax Regulations Code.

23
24 / / /

25 / / /

1 **SEC. 14.4. ADMINISTRATION AND ENFORCEMENT.**

2 (a) The City shall develop and promulgate rules to govern the operation of this
3 Chapter. The regulations shall include specific rules by the Department of Public Health on
4 the operation of both the Health Access Program and the reimbursement accounts identified
5 in Section 14.2(g), including but not limited to eligibility for enrollment in the Health Access
6 Program and establishment of reimbursement accounts and rules by the OLSE for
7 enforcement of the obligations of the employers under this Chapter. The rules shall also
8 establish procedures for covered employers to maintain accurate records of health care
9 expenditures and required health care expenditures and provide a report to the City without
10 requiring any disclosures of information that would violate State or Federal privacy laws. The
11 rules shall further establish procedures for providing employers notice that they may have
12 violated this Chapter, a right to respond to the notice, a procedure for notification of the final
13 determination of a violation, and an appeal procedure before a hearing officer appointed by
14 the City Controller. The sole means of review of the hearing officer's decision shall be by filing
15 in the San Francisco Superior Court a petition for a writ of mandate under Section 1094.5 of
16 the California Code of Civil Procedure. No rules shall be adopted finally until after a public
17 hearing.

18 (b) During implementation of this Chapter and on an ongoing basis thereafter, the City
19 shall maintain an education and advice program to assist employers with meeting the
20 requirements of this Chapter.

21 (c) Any employer that reduces the number of employees below the number that would
22 have resulted in the employer being considered a "covered employer," or below the number
23 that would have resulted in the employer being considered a medium-sized or large business,
24 shall demonstrate that such reduction was not done for the purpose of evading the obligations
25 of this Chapter or shall be in violation of the Chapter.

1 (d) It shall be unlawful for any employer or covered employer to deprive or threaten to
2 deprive any person of employment, take or threaten to take any reprisal or retaliatory action
3 against any person, or directly or indirectly intimidate, threaten, coerce, command or influence
4 or attempt to intimidate, threaten, coerce, command or influence any person because such
5 person has cooperated or otherwise participated in an action to enforce, inquire about, or
6 inform others about the requirements of this Chapter. Taking adverse action against a person
7 within ninety (90) days of the person's exercise of rights protected under this Chapter shall
8 raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

9 (e) (1) The City shall enforce the obligations of ~~employers and~~ covered employers
10 under this Chapter, and ~~shall may~~ impose administrative penalties upon ~~employers and~~ covered
11 employers who fail to make required health care expenditures on behalf of their employees
12 within five days of the quarterly due date. The amount of the penalty shall be equal to up to one-
13 and one-half times the total expenditures that a covered employer failed to make ~~plus simple~~
14 ~~annual interest of up to ten (10) percent from the date payment should have been made~~, but in any
15 event the total penalty for this violation shall not exceed \$100 ~~\$1,000.00~~ for each employee for
16 each quarter week that the required such expenditures ~~were are~~ not made within five days of the
17 quarterly due date. The \$100 penalty shall increase by an amount corresponding to the prior year's
18 increase, if any, in the Consumer Price Index for urban wage earners and clerical workers for the San
19 Francisco-Oakland-San Jose, CA metropolitan statistical area.

20 (2) For other violations of this Chapter by employers and covered employers,
21 the administrative penalties shall be as follows: For refusing to allow access to records,
22 pursuant to Section 14.3(b), \$25.00 as to each worker whose records are in issue for each
23 day that the violation occurs; for the failure to maintain or retain accurate and adequate
24 records pursuant to Section 14.3(b) and for the failure to make the annual report of
25 information required by OLSE pursuant to Section 14.3(b). \$500.00; for violation of Section

1 14.4(d) (retaliation), \$100.00 as to each person who is the target of the prohibited action for
2 each day that the violation occurs; and for any other violation not specified in this subsection
3 (e)(2), \$25.00 per day for each day that the violation occurs.

4 (3) The City Attorney may bring a civil action to recover civil penalties for the
5 violations set forth in subsections (e)(1) and (e)(2) in the same amounts set forth in those
6 subsections, and to recover the City's enforcement costs, including attorneys' fees.

7 (4) Amounts recovered under this Section shall be deposited in the City's
8 General Fund.

9 (f) The City Controller shall coordinate with the Department of Public Health and OLSE
10 to prepare periodic reports on the implementation of this Chapter including participant rates,
11 any effect on services provided by the Department of Public Health, the cost of providing
12 services to the Health Access Program participants and the economic impact of the Chapter's
13 provisions. Reports shall be provided to the Board of Supervisors on a quarterly basis for
14 quarters beginning July 1, 2007 through June 30, 2008, then every six months through June
15 30, 2010. Reports shall include specific information on any significant event affecting the
16 implementation of this Chapter and also include recommendations for improvement where
17 needed, in which case the Board of Supervisors or a committee thereof shall hold a hearing
18 within thirty (30) days of receiving the report to consider responsive action.


19 (g) The Director of Public Health shall convene an advisory Health Access Working
20 Group to provide the Department of Public Health and the Health Access Program with expert
21 consultation and direction, with input on members from the Mayor and the Board of
22 Supervisors. The Health Access Working Group shall be advisory in nature and may provide
23 the Health Access Program with input on matters including: setting membership rates;
24 designing the range of benefits and health care services for participants; and researching
25 utilization, actuaries, and costs.

1 (h) The Department of Public Health and the OLSE shall report to the Board of
2 Supervisors by July 1, 2007, on the development of rules for the Health Access Program and
3 for the enforcement and administration of the employer obligations under this Chapter. The
4 Board of Supervisors or a committee thereof shall hold a hearing on the proposed rules to
5 ensure that participants in the Health Access Program shall have access to high quality and
6 culturally competent services.

7
8
9 APPROVED AS TO FORM:

10 DENNIS J. HERRERA, City Attorney

11
12
13 By:


THOMAS J. OWEN
Deputy City Attorney

LEGISLATIVE DIGEST

[Administrative Code – Health Care Security Ordinance]

Ordinance amending the San Francisco Administrative Code by amending Sections 14.1, 14.3 and 14.4 of the Health Care Security Ordinance, to provide that only amounts actually paid or irrevocably committed to pay for providing employee health care services shall satisfy the employer expenditure requirements of the Ordinance and add an employee notification requirement, and to modify penalty provisions.

