

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

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TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: September 5, 2019 Government Audit and Oversight Committee Meeting

TABLE OF CONTENTS

Item	File	Page
1	19-0680 Administrative Code - Heart Trouble and Pneumonia Presumptions for Fire and Police Retirement Benefits	1
2	19-0660 Campaign and Governmental Conduct Code - Public Campaign Financing	5

<p>Item 1 File 19-0680</p>	<p>Department: Retirement System</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend the City’s Administrative Code to add heart diseases, and pneumonia presumptions for firefighter and police officer industrial disability and death as a result of duty retirement benefits. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • City Administrative Code Sections 16.85 and 16.86 create a presumption for firefighters and police officers applying for retirement benefits under the San Francisco City and County Employees’ Retirement System (SFERS) who meet certain eligibility criteria that any heart disease or pneumonia arises out of the course of the member’s employment. However, Section 16.85 sets a higher standard for proof than the standard established under the California Labor Code. • Under the proposed ordinance, the hearing officer assigned to hear the application for retirement benefits is bound to find in accordance with evidence presented that heart disease or pneumonia results from the firefighters’ or police officers’ employment. Further, the amendment adds that heart disease or pneumonia shall not be attributed to any disease existing prior to the development or manifestation of the heart disease or pneumonia. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The San Francisco Employees’ Retirement System consulting actuary, Cheiron, estimates that the proposed ordinance would increase the City’s contribution to SFERS by approximately \$350,000 to \$701,000 in FY 2019-20. The City’s contribution to SFERS is calculated as a percent of payroll. According to Cheiron, the City’s contribution to SFERS for (a) police officers would increase from 31.56 percent to approximately 31.61 percent of payroll, and (b) firefighters would increase from 32.63 percent to approximately 32.72 percent of payroll. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

In accordance with Charter Section A8.500, ordinance provisions already existing with respect to the Retirement System shall continue in force until amended or revoked by the Board of Supervisors as provided in Charter Section A8.500. The Board of Supervisors, by a vote of three-fourths of its members, can approve any and all ordinances necessary to carry into effect the provisions of Charter Sections 12.100 to 12.103 pertaining to the Retirement Board and Trust Fund, and the Retirement System provisions of the Charter, as set forth in Appendix Sections A8.500 et. seq.; provided that the Board of Supervisors shall secure, through the Retirement Board, an actuarial report of the cost and effect of any proposed change in the benefits under the Retirement System, before enacting an ordinance or before voting to submit any proposed Charter amendment providing for such change.

BACKGROUND

San Francisco firefighters and police officers are more susceptible to developing heart disease due to the nature of their job duties, including the many chemical agents they are exposed to during the course of their work. California workers compensation laws provide benefits to employees for work place injuries, which include heart disease and pneumonia presumption for firefighters and police officers. Under California Labor Code Section 3212 and 3212.5, heart disease and pneumonia are presumed an industrial injury if either condition develops or manifests during a time that the member is in the service of a fire or police department.

City Administrative Code Sections 16.85 and 16.86 create a presumption for firefighters and police officers applying for retirement benefits under the San Francisco City and County Employees' Retirement System (SFERS) who meet certain eligibility criteria that any heart disease or pneumonia arises out of the course of the member's employment. However, Section 16.85 sets a higher standard for proof than the standard established under the California Labor Code. A San Francisco firefighter who applies to SFERS for an industrial disability retirement must establish that their injury or illness was caused by their work duties, that the heart disease or pneumonia is incapacitating, and that the disease cannot be attributed to a prior condition. The proposed ordinance would make these standards more lenient, and heart disease or pneumonia will be presumed to arise out of the member's employment in the SFERS benefit application process.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend City Administrative Code Section 16.85 and Section 16.86 to presume that police officers' and firefighters' heart disease and pneumonia which develop or manifest when the member is in the service of the Police or Fire Department were a result of the member's employment. The presumption is disputable, but unless controverted by other evidence, the hearing officer assigned to hear the application is bound to find in accordance with it. Further, the amendment adds that heart disease or pneumonia shall not be attributed to any disease existing prior to the development or manifestation of the heart disease or pneumonia. Under the ordinance, the sections apply to:

