

[Administrative Code Revision – Transfer Benefits]

AMENDING CHAPTER 16 OF PART I OF THE SAN FRANCISCO MUNICIPAL CODE (ADMINISTRATIVE CODE), BY AMENDING SECTION 16.9-29, REGARDING THE CITY'S CATASTROPHIC SICK LEAVE POLICY, TO ELIMINATE OUT-DATED PROVISIONS ESTABLISHING THE TASK FORCE ON TRANSFER BENEFITS.

Note: Additions are underlined; deletions are in ((double parentheses)).

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

Section 1. Chapter 16 of the San Francisco Administrative Code is hereby amended by amending Section 16.9-29, to read as follows:

SEC. 16.9-29. T. J. ANTHONY CATASTROPHIC SICK LEAVE POLICY - TRANSFER OF SICK LEAVE AND VACATION CREDITS TO CATASTROPHICALLY SICK EMPLOYEES.

(a) **Purpose.** This Section is enacted as a measure to permit the transfer of sick leave and vacation credits, as authorized by Charter Sections 8.364 and 8.441, respectively.

(b) **Definition of Catastrophic Illness.** In order to be declared catastrophically ill within the meaning of this Section, an employee must meet all of the following conditions:

(1) The employee has sustained a life-threatening illness or injury; and

(2) The employee has already exhausted all available paid sick leave, vacation, compensatory and in-lieu time.

(c) **Eligibility for Receipt of Transfers of Sick Leave and/or Vacation Credits.** Any employee of the City and County of San Francisco who is eligible to accumulate and use sick leave and vacation credits may receive transfers of sick leave and vacation credits pursuant to this Section, if the employee has been found to meet the definition of catastrophically ill

1 pursuant to the procedures prescribed in this Section. This Section only provides for receipt of
2 such credits as are donated and does not provide for an absolute right of continued paid
3 leave.

4 **(d) Procedure for Application for Catastrophic Illness Status.**

5 (1) An employee must complete a prescribed application form and return it to
6 the Department of Public Health, as indicated on the form, together with supporting
7 medical documentation. The Department of Public Health shall produce and maintain
8 sufficient quantities of the prescribed application for employee access and distribution.

9 (2) The Department of Public Health or its designee shall examine the
10 documentation supporting the application. The Department of Public Health or its
11 designee may ask the applicant to submit further documentation and/or to submit to
12 examination by a physician that it designates to determine in fact that the applicant
13 does suffer from a catastrophic illness within the meaning of these rules. An
14 employee's failure to comply with these requirements may be grounds for rejection of
15 the application.

16 (3) After the Department of Public Health makes its determination, it shall notify
17 the employee and the employee's department head, and for vacation leave transfers
18 the employee's department head must assent to the determination.

19 (4) In order to continue to qualify as catastrophically ill, an employee who has
20 been determined to be catastrophically ill may from time to time be required (i) to
21 submit to specified examination and/or (ii) to supply further documentation of current
22 medical status, as is necessary in the opinion of the Department of Public Health or its
23 designee in order to continue to qualify as catastrophically ill; provided, however, that
24 such requests shall not be made for the purpose of harassing said employee.
25

1 (5) If an employee is determined not to be catastrophically ill, the employee
2 shall have a right to appeal the decision through an administrative appeal process to be
3 established by the Public Health Commission, which shall include the right to a review
4 by the Director of the Department of Public Health and, finally, a hearing before the
5 Public Health Commission. The Department of Public Health shall automatically
6 provide the employee with a written letter setting forth the reasons for denial and the
7 procedure for filing an administrative appeal. The Public Health Commission shall
8 promulgate and post the administrative appeal rules within 14 days from the effective
9 date of this ordinance. The administrative appeal process in its entirety shall not
10 exceed 60 days. An employee whose application has been disapproved is not
11 obligated to exhaust the administrative appeals process before reapplying, and instead
12 the employee may reapply after observing a 30-day waiting period from the date of the
13 initial denial.

14 (e) **Eligibility to Transfer Sick Leave and/or Vacation Credits.** Any employee of the
15 City and County of San Francisco who is eligible to accumulate and use vacation credits and
16 sick leave may transfer sick leave and/or vacation credits to another employee subject to the
17 following conditions:

18 (1) The transferring employee must retain a minimum sick leave balance of 64
19 hours;

20 (2) Transfers must be in units of eight hours;

21 (3) All transfers are irrevocable;

22 (4) The transferring employee may transfer hours once per pay period per
23 recipient;

24 (5) The transferring employee may transfer a maximum of 80 hours per pay
25 period and 480 hours per calendar year; and

1 (6) Neither the transferring employee nor the designated recipient may be in
2 violation of Subsection (i).