Qualifying "Health Care Expenditures"

The City's Health Care Security Ordinance (the "Ordinance") requires certain employers located in the City to make "health care expenditures" on behalf of certain of their employees. A "health care expenditure" is money paid by a covered employer to its covered employees or to another party on behalf of its covered employees for the purpose of providing health care services for the employees or reimbursing the cost of such services. Employers have various options on how to satisfy the required expenditure, including the use of health savings and reimbursement accounts.

The proposal would provide that a "health care expenditure" would only include an amount irrevocably paid by an employer to an employee or to a third party on behalf of the employee. An amount that was designated as an expenditure but still held by the employer would not satisfy the Ordinance; nor would an amount that was paid over to a third party but could later be recovered by or returned to the employer. And any unused amount would have to carry over and remain available to the employee or a surviving spouse, domestic partner or dependent for reimbursement of future health care expenses.

Notification to Employees

The Ordinance in its current form does not require employers to provide specific notice to their employees regarding what the company is doing on their behalf to comply with the law.

The proposal would require the employer to provide its employees with a written notice of the employer's obligation to make health care expenditures under the Ordinance and how the employer was complying with the Ordinance.

Enforcement

Under current law, the possible penalties for failing to make the required health care expenditures include administrative fines in an amount up to one-and-one-half times the total expenditures that the employer failed to make 10 percent interest, not exceed \$1,000 for each employee for each week that the expenditures were not made.

Under the proposal, the administrative fine would be equal to the total expenditures that a covered employer failed to make, not exceed \$100 for each employee for each quarter that the expenditures were not made within five days of the quarterly due date. The \$100 figure would be adjusted annually for inflation.



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June 8, 2011

Mayor Edwin Lee
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Members, San Francisco Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Members, San Francisco Small Business Commission
City Hall, Room 110
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear City Official,

In early May, Supervisor David Campos introduced an amendment to San Francisco's Health Care Security Ordinance that would effectively eliminate the use of Health Reimbursement Arrangements (HRA) and Flexible Spending Accounts (FSA), both of which were outlined as compliance options in the Health Care Security Ordinance when it was originally adopted. We believe that the elimination of these account options is unnecessary and will negatively impact those currently receiving important healthcare benefits. If Supervisor Campos's legislation is enacted unchanged, it would increase business overhead, forcing employers to reduce the number of people they employ, the hours their employees work and likely the quality of care and the current amount of benefit, to which their employees have access.

Supervisor Campos's legislation would change the definition of "health care expenditure" to exclude the money put into HRAs, if the unspent portion of the HRA ever reverts back to the employer. The proposal would effectively require businesses to manage health accounts for their past employees indefinitely, resulting in a substantial increase in the administrative costs to businesses. Employers that use HRAs as the primary means of compliance for Healthy San Francisco would see a significant increase in costs if the legislation is enacted, adding an additional 10% - 15% to their labor costs, and having their health care compliance costs more than triple. These additional costs will further put local businesses at an economic and competitive disadvantage to competitors in neighboring counties.

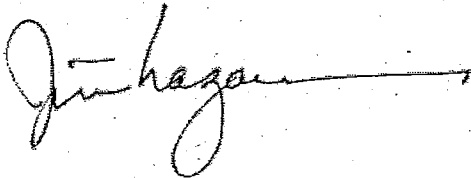
We believe the intent of Healthy San Francisco is to provide health access to low income San Francisco residents. HRAs are a flexible and cost effective tool for employees to access health care, and are in complete compliance with Healthy San Francisco's health care expenditure requirements. In fact, of the 2,960 businesses in San Francisco that filed reports under Healthy San Francisco, 860 (or 29.1%) used some form of a health reimbursement account. As a result a total of \$13.3 million was spent by businesses in San Francisco to comply with this law, but for those businesses, the cost of compliance under the new amendment would go up, on average, by 3½ times. That translates to a debilitating cost increase of around \$49 million annually.

However, the uptake of individuals using their benefits might be improved by requiring that employees receive notice regarding their rights and benefits under the law. To that end, the business community would support an even stronger notice requirement so that employees will know their benefits and how they can access them. The notice could be provided on a quarterly basis to coincide with the employers' quarterly health care expenditures.

Finally, The Patient Protection & Affordable Care Act signed into law in 2010, contains its own set of guidelines and requirements for employers, including an employer mandate that will have the same net effect and goal as the Healthy San Francisco program. We should wait to see the results of the PPACA before making any substantial modifications to Healthy San Francisco.

San Francisco employees currently have the ability to use their benefits under the Healthy San Francisco program, but if the intent of the amendment is to encourage employees not currently utilizing this benefit to do so then we should work to strengthen the notice requirement to increase awareness. However, the legislation as currently proposed would have such a high price tag for employers that it would force them to reduce their workforce and potentially close operations all together. We urge that you oppose the current version of the legislation and instead work with the business community and other key stakeholders in San Francisco to create a more robust notice requirement.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Lazarus", with a long horizontal flourish extending to the right.

Jim Lazarus
Sr. Vice President



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

June 20, 2011

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Re: File No. 110546 [Administrative Code- Health Care Security Ordinance]

Small Business Commission Recommendation: Do not recommend approval. Second Motion passed recommending that Reimbursement Account noticing requirements be implemented.

Dear Ms. Calvillo:

On June 13, 2011, the Small Business Commission (SBC) voted unanimously to recommend that the Board of Supervisors not approve BOS File No. 110546.

The SBC does not support employers that are intentionally not notifying employees of their health reimbursement accounts. The SBC also does not support employers that do not allow employees to utilize their reimbursement accounts to pay for a health insurance premium, Healthy San Francisco, or otherwise severely restrict the usage of these funds. However, the available information and data used to support this ordinance has not demonstrated that the problems are so pervasive or wide spread that such a sweeping change, which will negatively impact a large number of businesses in San Francisco, is necessary. The Commission has determined that this is not an appropriate approach to address the issue of a small minority of employers who severely restrict the availability and use of reimbursement account funds to their employees.

