

File No. 130481

Committee Item No. 1

Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 6/20/13

Board of Supervisors Meeting

Date \_\_\_\_\_

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#### OTHER

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- Charter Amendment
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Completed by: Linda Wong

Date 6/17/13

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

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

[Retiree Health Care Trust Fund]

CHARTER AMENDMENT

PROPOSITION \_\_\_\_\_

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Sections 12.204 and A8.432 to limit Retiree Health Care Trust Fund payments to defray participating employer retiree health care costs until employer sub-trusts are fully funded; allow for payments from an individual employer's sub-trust if that employer's retiree health care costs are greater than ten percent (10%) of the employer's total payroll costs even if that employer's sub-trust is not fully funded; permit modifications to these funding guidelines if recommended by the Controller and the City's Governmental Accounting Standards Board actuary, and approved by the Mayor, two-thirds of the Board of Supervisors, and the Retiree Health Care Trust Fund Board; and (4) make the Controller, the City Treasurer, and the Executive Director of the San Francisco Employees' Retirement System, or their designees, members of the Retiree Health Care Trust Fund Board.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 5, 2013, a proposal to amend the Charter of the City and County by amending Sections 12.204 and A8.432 to read as follows:

NOTE: Additions are single-underline italics Times New Roman; deletions are ~~strike-through italics Times New Roman~~.

**SEC. 12.204. RETIREE HEALTH CARE TRUST FUND.**

(a) The Retiree Health Care Trust Fund ("~~RHCTF~~") shall be an irrevocable trust fund established under Section A8.432, and separate from the Health Service System trust fund described in Charter Sections 12.203 and A8.428, to provide a funding source to defray the cost of the City's, and other Participating Employers', obligations to pay for health coverage for

retired persons and their survivors entitled to health coverage under Section A8.428. ~~Trust~~ RHCTF assets shall be held for the sole and exclusive purpose of providing health coverage to eligible retired persons and their survivors, and to defray the reasonable expenses of administering the RHCTF, including, but not limited, to educational, actuarial, consulting, administrative support and accounting expenses associated with the RHCTF. The Retiree Health Care Trust Fund Board shall pay for such ~~Administrative costs from the RHCTF, including but not limited to educational, actuarial and consulting expenses associated with the Retiree Health Care Trust Fund, as adopted by appropriations of the~~ Board of ~~s~~Supervisors ~~in the annual budget, shall be paid from the Retiree Health Care Trust Fund,~~ but only upon adoption of a resolution by the ~~Retiree Health Trust Fund~~ Board approving such expenditures~~expenses~~.

(b) ~~The Board shall govern the~~ RHCTF ~~shall be governed by a Retiree Health Trust Fund Board ("Board").~~ The Board shall consist of the following five trustees; ~~one of whom shall be appointed by the City Controller, one of whom shall be appointed by the City Treasurer, and one of whom shall be appointed by the Executive Director of the San Francisco Employees' Retirement System, or their respective designees;~~ and two trustees of whom shall be elected from among active employee and retired members of the City's Health Service System. One of the elected trustees shall be an active employee member and one shall be a retired member as of the date of their respective elections. Each elected trustee shall serve for a term of five years. No person may serve simultaneously as a trustee on the Board and as an elected or appointed member of the San Francisco Employees' Retirement System Board or the Health Service System Board.

#### **A8.432 RETIREE HEALTH CARE TRUST FUND.**

There is hereby created a Retiree Health Care Trust Fund (RHCTF) for the purpose described in Section 12.204. Subject to the disbursement limitations set forth in Section A8.432(d) below. ~~The~~ Retiree Health Care Trust Fund Board (Board) ~~described in Section~~

~~12.204~~ shall have exclusive authority and control over the administration of the RHCTF, investments of trust assets, and disbursements from the trust in accordance with the provisions of this Charter.