1. Sworn members of the Fire Department or Police Department who have served a total of five years or more in the Fire Department or Police Department. For the purpose of determining whether the member has five or more years of service, time served in another fire or police department in the State of California shall be combined with service in the Fire Department or Police Department, provided that the member was entitled to the same presumption of subsection and prohibition of subsection and became a member of the Police or Fire department within six months of the prior employment.
2. The application must be for industrial disability retirement or death as a result of duty benefits under the SFERS.
3. The heart disease and pneumonia presumption applies only to applications for benefits in connection with injuries or deaths filed on or after January 1, 2015. However, the presumption does not apply to such an application, if as of the effective date of the proposed new Administrative Code Section 16.85, the hearing officer assigned to hear the application under Charter Section 12.102, and Charter Section A8.518 either: (a) has rendered an initial decision on the application and the member did not request rehearing within the time specified under the Charter, or (b) has rendered an initial decision and the member timely requested a rehearing under the Charter, and the hearing officer has issued a decision on rehearing.

The subsection does not apply if:

1. Incapacitation on account of heart disease if there was any evidence of heart disease identified in the physical examination of the member conducted as part of the member's initial hire in the Fire Department or Police Department.
2. Incapacitation on account of pneumonia if there was any evidence of pneumonia identified in the physical examination of the member conducted as part of the member's initial hire in the Fire Department or Police Department.

Finally, the ordinance amends Administrative code 16.85 to state that the Retirement System shall use the member's eligible prior safety service in another fire or police department to measure the date upon which the member would be qualified for service retirement.

FISCAL IMPACT

The San Francisco Employees' Retirement System consulting actuary, Cheiron, estimates that the proposed ordinance would increase the City's contribution to SFERS by approximately \$350,000 to \$701,000 in FY 2019-20. The City's contribution to SFERS is calculated as a percent of payroll. According to Cheiron, the City's contribution to SFERS for (a) police officers would increase from 31.56 percent to approximately 31.61 percent of payroll, and (b) firefighters would increase from 32.63 percent to approximately 32.72 percent of payroll.^{1,2}

¹ The range cited by Cheiron for police officers was 31.60 percent to 31.62 percent, and for firefighters was 32.70 percent to 32.74 percent.

Cheiron's estimate is based on information provided by SFERS, Cheiron found that there were 190 industrial disabilities granted since July 2013, and that five to eight industrial disabilities claims related to heart disease or pneumonia were denied during the same period. These claims may have been considered an industrial disability under the proposed ordinance. The disability rate increases were based on five additional disabilities granted at the low end, and eight additional disabilities granted at the high end.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

² Total estimated City payroll in FY 2019-20 is \$3.5 billion, of which the contribution to SFERS is \$620.6 million. The increase of \$350,000 to \$700,000 in the City's contribution to SFERS as a result of the proposed ordinance increases the City's contribution by less than one-tenth of a percent.

<p>Item 2 File 19-0660</p>	<p>Department: Ethics Commission (Commission)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance amends the City’s Campaign and Governmental Conduct Code to increase the amount of public financing available to candidates for the Board of Supervisors and Mayor. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The City gives matching public finance grants to candidates for Board of Supervisors and Mayor who meet fundraising thresholds defined in the Campaign and Governmental Conduct Code. The proposed legislation increases the amount of the initial grant to candidates, and increases the amount of the dollar-to-dollar match for candidates who raise funds above the initial fundraising threshold. • Under the proposed ordinance, the maximum public finance grant to non-incumbent candidates for Board of Supervisors increases from \$155,000 to \$255,000, and to incumbent candidates for Board of Supervisors increases from \$152,500 to \$252,500. The maximum public finance grant to non-incumbent candidates for Mayor increases from \$975,000 to \$1,200,000, and to incumbent candidates for Mayor increases from \$962,500 to \$1,185,000. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The Election Campaign Fund balance as of January 1, 2018 was \$7,034,525, which is the maximum fund amount authorized in the City’s Campaign Finance Reform Ordinance. The Election Campaign Fund allocated \$1,513,467 in public finance grants to 11 candidates for Board of Supervisors in the June 2018 and November 2018 elections. If the provisions of the proposed ordinance had been in effect in 2018, grants to the 11 candidates for the Board of Supervisors would have increased to \$2,802,000. • The FY 2019-20 allocation to the Election Campaign Fund, previously appropriated by the Board of Supervisors, is \$6,803,704. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed resolution is a policy decision for the Board of Supervisors. 	