Although available data shows that only 7% of health care expenditures are spent on reimbursement accounts, figures also show that 29% of employers use reimbursement plans as a full or partial means of complying with the HCSO. A disproportionate amount these employers are small businesses of less than 100 persons. Therefore, this will not "level the playing field" and impact a small number of businesses, as claimed by the ordinance proponents. Additionally, according to the Office of Labor Standards and Enforcement (OLSE), up to half of the businesses in certain low profit margin sectors, including the restaurant and hospitality industries, may feel the economic consequences of this ordinance.

Of the 29% of businesses that use reimbursement accounts, a majority of these businesses use reimbursement plans to supplement a primary expenditure, most cases likely being a health insurance plan. Reimbursement accounts are a reasonable option to fulfill the remainder of the mandate. Additionally, businesses that provide health insurance to full time workers, or employees working over a certain hour threshold, may choose to provide their very part time employees with reimbursement accounts. A health reimbursement account is often the most equitable way to provide the mandate, both for the employee and the employer.

The remaining numbers of businesses that use reimbursement plans are utilizing them as a primary means of complying with the HCSO. If this ordinance is enacted, employers that use reimbursement accounts as the primary means of compliance with the Health Care Security Ordinance may see their labor costs rise an additional 10-15%. As detailed earlier, the restaurant and service sectors are often users of these types of

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

accounts. These businesses, often low margin, high labor operations, may be forced to cut staff, reduce hiring, or may be pressured to close their doors. In addition to direct pressure on the cost side, these additional costs will continue to put these businesses at an economic and competitive disadvantage to competitors in neighboring cities and counties. Small business retailers are at a particular disadvantage as they must compete with online and formula retail big box stores, located both inside and outside of San Francisco.

According to OLSE, the total reimbursement account expenditures are \$62 million per year. Of this, \$50 million is currently not being utilized by employees. It has not been quantified what percentage of this \$50 million is being retained by the employee or returned to the employer. Spread out among less than 800 employers, the economic impact could be upwards of \$60,000 per employer. This will directly translate into jobs and employee hours lost and jobs. This economic impact needs to be quantified as there will be a reduction of money being cycled back into the economy. The Commission recommends that an Economic Impact Report be completed to fully evaluate the impacts that this legislation will have on jobs and other factors of importance. The Commission also has logistical concerns about these funds being held in perpetuity, including when employees change jobs or move out of San Francisco, the State, and even the Country.

The SBC strongly believes that requiring notification of reimbursement account benefits provided under the HCSO is a very important right that workers should be entitled to. The SBC passed a second motion at our June 13 meeting which recommends that employee noticing requirements be implemented to ensure that all employees covered under the HCSO receive periodic notices and statements of their reimbursement account benefits. The Commission believes that the increased notice will lead to additional utilization of the reimbursement accounts, without leading to an immediate \$50 million impact on the economy. The San Francisco Health Plan, in administering Healthy San Francisco reimbursement accounts has demonstrated that increased notice and outreach has led to improved utilization of these accounts. In addition, the Commission recommends that as a policy direction, that the Board of Supervisors give OLSE the tools to better collect data to show how pervasive the practice of denying or withholding benefits to employees. Lastly, the Commission requests that all parties affected by the HCSO, including small businesses and the Small Business Commission, be included in discussions to require noticing requirements or modify reporting requirements.

The Commission thanks Supervisor Campos for his presentation and engagement on the issue and for his commitment to work with the business community on this important issue. The Country is still in the worst economic crisis since the Great Depression. Businesses are already preparing for national health care changes in 2014 and the impact of the Patient Protection & Affordable Care Act signed into law in 2010 is unknown. Businesses will be working hard to meet this mandate over the next three years- while trying to stay in business. Therefore, the Commission recommends against such a major change to the local level health care policy until the effects of the national reform are known.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc. Supervisors Campos, Avalos, Chiu, Cohen, Kim, Mar, Mirkarimi
Jason Elliott, Mayor's Office
Donna Levitt, Office of Labor Standards Enforcement

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6481

**Amendments to the Health Care Security
Ordinance: Economic Impact Report**

Office of Economic Analysis

July 13, 2011

Item #110546



Introduction

- The Health Care Security Ordinance (HCSO) requires San Francisco employers with 20 or more covered employees to make defined expenditures for health care on behalf of their employees.
- Employers are allowed to fulfill their obligations by making payments for employee health insurance, paying into the City Option, paying into a third party health reimbursement accounts (HRAs) or other reimbursement mechanisms.
- Under current law, employers may pay into an HRA on behalf of employees, define allowable expenditures from the HRA, and reclaim unused funds at the end of each year.
- The proposed legislation would require an HRA's funds to be rolled over from one year to the next. It would also require enhanced noticing of employer requirements.



City and County of San Francisco

Office of the Controller – Office of Economic Analysis

Background: HRA Allocations and Expenditures in 2010

Number of Employers using HRAs 860

The Office of Labor Standards and Enforcement (OLSE) has analyzed how employers have responded to the HCISO spending requirement in 2010.

Total Amount Allocated to HRAs (\$M) \$62.5
 -Total Amount Reimbursed to Employees (\$M) \$12.4
 Amount Reclaimed by Employers (\$M) \$50.1

According to OLSE, 860 employers allocated funds to reimbursement accounts for at least part of their spending requirement. The total amount allocated in 2010 was \$62.5 million.

Average Reimbursement Rate 20%

However, only \$12.4 million was spent by employees, allowing their employers to recover \$50.1 million or 80% of their required expenditures.

Source: OLSE

Under the current law, employers that choose the HRA option, and do not roll the balances over, are effectively able to pay a lower amount per worker than those that choose other forms of expenditure.