**(a) Employees Who Commenced Employment on or After January 10, 2009**

Active officers and employees of the City and County and of other Participating Employers, who commenced employment ~~with the City and County, or the Participating Employers,~~ on or after January 10, 2009, shall contribute their respective Employer's "Normal Cost" to the RHCTF. The annual active employee RHCTF contribution rate, for each Employer, shall be ~~thethat~~ Employer's "Normal Cost," as determined by ~~thethat~~ Employer's respective General Governmental Accounting Standards Board (GASB) Actuary, ~~ies~~ computed as a percentage of compensation not to exceed 2% of pre-tax compensation ~~to the RHCTF. The Each~~ Employer's GASB ~~a~~ Actuary, ~~ies~~ shall determine ~~thethat~~ Employer's respective "Normal Cost" on a biannual basis.

The City and County and Participating Employers shall each contribute 1% of compensation for officers and employees who commenced employment on or after January 10, 2009. Once an Employer's GASB Actuary has determined that an Employer's sub-trust is Fully Funded, and that the Employer is subject to no Unfunded Actuarial Accrued Liability, that Employer's 1% RHCTF contribution shall cease. Once an Employer has no Unfunded Actuarial Accrued Liability and the Retiree Health Trust Fund is Fully Funded Thereafter, then the that Employer, and its active officers and employees who commenced employment on or after January 10, 2009, shall instead each contribute 50% of the "Normal Cost" as determined by ~~thethat~~ Employer's ~~respective~~ GASB ~~a~~ Actuary, ~~ies,~~ with except that the employee's contribution rate shall not to exceed 2% of pre-tax compensation. In the event that an employer and employee 2% contribution rate does not cover the entire Normal Cost, the Employer shall contribute the balance over 4%. and the 1% Employer contribution shall no longer be required.

**(b) Employees Who Commenced Employment on or Before January 9, 2009**

Notwithstanding any other provision of Charter Sections A8.409 through A8.409-9, and A8.590-1 through A8.590-9, starting July 1, 2016, all active officers and employees of the City and County and Participating Employers, who commenced employment ~~with the City and County, or Participating Employers,~~ on or before January 9, 2009, shall contribute 0.25% of pre-tax compensation into the RHCTF. Starting on July 1 of each subsequent year, all active officers and employees of the City and County and Participating Employers, who commenced employment with the City and County, or Participating Employers, on or before January 9, 2009, shall contribute an additional 0.25% of pre-tax compensation up to a maximum of 1%. Notwithstanding the foregoing, the contributions for employees who commenced employment on or before January 9, 2009, shall not exceed ~~each their~~ Employer's ~~respective~~ "Normal Cost" as determined by ~~the each~~ Employer's respective General Accounting Standards Board ( GASB) Actuaries on a bi-annual basis.

Starting July 1, 2016, the Employers shall contribute 0.25% of compensation into the RHCTF for each employee who commenced employment on or before January 9, 2009. Starting on July 1 of each subsequent year, the Employers shall contribute an additional 0.25% of compensation, up to a maximum of 1%, for each employee who commenced employment on or before January 9, 2009.

Once an Employer's GASB Actuary has determined that an Employer's sub-trust is Fully Funded, and that the Employer is subject to no Unfunded Actuarial Accrued Liability, that Employer's 1% contribution shall cease. Once an Employer has no Unfunded Actuarial Accrued Liability and the Retiree Health Trust Fund is Fully Funded Thereafter, then that Employer, and its active officers and employees who commenced employment on or before January 9, 2009, shall instead each contribute 50% of the "Normal Cost" as determined by ~~the that~~ Employers' ~~respective~~ GASB ~~a~~ Actuaries, with except that the employee's contribution rate shall not to exceed 1% of pre-tax compensation. In the event that an employer and employee 1%

contribution rate does not cover the entire Normal Cost, the Employer shall contribute the balance over 2%. and the 1% Employer contribution shall no longer be required.

**(c) Segregation ~~And Use~~ of Retiree Health Care Trust Fund Assets Contributions**

The Board shall segregate RHCTF ~~C~~contributions to the RHCTF from the City and County, and its officers and employees, and ~~from~~ each Participating Employer, and ~~its~~their officers and employees, shall be segregated from each other into separate sub-trusts. and The Board may authorize expenditures from each sub-trust only used as a funding source to defray each Employer's' obligations to pay for ~~its~~ retiree health care costs under Section A8.428, and to pay for each Employer's' share of administrative expenses. The Board may pool sub-trust funds may be pooled for investment purposes only.