3 Notwithstanding the foregoing, for employees retiring after January 31, 1992, and prior
4 to March 31, 1992, pursuant to Charter Section 8.517-2, conditions (1), (4) and (5) shall not
5 be applicable.

6 **(f) Posting of Eligible Recipients.**

7 (1) The Department of Public Health shall assign an exclusive number to each
8 catastrophically ill employee deemed eligible to receive sick leave time and/or vacation
9 credit transfers under these rules;

10 (2) The Department of Public Health shall maintain, reproduce and post a
11 running list of catastrophically ill employees, to be identified only by their special
12 numbers, in order to let transferring employees designate a recipient;

13 (3) The list may include the amounts of sick leave and vacation credits already
14 transferred or on reserve to each employee; and

15 (4) In all cases, the Department of Public Health and its designees shall shield
16 and protect the true identities of catastrophically ill employees and the right of
17 employees to confidentiality protections.

18 **(g) Receipt of Transferred Sick Leave and Vacation Credits by a Catastrophically**
19 **Ill Employee.**

20 (1) All hours transferred shall be credited as sick leave for the receiving
21 employee. As they are used, they shall be treated as use of the employee's own sick
22 leave for all purposes, including for continued accrual of vacation credits, sick leave,
23 and retirement service; service for pay increments; and eligibility for holiday pay.
24
25

1 (2) At the beginning of each pay period, a catastrophically ill employee must
2 use all sick leave and vacation credits accrued during the previous pay period before
3 using any transferred hours.

4 (3) An employee who has been determined catastrophically ill may use
5 transferred hours retroactively from the date of certification of eligibility back to the date
6 of application.

7 (4) A receiving employee may use transferred credits in a pay period to the
8 extent that when combined with other compensation from the City and County and all
9 other benefits from public sources, the total does not exceed the pay for 100 percent of
10 the employee's regularly scheduled hours for such pay period (excluding regularly
11 scheduled overtime and premium pay). A receiving employee may be required to
12 provide financial records to prove compliance with this subsection. Failure to provide
13 such records is grounds for exclusion from eligibility to receive sick leave and vacation
14 credit transfers pursuant to this Section.

15 (5) If a catastrophically ill employee dies, retires, or resigns before having used
16 all hours transferred pursuant to this provision, the unused hours shall be divided
17 equally among catastrophically ill employees with sick leave balances of 40 hours or
18 less, provided that no catastrophically ill employee shall receive more than 40 hours
19 under such procedure. If this is not sufficient to exhaust the deceased, retired, or
20 resigned employee's unused hours, the remainder shall then be divided equally among
21 all catastrophically ill employees with sick leave balances of 80 hours or less, provided
22 that no catastrophically ill employee shall receive more than 40 hours under such
23 procedure; if this is not sufficient to exhaust the deceased, retired, or resigned
24 employee's unused hours, the remainder shall then be divided equally among all
25 catastrophically ill employees with sick leave balances of 120 hours or less, provided

1 that no catastrophically ill employee shall receive more than 40 hours under such
2 procedure; further applications of this rule in increments of 40 hours shall be applied
3 until all the deceased employee's remaining hours shall have been redistributed.

4 **(h) Confidentiality.**

5 (1) All medical records submitted by an employee pursuant to this statute are to
6 be kept confidential by the Department of Public Health or its designee.

7 (2) Until the Department of Public Health has rendered its opinion pursuant to
8 Subsection (d) that the employee is catastrophically ill, the fact of an employee's
9 application is to be kept confidential by the parties processing the application and not
10 shared with the employee's department head.

11 (3) The names of employees donating hours pursuant to this provision are to
12 remain confidential.

13 (4) Violation of the provisions of this subsection or any other relating to
14 confidentiality protections shall be grounds for disciplinary action.

15 **(i) No Selling or Coercion.**

16 (1) No individual shall directly or indirectly solicit the receipt of, or accept, any
17 compensation in full or partial exchange, directly or indirectly, for sick leave or vacation
18 credits to be transferred pursuant to this Section.

19 (2) No individual shall solicit the receipt of, or accept, the transfer of any sick
20 leave or vacation credits pursuant to this Section in full or partial ex-change, directly or
21 indirectly, for any compensation.