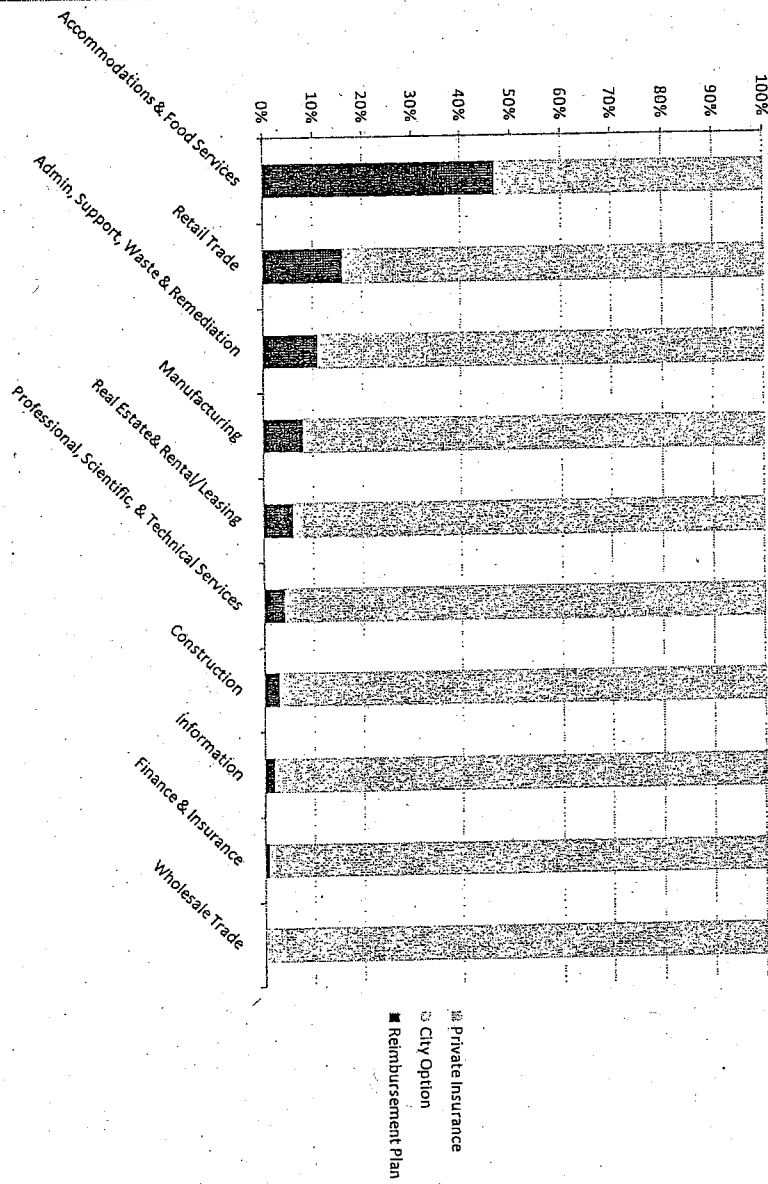


City and County of San Francisco

Office of the Controller - Office of Economic Analysis

Background: HRAs and Insurance by Industry

Primary HCSO Expenditure Type, by Industry, 2008



Source: OLSE

It is not known how the \$50 million difference between allocations and expenditures breaks down across different sectors of the San Francisco economy.

In 2008, the Accommodations and Food Services industry, Retail Trade were the largest users of the HRAs as their primary type of expenditure.

It is also not known how much of the difference is in HRAs that already roll over from one year to the next, so the \$50 million figure is a maximum potential additional expenditure by employers.



Economic Impact Factors: Costs

- The legislation will increase the effective amount employers pay under the HCSO, particularly in industries that rely heavily on HRAs, such as Food Services, Accommodation, and Retail Trade. Specifically, up to \$50 million that may now be reclaimed by employers will remain in employee accounts. This will effectively raise the cost of labor in San Francisco for these affected industries. It is not known exactly how the \$50 million is split across industries.
- The mandated HCSO benefit will reduce wages slightly at impacted employers, because demand for workers will slow, while workers will accept somewhat reduced wages in exchange for the benefit. In effect, some of the \$50 million increase will be paid by workers in the form of lower wages, though this change should not be assumed to happen immediately. However, the City's minimum wage law limits the extent to which lower wages can offset higher HCSO expenditures. It is not known exactly how much of the additional cost will be eventually borne by employees, nor how fast the labor market will adjust to lower wages.
- On January 1, 2014, employers with 50 or more employees will be required to provide health insurance to full-time workers or pay a fine. This federally-mandated expense will significantly minimize employers' additional responsibilities under the HCSO, but it is not possible to quantify by how much. For this reason, this analysis projects the economic impact for a 2-year period, 2012 and 2013.



Economic Impact Factors: Spending Benefits

- Covered employees with HRAs will receive up to an additional \$50 million for eventual health care spending. However, due to the anticipated wage decrease, they will have slightly less to spend on non-health care goods and services.
- Employers who select the City Option have Medical Reimbursement Accounts (similar to HRAs) established for their non-resident employees. These accounts allow for a broad definition of medical needs, and do roll over from one year to the next, similar to how HRAs would work if the proposed legislation was enacted. The Department of Public Health estimates that the average expenditures from these MRAs is 50% of allocations. A similar percentage can be expected of HRAs if the proposed legislation is adopted.
- Of course, the remaining 50% that is not expended will continue to accumulate and will create economic benefits in later years, beyond the projection period of this analysis.
- For covered employees with HRAs that live in San Francisco, their increased spending will create ripple effects throughout the City's economy, which are estimated by the OEA's REMI model of the San Francisco economy.



Economic Impact Factors: Health and Long-Term Productivity Benefits

- In general, health care spending has clear long-term benefits on worker productivity, by improving worker health.
- The challenge arises in quantifying the benefits associated with specific forms of health care spending.
- Employers are likely to react to closing the existing HRA loophole by choosing the City Option, and private insurance option, to a greater extent than stand-alone HRAs.
- Because HRAs can fund a wide range of health care expenses and will generally be too small to pay catastrophic costs, it is likely that health outcomes will improve if more employees are shifted towards private insurance and the City Option, and away from HRAs.
- Both the availability of higher balances in the HRAs of uninsured workers, and increasing funding through the City Option, will reduce City costs incurred in serving the uninsured.
- The OEA is unable to project:
 - how employers will change their behavior in terms of choosing options.
 - the number of employees remaining in HRA plans whose spending will exceed their annual allocation, and hence utilize a rolled-over balance in the next two years.
 - the differential effects on health of greater HRA expenditures or participation in private insurance or Healthy San Francisco over the next two years.
 - the timing and extent of productivity benefits associated with any health improvements over the next two years.