**(d) Disbursement of Retiree Health Care Trust Fund Assets**

(i) In order to ensure a long term and sustainable funding source to defray the cost of each Employer's obligations to pay for health coverage for retired persons and their survivors entitled to health coverage under Section A8.428, ~~N~~the Board may not authorize any ~~No~~ disbursements from an Employer's sub-trust, other than to defray the reasonable expenses of administering the RHCTF, until, and only during periods when, an Employer's GASB Actuary has determined that the Employer's sub-trust is Fully Funded may be made from the trust prior to January 1, 2020. Commencing January 7, 2020, When an Employer's sub-trust is Fully Funded, the Board may disburse sub-trust assets may be used to defray the cost of that City's, and other Participating Employer's', obligations to pay for health coverage for ~~theits~~ retired persons and their survivors entitled to health care coverage under Section A8.428. The Board shall determine the amount and frequency of such disbursements shall be determined by the Board in consultation with ~~the~~each Employer's' respective GASB Actuaries.

(ii) Notwithstanding Section A8.432(d)(i) above, and in order to stabilize City contributions during the transition period before the City's sub-trust is Fully Funded, when the Controller projects that total City retiree health care costs for the upcoming fiscal year will

exceed ten percent (10%) of City payroll costs, and upon the recommendation of the Controller and the City's GASB Actuary to the Board that it make disbursements from the City's sub-trust to defray the City's retiree health care obligations under Section A8.428, and subject to approval by the Mayor and by resolution of the Board of Supervisors, the Board may authorize stabilization disbursements but only to the extent necessary to limit the City's retiree health care costs to ten percent (10%) of City payroll costs. Stabilization disbursements may not exceed ten percent (10%) of the audited prior year City sub-trust balance. For the purposes of this Section A8.432(d)(ii), total City retiree health care costs shall include the City's employer contributions into the RHCTF under Section A8.432 and the City's retiree health care premium contributions under Section A8.428.

(iii) Upon a recommendation of the Controller and the City's GASB Actuary, approval of the Mayor, and approval of the Board of Supervisors by a two-thirds vote, the Board may adopt different disbursement limitations from the limitations set forth in Sections A8.432(d)(i) and A8.432(d)(ii) above. The Mayor, the Board of Supervisors and the Board may approve or reject, but not alter, the Controller's and GASB Actuary's recommended changes to the disbursement limitations set forth in Sections A8.432(d)(i) and A8.432(d)(ii) above.

**(de) Additional Contributions to the Retiree Health Care Trust Fund**

As set forth in A8.409-7 and A8.590-8, nothing in this section shall prevent the City and County of San Francisco and a recognized employee organization from agreeing to, or an arbitration panel formed pursuant to A8.409-4 or A8.590-5 from awarding, an adjustment in employee contributions into the RHCTF Retiree Health Care Trust Fund that results in contributions greater than the contributions required under A8.432 for any and all City employees. In no event shall the City and County of San Francisco and a recognized employee organization agree to, or an arbitration panel formed pursuant to A8.409-4 or A8.590-5 award, any reduction in contributions below the minimum level of contributions required under A8.432.

**(ef) Definitions-**

**"Actuarial Accrued Liability"** as used in this section, means "Actuarial Accrued Liability" as that term is defined under GASB No. 45 as may be amended from time to time.

**"Commenced employment on"** as used in this section, shall refer to the time an employee starts employment with the City and County, or with a Participating Employer, for the first time, or the time an employee starts employment with the City and County, or with a Participating Employer, on a subsequent occasion after a prior separation from employment with the City and County or any Participating Employer, whichever date is later.

**"Employers"** as used in this section means the City and County and the Participating Employers.

**"Fully Funded"** as used in this section means that an Employer's GASB Actuary has determined that the market value of assets in a sub-trust-the Retiree Health Care Trust Fund equals or exceeds the Employer's Actuarial Accrued Liability.