22 (3) No individual shall threaten or in any way attempt to coerce an employee
23 with respect to transfer of sick leave or vacation credits pursuant to this Section.

24 (4) Violation of the provisions of this subsection shall be grounds for disciplinary
25 action.

1 (j) **Limitation.** In undertaking the adoption and enforcement of this ordinance, the City
2 and County of San Francisco is assuming an undertaking only to promote the general welfare.
3 It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of
4 which it is liable in money damages to any person who claims that such breach proximately
5 caused injury.

6 (((k) **Review.**

7 (1) Within six months following final passage of this ordinance, a Task Force on
8 Transfer Benefits shall be assembled to review the sick leave and vacation transfer
9 program, the report of the Executive Director of Employee Relations on the costs of
10 purchasing long-term disability insurance for employees of the City and County of San
11 Francisco, this ordinance, and the performance of City and County departments in
12 carrying out their Charter and statutory obligations.

13 (2) The Task Force shall be composed of seven members, with one member
14 each representing the Health Commission, Civil Service Commission, and Retirement
15 Board; two members representing employee associations; one member representing
16 the public; and one member representing persons with catastrophic illnesses;

17 (3) Members of the Task Force shall be appointed by the Board of Supervisors
18 in accordance with the composition requirements established herein; and

19 (4) The Task Force shall prepare a report with its findings and
20 recommendations for improvements or modifications in the sick leave and vacation
21 credit transfer program, and to be presented to the Board of Supervisors and Mayor
22 within 120 days from the date of the first meeting of the Task Force.))

23 (k) (((l))) **Notices.** The Civil Service Commission shall develop notices with relevant
24 information about the sick leave and vacation credit transfer program, including facts on how
25 and where to apply for registry as a catastrophically ill employee, and how and where

1 employees can contribute sick leave time and vacation credits to catastrophically ill co-
2 workers. These notices shall be distributed to all appointing officers who shall then post them
3 in public places where other notices advising employees of rights and benefits are posted.

4 (l) (((m))) **Termination of this Provision.** Unless otherwise specified by ordinance
5 or Charter provision, the provisions of this Section shall expire upon the effective date of a
6 successor ordinance or Charter section providing for transfer of sick leave and vacation
7 credits or upon the effective date of an ordinance or Charter section instituting a long-term
8 disability program.

9 (m) (((n))) **Retroactive.** The provisions of this Section shall be effective retroactively
10 to the date the relevant Charter amendments were certified by the State of California.

11 (n) (((o))) **Sunset.** Not later than 14 months after this ordinance goes into effect, and
12 every 18 months thereafter, the Clerk shall calendar for hearing in the appropriate committee
13 consideration of whether this legislation should be amended. At that time the Board of
14 Supervisors can evaluate the fiscal consequences in light of the City's experience under the
15 removal of the cap.

16 (o) (((p))) **Retroactive Application of the 1994 Amendment.** The 1994 amendment
17 shall be effective retroactive to August 11, 1994.

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19 APPROVED AS TO FORM:

20 LOUISE H. RENNE, City Attorney

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22 By:


THOMAS J. OWEN
Deputy City Attorney

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24
25
SUPERVISOR KAUFMAN
BOARD OF SUPERVISORS



City and County of San Francisco

Tails

Ordinance

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

File Number: 001011

Date Passed:

Ordinance amending Chapter 16 of Part I of the San Francisco Municipal Code (Administrative Code), by amending Section 16.9-29, regarding the City's catastrophic sick leave policy, to eliminate out-dated provisions establishing the Task Force on Transfer Benefits.

July 24, 2000 Board of Supervisors — PASSED, ON FIRST READING

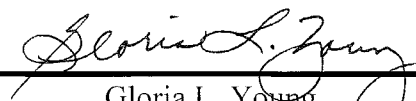
Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

July 31, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Becerril, Bierman, Katz, Kaufman, Leno, Newsom, Teng, Yee
Absent: 2 - Brown, Yaki

File No. 001011

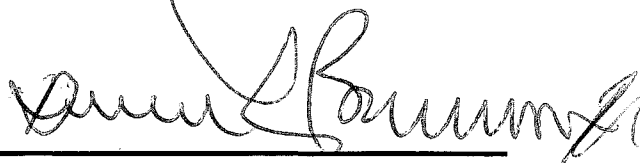
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on July 31, 2000 by
the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

AUG 11 2000

Date Approved



Mayor Willie L. Brown Jr.