REMI Model Assumptions

- The OEA uses the REMI econometric model to estimate how the city's economy will change under different policies.
- We assume a maximum of \$50 million in additional employer payment will be required under the proposed legislation.
- These payments are split by industry (50% Food Services, 25% Accommodations, 25% Retail Trade).
- 20% of these expenditures will be offset by lower wages in the next two years, because of minimum wage floor, and the time for the labor market to adjust.
- Per the City Option's reimbursement rate, 50% of that \$50 million will yield actual health expenditures, in each of the next two years.
- Approximately 70% of workers in the most affected industries live in San Francisco. Expenditures by employees who do not live in San Francisco will not affect the city's economy.
- Thus the REMI model inputs are:
 - \$40M in net new labor costs to San Francisco employers (\$50M x 80% employer)
 - \$17.5M in increased health care expenditure (\$50M x 50% reimbursed x 70% local)
 - \$7M reduction in general consumer spending due to lower wages (\$50M x 20% employee x 70% local)

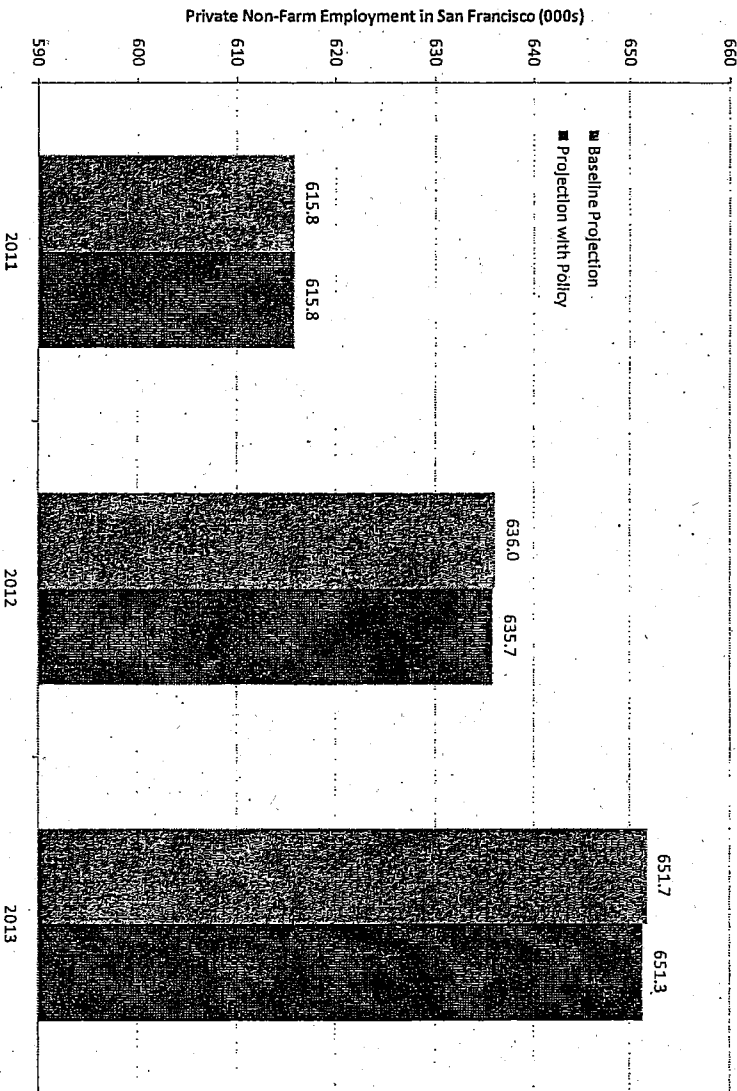


City and County of San Francisco

Office of the Controller — Office of Economic Analysis

REMI Model Results: Employment Differences with Policy vs. Baseline Projection

Projected Private Non-Farm Employment in San Francisco, Baseline Projection and with Policy, 2011-2013 (000s)



The impact of higher labor costs is projected to outweigh the benefits of higher health spending over the next two years, leading to a maximum of 290 fewer jobs citywide in 2012 than there would be under the baseline projection, and an additional 100 fewer jobs in 2013. Among specific industries, accommodations and food services are projected to projected to have 170-240 fewer, retail trade to have 50-70 fewer, and health care to have approximately 15 more.

The two year effective period comes at a time of expected job recovery; the city is expected to add 20,000 jobs in 2012, and another 16,000 in 2013. Thus the cost of the policy is a small fraction of the city's expected job growth during this period.



Sensitivity Analysis

- Significant uncertainty exists around several of the parameters used in the REMI model simulation.
- To assess the validity of the conclusions from the first simulation, six additional simulations were performed, in which combinations of 3 key assumptions were varied, as described below:
 - The split of the \$50 million between industries was modified to reflect the distribution of industries that primarily rely on reimbursement plans.
 - The percentage of the cost covered by employees was raised to 50%.
 - The percentage of the local workforce was changed to 50%.
- In each case, the net employment effects remained negative. Annual net employment differences attributable to the policy ranged from 230 to 460 jobs in a year, or 1-3% of the projected annual job growth expected in the city by 2013.



Conclusions

- The existing HCSCO has created a situation where employers who fund an HRA, and reclaim unused balances, are contributing a significantly lower amount than employers who offer private insurance and/or pay into the City Option.
- The cost of eliminating this loophole could range as high as \$50 million annually, most of which will be ultimately born by employers.
- Like any labor cost increase, closing this loophole will discourage hiring, while at the same time creating increases in health care spending, likely increases in insured workers, savings for the City, and long-term productivity benefits, none of which are quantifiable.
- The net employment effect of the higher labor costs and increased health spending alone is projected to be negative over the 2012-3 period.
- The city's economy is projected to continue its recovery during this period, and the annual employment differences attributable to the policy represent 1-3% of the city's expected employment growth during 2012 and 2013.