**"GASB Actuary"** and **"GASB Actuaries"** as used in this section means the actuarial firms hired by the Employers to provide estimates of each Employers' respective total liability and annual required contribution for post retirement health benefits under GASB No. 45.

**"GASB No. 45"** as used in this section means Statement No. 45 of the Governmental Accounting Standards Board, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions as may be amended from time to time.

**"Health coverage"** as used in this section, means the health benefits or health insurance provided by the health service system for retirees, survivors and dependents under Section A8.428.

**"Normal Cost"** as used in this section, means theeach Employer's' normal cost under GASB No. 45 as determined by theeach Employer's' ~~respective~~ GASB Actuaries.



"Retiree" as used in this section, means a former employee who is retired and is entitled to health coverage under Section A8.428, and the qualified survivors or dependents of such retirees who are entitled to health coverage under Section A8.428.

"Participating Employers" as used in this section, and Sections A8.432-1, A8.510 and 12.204, shall include the Superior Court of California, County of San Francisco, San Francisco Unified School District and the San Francisco Community College District, following a resolution by ~~their these employers'~~ respective governing boards to participate in the Retiree Health Care Trust Fund.

**(fg) Severability**

The contents of Charter Sections 12.204 or A8.432 shall supersede Any Section or part of any Section in this Charter, insofar as ~~such Section or part~~ should conflict with the provisions of Charter Sections 12.204 or A8.432, or with any part thereof ~~shall be superseded by the contents of Charter Sections 12.204 or A8.432~~. Charter Sections 12.204 or A8.432 shall be interpreted to be consistent with all federal and state laws, rules, and regulations. If any words, phrases, clauses, sentences, subsections, provisions or portions of Charter Sections 12.204 or A8.432 are held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the validity of the remaining words, phrases, clauses, sentences, subsections, provisions or portions of Charter Sections 12.204 or A8.432. If any words, phrases, clauses, sentences, subsections, or provisions of Charter Sections 12.204 or A8.432 are held invalid as applied to any person, circumstance, employee or category of employee, such invalidity shall not affect any application of Charter Sections 12.204 or A8.432 which can be given effect. Charter Sections 12.204 or A8.432 shall be broadly construed to achieve their stated purpose.

Notwithstanding Charter Section A8.432, the Board of Supervisors shall adopt, by a majority vote ~~before January 1, 2009~~, such ordinances as are necessary to create and administer the Retiree Health Care Trust Fund, and such further ordinances ~~all such other matters~~ as may be

necessary to establish and maintain the purpose described in ~~this section and~~ Sections 12.204  
and A8.432.

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

By: Erik A. Rapoport  
ERIK A. RAPOPORT  
Deputy City Attorney

**LEGISLATIVE DIGEST**

A proposal to submit to the qualified voters of the City and County of San Francisco (the "City"), for an election to be held on November 5, 2013, a measure amending provisions in the City's Charter to limit Retiree Health Care Trust Fund payments to defray participating employer retiree health care costs until employer sub-trusts are fully funded; allow for payments from an individual employer's sub-trust if that employer's retiree health care costs are greater than ten percent (10%) of the employer's total payroll costs even if the sub-trust is not fully funded; permit modifications to these funding guidelines if recommended by the Controller and the City's Governmental Accounting Standards Board actuary, and approved by the Mayor, two-thirds of the Board of Supervisors, and the Retiree Health Care Trust Fund Board; and make the Controller, the City Treasurer, and the Executive Director of the San Francisco Employees' Retirement System (SFERS), or their designees, members of the Trust Fund Board.

[Retiree Health Care Trust Fund]

**Existing Law**

In January 2009, the City established the Retiree Health Care Trust Fund (Trust Fund) to pay for the City's, and other participating employers', retiree health care costs. The San Francisco Unified School District, San Francisco Superior Court, and the San Francisco Community College District are eligible to participate in the Trust Fund upon resolution by their governing boards. Currently, only the City and the San Francisco Community College District participate. Participating employer contributions are segregated into separate sub-trusts.

The Trust Fund Board administers the Trust Fund and is governed by five trustees – one appointed by the City Controller, one by the City Treasurer, one by the SFERS Executive Director, and two elected from among active employee and retired members of the City's Health Service System.

