

1 [Charter Amendment - Enhancement of Paid Parental Leave for City Employees]

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3 **Describing and setting forth a proposal to the voters to amend the Charter of the City and**
4 **County of San Francisco to allow City employees who qualify to take leave for the birth or**
5 **placement of the same child to each receive the maximum amount of paid parental leave**
6 **for which they qualify, and to permit City employees to retain 40 hours of accrued sick**
7 **leave at the end of paid parental leave, at an election to be held on November 3, 2015.**

8 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City
9 and County, at an election to be held on November 3, 2015, a proposal to amend the Charter of
10 the City and County by revising Sections A8.365, A8.365-1, A8.365-2, A8.365-3, and A8.365-4,
11 to read as follows:

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

17 **A8.365 COMPENSATION DURING PARENTAL LEAVE**

18 Under federal, state and local law, employees are entitled to take an unpaid leave of
19 absence in the event of pregnancy disability or to care for a child after birth or placement for
20 adoption or foster care. But employees may not have the financial resources to take advantage of
21 this leave. This section provides compensation to supplement state disability insurance
22 payments, paid sick leave, compensatory time, and other forms of paid leave, to ensure that an
23 employee will receive the equivalent of the employee's salary for 12 weeks, or, if the employee is
temporarily disabled by pregnancy, up to 16 weeks, while on approved leave.

24 In accordance with this section, eligible employees on approved Parental Leave shall
25 receive Supplemental Compensation as set forth herein.

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

8 **A8.365-1 DEFINITIONS**

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

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

13 "Employee" shall mean any person who is appointed to a position created by or which is
14 under the jurisdiction of the City and County, whose compensation is paid by the City and
15 County, and who is under the control of the City and County as to employment, direction and
16 discharge and does not include persons who occupy classified or certificated positions with the
17 San Francisco Unified School District or the Community College District or who work for the
18 City as independent contractors.

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

23 "Parental Leave" shall mean (a) Family Medical Leave as defined below; (b) Temporary
24 Pregnancy Disability Leave as defined below:
25

1 (a) "Family Medical Leave" shall mean leave taken pursuant to the Family
2 and Medical Leave Act, the California Family Rights Act, or Civil Service Commission Rules,
3 where such leave is taken after the birth of a child to the Employee, the Employee's spouse or
4 the Employee's Domestic Partner or for placement of a child with the Employee's family for
5 adoption or foster care, and has been requested and approved in accordance with the procedures
6 set forth in those respective statutes or rules, except to the extent that those statutes, rules, or any
7 associated regulations allow an employer to limit leave to a combined total maximum duration if
8 more than one employee qualifies to take leave for the birth or placement of the same child.
9 Charter Sections A8.365 through A8.365-4 are intended to provide each Employee the
10 maximum duration of Parental Leave to which he or she would otherwise be entitled under its
11 provisions, regardless of the amount of leave taken by another Employee for the birth or
12 placement of the same child.

13 (b) "Temporary Pregnancy Disability Leave" shall mean disability leave taken
14 in accordance with State law or the Civil Service Commission Rules because of an Employee's
15 inability to work, as certified by a health care provider, for reasons of pregnancy, childbirth, or
16 related conditions, as defined by the California Fair Employment and Housing Act, Govt. Code
17 Section 12945.1(b)(2) ~~et seq.~~

18 "Supplemental Compensation" shall mean compensation paid by the City to eligible
19 Employees on Parental Leave. The amount of Supplemental Compensation shall be the
20 Employee's regular base wage less (1) all accrued Paid Lease from the City with the
21 exception of 40 hours of sick leave and (2) any payments received by the Employee from a
22 federal, state or other local government agency in lieu of compensation.

23 **A8.365-2 ELIGIBILITY**

24 The following Employees shall be eligible to receive compensation as set forth herein:
25

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

3 (b) All other Employees of the City and County of San Francisco, including "as
4 needed" Employees, who have worked ~~one thousand and forty~~1040 hours (~~1040~~) in the ~~twelve~~
5 (~~12~~) months prior to the beginning of the Parental Lease and whose average work week is not
6 less than ~~twenty~~20 hours.

7 **A8.365-3 DURATION**

8 Employees shall receive Supplemental Compensation as set forth herein for a period
9 not to exceed ~~twelve~~12 weeks while on approved Family Medical Leave. Employees who take
10 approved Temporary Pregnancy Disability Leave shall receive up to an additional ~~four~~ 4 weeks
11 of compensation. Such compensation shall be subject to the conditions set forth in Section
12 A8.365-4.

13 **A8.365-4 SUPPLEMENTAL COMPENSATION**

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

16 (1) Employees on approved Parental Leave shall first exhaust all accrued
17 Paid Lease, with the exception of 40 hours of sick leave, before receiving any Supplemental
18 Compensation ~~under this section~~. Alternatively, if if an Employee chooses not to exhaust ~~these~~
19 accrued leaves; as required by the previous sentence, the total amount of ~~the benefit~~
20 Supplemental Compensation for which the Employee would otherwise ~~have been~~ be eligible
21 will be reduced by the total amount of accrued Paid Lease ~~accrued by the E~~mployee chooses
22 to retain, with the exception of 40 hours of accrued sick leave. as of the start of the leave.

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

1 (3) Supplemental Compensation shall be provided for no more than ~~twelve~~ 12
2 weeks, in the case of Employees taking Family Medical Leave, or ~~sixteen~~ 16 weeks, in the case
3 of Employees who take Temporary Pregnancy Disability Leave. For Employees eligible for
4 both Family Medical Leave and Temporary Pregnancy Disability Leave, Supplemental
5 Compensation shall be provided for no more than 16 ~~sixteen~~ weeks total. The 12 ~~twelve~~-or
6 ~~16~~sixteen week period shall be reduced by any Paid Lease taken by the Employee: (A) after
7 the birth of a child to the Employee, the Employee's spouse, or the Employee's Domestic
8 Partner; (B) after placement of a child with the Employee's family for adoption or foster
9 care; or ~~taken~~ (C) for temporary pregnancy disability, within ~~twelve~~12 months prior to the
10 commencement of Parental Leave as defined herein.

11 (4) Under no circumstance shall an Employee receive from the City
12 ~~S~~upplemental Compensation ~~under this Charter section~~ which would result in an Employee
13 receiving total compensation while on Parental Leave which is greater than the Employee's
14 regular base wage.

15 (b) During Parental Lease, the City shall continue to pay the contributions required
16 by this Charter for retirement and health benefits, and any employer-paid Employee retirement
17 and health contributions required under the memorandum of understanding or unrepresented
18 ordinance covering the Employee. Retirement contributions shall be based on the actual amount
19 of City pay received during the period of Parental Lease.

20 (c) The amendment of this Section A8.365-4 approved at the November 3, 2015
21 election shall apply only to Employees who have not yet begun Parental Leave on the effective

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1 date of the amendment, or who have begun Parental Leave but have not yet exhausted all of their
2 accrued sick leave on the effective date of the amendment.

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

5 By: _____
6 SALLIE P. GIBSON
7 Deputy City Attorney

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