City and County of San Francisco

Office of the Controller – Office of Economic Analysis

Staff Contacts

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ted.egan@sfgov.org

The authors thanks Matt Goldberg of OLSE and Tangerine Brigham of the Department of Public Health for their helpful comments on an earlier draft. All errors and omissions are the responsibility of the Office of Economic Analysis.



File 110546
7/14/11- Presented
in Committee



San Francisco

Health Care Security Ordinance:

Reimbursement Plans & the Employer Spending Requirement

Summary prepared by

the San Francisco Office of Labor Standards Enforcement (OLSE)

July 2011



Health Care Security Ordinance (HCSO)

- Passed unanimously by Board of Supervisors in 2006.
- Two main components:
 1. “Healthy San Francisco” (HSF):
 - Comprehensive health care system for uninsured SF residents.
 - Operated by SF Department of Public Health.
 2. Employer Spending Requirement (ESR):
 - In effect for 3.5 years (since January 2008).
 - ESR enforced by Office of Labor Standards Enforcement (OLSE).
 - Annual compliance data to OLSE (“Annual Reporting Forms”).
 - Mandate: “Covered employers shall make *required health care expenditures* to or on behalf of their *covered employees* each quarter.”



Employer Spending Requirement (ESR)

1. Covered Employers: SF businesses with 20+ employees. *

	# of Businesses
Covered Employers	~ 4,000
NON-Covered Employers (i.e. exempt)	~ 47,000
TOTAL SF Employers	~ 51,000

*Nonprofits (50+):

2. Covered Employees: Work in SF, 90 days of employment, 8+ hours/week, non-manager/supervisor, voluntary waivers.
3. Required Health Care Expenditures (2011):

	Hourly Rate	Annual, per worker	
		PT: 20 hrs/wk	FT: 40 hrs/wk
"Medium-sized" employers (20-99)	\$1.37	\$1,414	\$2,828
"Large" employers (100+)	\$2.06	\$2,126	\$4,252



Where the Money Goes (2010)

	\$ (millions)	Percent of Total
1. Health Insurance	829M	90%
2. The "City Option"	29M	3%
3. Reimbursement Plans	62M	7%

- The "City Option":

- If eligible: employee gets discounted enrollment in HSF.
- Otherwise: \$ to Medical Reimbursement Accounts (MRA):
 - (1) Money remains available to worker (closed after 18 months of inactivity; can be re-opened within 7 years).
 - (2) Money available to reimburse all medical expenses
 - (3) Money available for worker and dependants.
 - Most Recent Year: Annual Reimbursement Rate of 55%.



Where the Money Goes (2010)

	\$ (millions)	Percent of Total
1. Health Insurance	829M	90%
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3. Reimbursement Plans	62M	7%

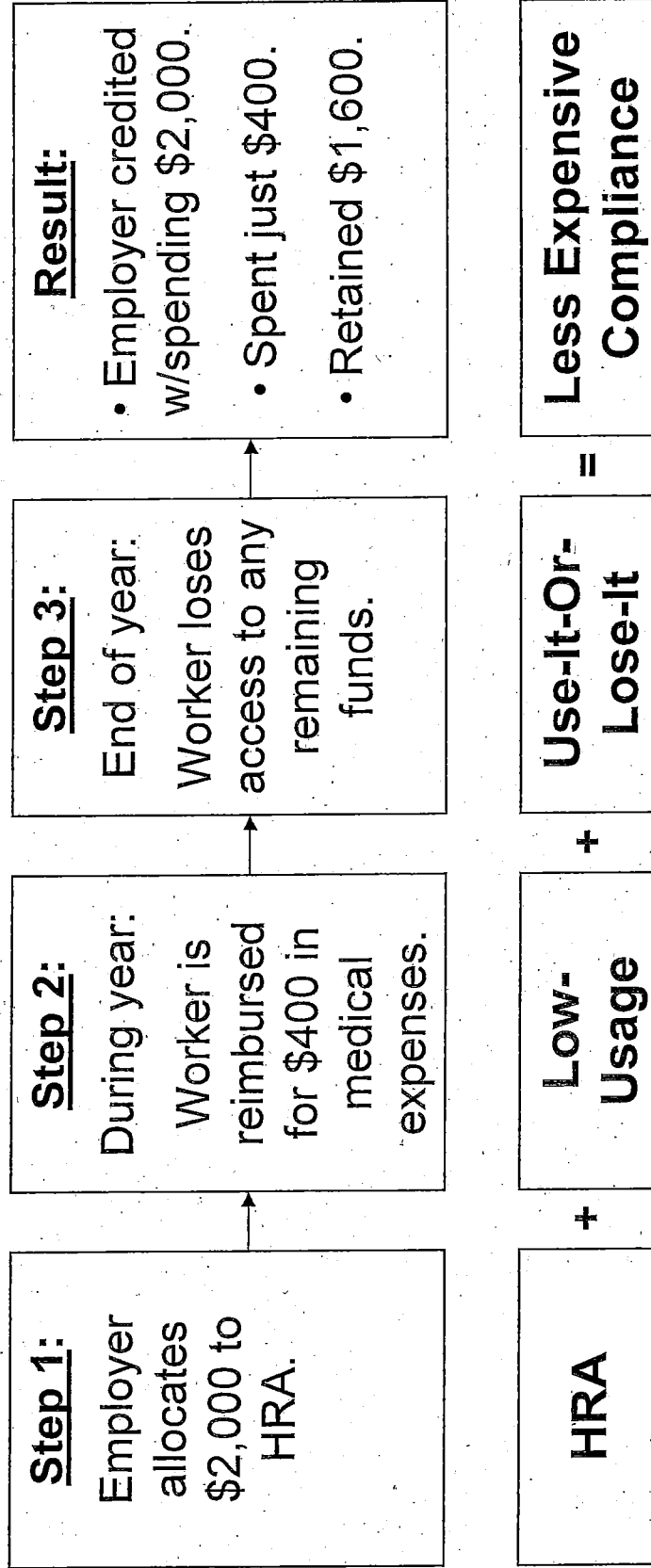
- Health Reimbursement Accounts (HRAs):
 - Primary type of Reimbursement Plan used to meet ESR.
 - Employers have broad discretion over rules.
 - Typically administered by 3rd-parties at no cost to employers.
 - "Stand-Alone" HRAs: Popularized in SF, but inconsistent with federal health care reform.