MANDATE STATEMENT

According to Charter Section 2.105, the Board of Supervisors shall act only by written ordinance or resolution.

BACKGROUND

San Francisco currently operates a voluntary public financing program for candidates for the office of Board of Supervisors and for Mayor. In order to participate in the public financing candidates must first raise a required amount of funds from a specific number of private donors. The proposed ordinance would amend the City's Campaign and Governmental Conduct Code to increase the matching ratio for campaign contributions raised by candidates participating in the City's public financing program and increase the amount of public funds available to those candidates.

Under current code provisions, candidates for the Board of Supervisors must raise \$10,000 from 100 people or more who are residents of San Francisco before the 70th day before the election, while candidates for Mayor must raise at least \$50,000 from at least 500 San Francisco residents by the 70th day before the election.¹ Upon qualifying, candidates for the Board of Supervisors receive a public finance grant of \$20,000, while candidates for Mayor receive a public finance grant of \$100,000.

Candidates are eligible for additional matching funds after the initial public finance grant of \$20,000 to candidates for the Board of Supervisors, and \$100,000 to candidates for Mayor. Candidates for the Board of Supervisors shall receive \$2 in matching contributions for each \$1 raised by the candidate up to \$50,000, and \$1 in matching contributions for each \$1 raised by the candidate exceeding \$50,000 and up to \$85,000. Candidates for mayor shall receive \$2 in matching contributions for each \$1 raised by the candidate up to \$425,000, and \$1 in matching contributions for each \$1 raised by the candidate exceeding \$425,000 and up to \$450,000. The maximum publicly-financed matching contribution for candidates for Board of Supervisors is \$155,000, and for Mayor is \$975,000.

The City's Campaign and Governmental Conduct Code allows for an individual candidate's expenditure ceiling (the total amount a candidate can spend to finance their campaign) of \$250,000 for candidates for Board of Supervisors, and \$1,475,000 for candidates for Mayor. Eligibility for public financing is also dependent upon there being an opposition candidate who is also eligible for public financing, or a candidate who has spent \$10,000 on their campaign for Board of Supervisors or \$50,000 on their campaign for Mayor.

¹ Incumbents face higher thresholds for qualification for public financing and different ratios for matching. For information on the how codes apply to incumbents see Tables 1 and 2.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance amends the City's Campaign and Governmental Conduct Code to increase the amount of public financing available to candidates for the Board of Supervisors and Mayor. Proposed changes for candidates for Mayor are described below in Table 1 and proposed changes for candidates for the Board of Supervisors are described below in Table 2.

Table 1: Proposed Amendment to San Francisco Campaign and Governmental Conduct Code for Public Financing of Campaigns for Mayor