Both the City and its employees make contributions into the Trust Fund calculated as a percentage of total payroll costs. The Trust Fund Board cannot make any payments from the Trust Fund to defray participating employer retiree health care costs until January 1, 2020.

The provisions and operation of the Trust Fund, including employee contributions required by Charter, are not subject to collective bargaining dispute resolution procedures.

Amendments to Current Law

The proposed Charter amendment would limit the Trust Fund Board from making payments to a participating employer to defray retiree health care costs until that employer's sub-trust is fully funded. The proposal, however, permits the Trust Fund Board to make payments from an employer's sub-trust if that employer's retiree health care costs are greater than ten percent (10%) of that employer's total payroll costs.

The proposal permits modifications to these payment guidelines if they are approved by the Controller, the City's GASB actuary, the Mayor, two thirds of the Board of Supervisors and the Trust Fund Board.

The proposal also allows the Controller, the City Treasurer and the SFERS Executive Director to serve as Trust Fund Board members, instead of their respective appointees.

**From:** Board of Supervisors  
**To:** BOS-Supervisors  
**Subject:** For distribution to entire BOS  
**Attachments:** FarrellHealthCharter.docx

**From:** Denise LaPointe [<mailto:denise@lapointeassociates.com>]  
**Sent:** Thursday, May 30, 2013 2:28 PM  
**To:** Board of Supervisors  
**Subject:** For distribution to entire BOS

To Whom it May Concern:

On behalf of Larry Barsetti, please distribute his letter to Supervisor Farrell to the entire Board of Supervisors.

Thank you for your time and attention.

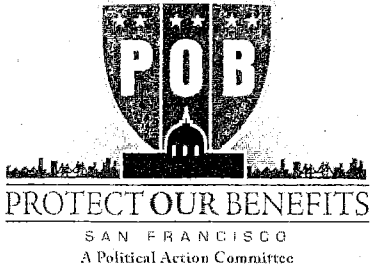
Sincerely,

Denise LaPointe

Denise M. LaPointe  
LaPointe and Associates  
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PO Box 320057  
San Francisco, CA 94132

*Dedicated to Protecting,  
Preserving and Enhancing the  
Benefits of San Francisco  
Retired Employees.*

May 23, 2013

The Honorable Mark Farrell  
Member, Board of Supervisors, District 2  
City and County of San Francisco  
1 Carlton B. Goodlett Place  
San Francisco, CA 94102

Dear Supervisor Farrell,

Thank you once again for taking the time to meet with, and informing, us of the details of your proposed ballot measure on unfunded Health Service System liabilities. Our May 17, 2013 meeting was extremely gratifying to us as you made it abundantly clear from the start that you were concerned for the best interests of retirees as well as recognizing that retiree support was critical to passage of your charter change draft proposal.

Vice-Chair Sharon Johnson, Committee Member Herb Weiner and I couldn't help but feel excited about your remedy to the political problem created by the GASB reporting standards regarding city provided retiree health care. We also thank you for making yourself available to us over the weekend to clarify and fully explain your draft proposal. You made it much easier for our committee to finally endorse your proposal.

During the meeting, and in telephone communications with committee members after, you made it clear that you would keep our committee in the loop and advise us of any changes proposed by other members of the Board of Supervisors. We want to make it clear that we will support the charter change *as it is presently written* and will withdraw support if changes are made that adversely affect retirees.

Again, thank you for listening to our concerns and keeping those concerns in mind while drafting the charter change draft proposal.

Respectfully,

Larry P. Barsetti  
Chair, Protect Our Benefits

Print Form

# 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 (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 [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 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:

- 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 a Imperative**

**Sponsor(s):**

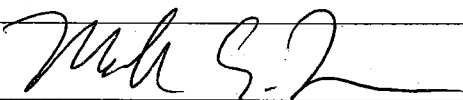
Supervisor Mark E. Farrell

**Subject:**

Charter amendment to solve San Francisco's \$4.4 billion unfunded retiree healthcare liability.

**The text is listed below or attached:**

Attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

130481