The Issue: Spending without Spending

CURRENTLY: Law interpreted to count HRA "allocations" as "expenditures" toward Employer Spending Requirement.

Example:





Use-It-Or-Lose-It HRAs: Consequences

1. Incentive: to meet ESR via use-it-or-lose-it HRAs (rather than health insurance or “City Option”).
 - 2008 to 2010: HRAs up 4%; Health Insurance down 4%.
 - Runs counter to “Legislative Findings and Intent.”
2. Incentive: to hold-down HRA usage rates.
 - Limits on usage (e.g. no dental, no vision, no premiums).
 - No access for dependents.
 - Poor/limited notice re: accounts.
 - Onerous claim filing procedures.
 - Result: 20% usage (vs. 55% for City-Administered MRAs).



Unreimbursed Allocations: Size & Scope (2010)

1. \$62M in Reimbursement Plan Spending:
 - Avg. Reimbursement Rate = 20%. Median Rate = 15%.
 - Only \$12M actually reimbursed to employees.
 - Remaining \$50M in "spending" kept by 705 employers:
 - 24% of covered employers; 1.37% of all SF employers.
 - Impact (by Employer Size):

Employer Size Range	Number of Employers	Unreimbursed Allocations (per Year)	
		Average (\$)	Median (\$)
1) 20-49	229 (32%)	28,551	24,050
2) 50-99	160 (23%)	52,147	41,215
3) 100+	316 (45%)	112,454	42,304
TOTAL	705	71,513	33,439



More Information

OLSE Resources

HCSO Web: www.sfgov.org/olse/hcso

HCSO Help Line: (415) 554-7892

HCSO Email: hcso@sfgov.org

Staff Contact

Matt Goldberg

Phone: (415) 554-7603

Email: matt.goldberg@sfgov.org

To: SF Board of Supervisors
From: Deisy Bach, HR Ideas, Inc. (HRI)
Ruthie Norton, CCI Financial Insurance Services (CCI)
Re: Proposed Changes to SF HCSO #110546
Date: June 14, 2011

HRI and CCI provide services to many small and mid-sized companies in San Francisco and we are concerned about the added burden the proposed changes to the SF HCSO will impose on businesses in San Francisco. These changes are of special concern when we are in an economy that is already hurting and businesses are struggling to stay afloat. Additionally, the Bay Area offers lots of retail opportunities beyond San Francisco and the increased prices in San Francisco resulting from *any* added burden may discourage consumers from spending their monies in SF.

The following are key points addressed by the proposed changes and questions/concerns regarding the changes:

- Any unused funds in an employee's HCSO account must carry over from year to year and remain available to the covered employee or to a surviving spouse, registered domestic partner or dependent, for reimbursement of future health care expenses.
 - What happens when an employee terminates employment?
 - An HRA is subject to COBRA which means the employee must make an average contribution to maintain the monies in the plan. COBRA has a finite time frame in which to use the funds which mitigates this concern of "use it or lose it".
 - Any plan changes must comply with ERISA regulations, if you take the choices out of the plan election, it may not qualify under COBRA or the IRS.
 - This puts a greater burden on the employers, impacting those who may have high turnover such as the hospitality and staffing industries.
- Any employee who works eight (8) or more hours per week will be eligible to accrue HSCO.
 - This will discourage any casual employees. Do the Board of Supervisors have any statistics on those who may have 2-3 other part-time jobs as that is what they want and precludes the need for more coverage?
 - How will SF audit and enforce? Why not focus on enforcing the current plan? It is understood that the enforcement provision now is limited to reactive (upon receipt of a complaint) in lieu of proactive review.
 - What supporting evidence necessitates any change? This is an administrative nightmare. Already there are a number of firms who have changed their hiring practices in light of this proposal.
 - Unemployment is already at 9.5%, why add more barriers during this down economy?
 - The intended cap is that an employee can only accrue to a maximum of 172 hours a month; however, if employees are working multiple jobs, they can be capping at a

much higher rate due to lack of coordination or tracking by SF. This is costly for SF employers, and presents a competitive disadvantage for those employers who stay in SF.

- Businesses that are not in SF avoid going to SF due to the cost of doing business in SF. While other employers are leaving due to the high costs: Reference the Erin Sherbert 6/2010 Examiner article.
 - Already many employers are making a duplicate contribution towards the cost of other coverage which was purchased prior to this ordinance and would be maintained. This is considered a waste of employer's money regardless of whether this is needed or would have been made already. Reality is that this could be double or triple dipping, especially when there is no reliable information being gathered to support or negate this.
- Employers must provide covered employees with a written notice of the employer's obligation to make health care expenditures and how the employer is meeting this obligation. The City shall develop and promulgate rules regarding the content and timing of the required notice.
 - Notification requirements exist under the regulation at the company level; perhaps require individual notification and sign off. (See suggesting sample)
 - Create a Disclosure Notice for Employees to be completed on an annual basis or when employment changes and/or qualifying event. This would be helpful in determining viability of any changes and likely should include:
 - Other employers?
 - Approximate hours worked at other employment?
 - Covered under other employer?
 - Type of Plan which would qualify under the IRS and ERISA:
 - If employee is under a Health Savings Account (HSA) they cannot participate in other insurance coverage. Other coverage might include:
 - Health Reimbursement Account
 - Health Saving Account with High Deductible Insurance Plan
 - Health/dental/vision Insurance
 - Healthy San Francisco
- The city will enforce this policy and will (previously "may" was used here) impose penalties on employers who fail to make the required health care expenditure on behalf of their employees within five days of the quarterly due date. The amount of the penalty will be equal to the total expenditures that an employer failed to make but the total penalty may not exceed \$100 for each employee, for each expenditure that was not made within five days of the quarterly date. Previously the penalty was \$1,000 for each employee for each week that such expenditures were not made.
 - Current laws are not being enforced due to shortage of staff. Why create another law rather than enforce the current laws?