	Current Code Provision	Proposed Amendment
Amount needed to qualify for public financing	<p>\$50,000 from 500 people or more who are residents of San Francisco by the 70th day before election (non-incumbent)</p> <p>\$75,000 from 750 people or more who are residents of San Francisco by the 70th day before election (incumbent)</p>	<p>\$50,000 from 500 people or more who are residents of San Francisco by the 70th day before election (non-incumbent)</p> <p>\$75,000 from 750 people or more who are residents of San Francisco by the 70th day before election (incumbent)</p>
Initial grant to candidate upon qualification for public campaign financing	\$100,000	\$300,000
Maximum amount of each contribution raised by candidate eligible for publicly-financed match	Up to \$500	Up to \$150
Matching ratios	<p>\$2 for each \$1 raised for the next \$425,000 after the initial amount</p> <p>\$1 for each \$1 raised for additional contributions between \$425,000 and \$450,000</p>	<p>\$6 for each \$1 raised for the next \$150,000 after the initial amount (non-incumbent);</p> <p>\$6 for each \$1 raised up to \$147,500 after the initial amount (incumbent);</p>
Maximum amount of public financing	<p>\$975,000 (non-incumbent)</p> <p>\$962,500 (incumbent)</p>	<p>\$1,200,000 (non-incumbent)</p> <p>\$1,185,000 (incumbent)</p>
Individual expenditure ceilings	\$1,475,000	\$1,700,000

Source: Proposed Ordinance

Table 2: Proposed Amendment to San Francisco Campaign and Governmental Conduct Code for Public Financing of Campaigns for San Francisco Board of Supervisors

	Current system	Change
Amount needed to qualify for public financing	<p>\$10,000 from 100 people or more who are residents of San Francisco <i>before</i> the 70th day before the election (non-incumbent)</p> <p>\$15,000 from 150 people or more who are residents of San Francisco <i>before</i> the 70th day before the election (incumbent)</p>	<p>\$10,000 from 100 people or more who are residents of San Francisco <i>by</i> the 70th day before the election (non-incumbent)</p> <p>\$15,000 from 150 people or more who are residents of San Francisco <i>by</i> the 70th day before the election (incumbent)</p>
Initial grant to candidate upon qualification for public campaign financing	\$20,000	\$60,000
Maximum amount of each contribution raised by candidate eligible for publicly-financed match	Up to \$500	Up to \$150
Matching ratios	<p>\$2 for each \$1 raised for the next \$50,000 after the initial amount raised</p> <p>\$1 for each \$1 raised for additional contributions between \$50,000 and \$85,000</p>	\$6 for each \$1 raised for the \$32,500 raised after the initial amount
Maximum amount of public financing	<p>\$155,000 (non-incumbent)</p> <p>\$152,500 (incumbent)</p>	<p>\$255,000 (non-incumbent)</p> <p>\$252,500 (incumbent)</p>
Individual expenditure ceilings	\$250,000	\$350,000

Source: Proposed Ordinance

The proposed ordinance was considered at the May 29, 2019 Ethics Commission meeting. The Commission approved a motion to approve provisions in the proposed ordinance shown in Tables 1 and 2 above, including (a) reducing the maximum amount of each contribution raised by the candidate that is eligible for a publicly-financed match; (b) increasing the initial grants to qualified supervisory and mayoral candidates; (c) increasing the maximum amount of public financing per candidate, and (d) increasing the individual expenditure ceilings.

FISCAL IMPACT

The source of public funds used for campaigns is the City's Election Campaign Fund, administered by the Ethics Commission. The Fund is allocated \$2.75 per San Francisco resident each year whether there is an election or not. Additional funding is provided for special elections for Mayor.

The Election Campaign Fund balance as of January 1, 2018 was \$7,034,525, which is the maximum fund amount authorized in the City's Campaign Finance Reform Ordinance. The Election Campaign Fund allocated \$1,513,467 in public finance grants to 11 candidates for Board of Supervisors in the June 2018 and November 2018 elections. If the provisions of the proposed ordinance had been in effect in 2018 for candidates for the Board of Supervisors, the grants to the 11 candidates have increased to \$2,802,000.²

In addition to the \$1,513,467 in publicly-financed grants to candidates for the Board of Supervisors, the Election Campaign Fund granted \$2,660,762 to candidates for Mayor in the June 2018 election.

The FY 2019-20 allocation to the Election Campaign Fund, previously appropriated by the Board of Supervisors is \$6,803,704.

RECOMMENDATION

Approval of the proposed resolution is a policy decision for the Board of Supervisors.

² This does not account for the provision in the Campaign and Governmental Conduct Code that approximately 15 percent of the Fund can be used for Ethics Commission administrative activities.