- PPACA becomes effective in 2014 with mandated coverage for everyone. Why jump the gun requiring employers to spend more money with this new law?
 - New penalty is unclear. What does “each expenditure” mean?
- The \$100 penalty shall increase by an amount corresponding to the prior year's increase, if any, in the Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area.
 - What supporting documentation is there to indicate that the change in penalty will be any more enforced than with the current policy which has been acknowledged has sufficient staff to only work on a reactive versus proactive basis by responding to complainants versus those employers who do not comply at all? At a time when the City has limited staffing to draw from why penalize those who have attempted to comply in lieu of concern for those employers who have made no effort?

Recommendations:

- Require Notice to Employees by Employers of Benefits Provided;
- Create a Disclosure Notice for Employees to be completed on an annual basis or when employment changes and/or qualifying event. This would be helpful in determining viability of any changes and likely should include:
 - Other employers?
 - Approximate hours worked at other employment?
 - Covered under other employer?
 - Type of Plan
- Enforce current requirements
- Develop a volunteer advisory committee made up of regulators, employers, employees and related professionals to review proposed changes and recommendations. The purpose of the committee would be to identify the holes and develop solutions that work for all parties involved and stay in compliance with ERISA and IRS regulations.

COBRA & the HRA

An HRA (health reimbursement account) is considered a group health plan by the IRS and it is generally subject to the COBRA continuation coverage requirements. If an individual elects COBRA continuation coverage, an HRA complies with these COBRA requirements by providing for the continuation of the maximum reimbursement amount for an individual at the time of the COBRA qualifying event and by increasing that maximum amount at the same time and by the same increment that it is increased for similarly situated non-COBRA beneficiaries (and by decreasing it for claims reimbursed). Premiums are determined under the existing rules in §4980B.

Under the existing rules, an employer must commit to the following for all terminated employees:

- Provide a notice of COBRA continuation coverage
- Calculate the cost for continued coverage
- Process continued contributions for up to 18 months.
- Add to the HRA balance at the same time and in the same increments as it does so for similarly situated active employees.
- COBRA premiums can't exceed 102% of the cost to the plan for providing coverage to a similarly situated employee.

Under the proposed changes, an employer will also have to commit to the following for all terminated employees:

- Manage any accrued HRA funds whether an employee elects COBRA or not.
- Consult with an actuary to determine the maximum permissible COBRA premium for HRA coverage.
- The potential to pay more in HRA contributions than they would be able to charge for COBRA premiums. See example below.
- Management of all HRA funds with no conclusion of coverage.

COBRA PREMIUMS UNDER THE PROPOSED CHANGES

The carryover feature associated with HRA's makes calculating the COBRA premium more complex. The maximum premium that can be charged for HRA coverage is 102% of the *cost to the plan* of similarly-situated participants who have not had a qualifying event. **Under an HRA, the only amounts that count toward the cost of coverage are actual claims payments made during a year and administrative expenses.** Any amounts that are carried over don't get counted when determining the cost to provide HRA coverage for a year.

SF Health Care Security Ordinance (HCSO)

Employee Statement

San Francisco law requires your employer to make health care expenditures on your behalf. A health care expenditure is an amount of money paid by your employer to you or to a third party for the purpose of providing you with access to health care services. For example, your employer may:

- make payments to enroll you in a health insurance program,
- reimburse you for the costs of health care services you get on your own,
- make payments on your behalf to the City's new *Healthy San Francisco* program, or
- establish and maintain a reimbursement account for your health care expenses.

Employer Name: _____

Employee Name: _____

Employee Date of Hire: _____ Employee Eligibility Date: _____

Employer provides the following to employees to comply with SF HCSO:

- Health Insurance Plan
- Payments to Healthy San Francisco
- Payments to a Health Reimbursement Account (HRA)

Your HRA account balance for the current year is \$_____.

For additional information on your employer's HRA plan, ask your employer for a copy of the Plan Summary Plan Description. Employees will receive a quarterly statement showing their year to date balance.

INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or
Meeting Date

I hereby submit the following item for introduction:

- 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 Committee Hearing on a subject matter
- 4. Request for letter beginning "Supervisor _____ inquires..."
- 5. City Attorney request
- 6. Call matter from Committee (File Number: 110546)
- 7. Budget Analyst request (attach written Motion)
- 8. Substitute Legislation (File Number: _____)
- 9. Request for Closed Session
- 10. Board to Sit as a Committee of the Whole
- 11. Question(s) submitted for Mayoral Appearance before the BOS on _____

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

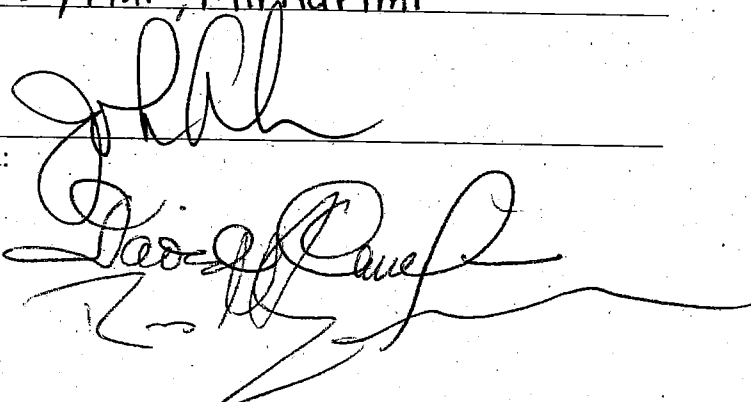
- | | |
|---|--|
| <input type="checkbox"/> Small Business Commission | <input type="checkbox"/> Youth Commission |
| <input type="checkbox"/> Ethics Commission | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Building Inspection Commission | |

Note: For the Imperative Agenda (a Resolution not on the printed agenda), use a different form.

Sponsor(s): Campos, Avalos, Mar, MirKarimi

Subject: _____

The text is listed below or attached:



Signature of Sponsoring Supervisor: _____

For Clerk's Use Only:

