



**SAN FRANCISCO RETIREE HEALTH CARE TRUST FUND (FUND)**

**5.1 – SAN FRANCISCO CHARTER SECTIONS 4.100-4; 12.204; A8.432; AND A8.432-1**

**San Francisco Charter Sections 4.100-4**

**SEC. 4.100. GENERAL**

In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by State or Federal law shall be subject to the provisions of this Article and this Charter.

**SEC. 4.101. BOARDS AND COMMISSIONS – COMPOSITION**

(a) Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation, and types of disabilities of the City and County and have representation of both sexes; and
2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

It shall be the official City policy that the composition of each appointive board, commission, or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California, or the Board of Supervisors shall reflect the interests and contributions of both men and women of all races, ethnicities, sexual orientations, and types of disabilities. The voters therefore urge in the strongest terms all City officers and agencies involved in nominating, appointing or confirming members of those appointive boards, commissions, or advisory bodies to consider and as appropriate support the nomination, appointment or confirmation of female, minority, and disabled candidates to fill seats on those bodies.

The Commission on the Status of Women shall conduct an analysis of appointments to appointive boards, commissions, and advisory bodies in the second and fourth year of each mayoral administration to track the diversity of appointments to such bodies. This analysis, to be based only on voluntary disclosures, shall include gender, ethnicity, sexual orientation, disability status, and any other relevant demographic qualities.

(b) Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this Charter or ordinance for initial appointments.

(c) Terms of office shall continue as they existed on the effective date of this Charter.

(Amended by Proposition D, 6/3/2008)

**SEC. 4.101.5. HOLD-OVER SERVICE BY BOARD AND COMMISSION MEMBERS.**

(a) **Application of this Section.** Unless otherwise provided in this Charter or required by law, the requirements of this Section shall apply to the members of each appointive board, commission, or other unit of government of the executive branch of the City and County or otherwise created in the Charter ("Charter Commission"). Citizen advisory committees created in the Charter shall not be considered Charter Commissions for purposes of this Section. The provisions of this Section shall not apply to boards or commissions created in Article V (Executive Branch – Arts and Culture) or Article XII (Employee Retirement and Health Service Systems) of this Charter.

(b) **Limitations on Hold-Over-Service.** Except as otherwise provided in this Charter, the tenure of a member of any Charter Commission shall terminate no later than 60 days after the expiration of the member's term, unless the member is re-appointed. A member may not serve as a hold-over member of a Charter Commission for more than 60 days after the expiration of his or her term. The tenure of any person sitting as a hold-over member on the effective date of this amendment shall terminate no later than 60 days after the effective date of this amendment.

(Added by Proposition B, Approved 11/6/2007)

**SEC. 4.102. BOARDS AND COMMISSIONS – POWERS AND DUTIES**

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Formulate, evaluate and approve goals, objectives, plans and programs and set policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation;
2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;
3. After public hearing, approve applicable departmental budgets or any budget modifications or fund transfers requiring the approval of the Board of Supervisors, subject to the Mayor's final authority to initiate, prepare and submit the annual proposed budget on behalf of the executive branch and the Board of Supervisors' authority under Section 9.103;
4. Recommend to the Mayor for submission to the Board of Supervisors rates, fees and similar charges with respect to appropriate items coming within their respective jurisdictions;

5. Unless otherwise specifically provided, submit to the Mayor at least three qualified applicants, and if rejected, to make additional nominations in the same manner, for the position of department head, subject to appointment by the Mayor;
6. Remove a department head; the Mayor may recommend removal of a department head to the commission, and it shall be the commission's duty to act on the Mayor's recommendation by removing or retaining the department head within 30 days; failure to act on the Mayor's recommendation shall constitute official misconduct;
7. Conduct investigations into any aspect of governmental operations within its jurisdiction through the power of inquiry, and make recommendations to the Mayor or the Board of Supervisors;
8. Exercise such other powers and duties as shall be prescribed by the Board of Supervisors; and
9. Appoint an executive secretary to manage the affairs and operations of the board or commission.

In furtherance of the discharge of its responsibilities, an appointive board, commission or other unit of government may:

10. Hold hearings and take testimony; and
11. Retain temporary counsel for specific purposes, subject to the consent of the Mayor and the City Attorney.

Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

#### **SEC. 4.103. BOARDS AND COMMISSIONS – ANNUAL REPORT**

As of the operative date of this Charter and until this requirement is changed by the Board of Supervisors, each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. The Annual Report can be included in the Annual Statement of Purpose as provided for in Section 4.102(2).

#### **SEC. 4.104. BOARDS AND COMMISSIONS – RULES AND REGULATIONS**

(a) Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such

- public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.
2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.
  3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection.

(b) The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. The term "presence" shall include participation by teleconferencing or other electronic means as authorized by Government Code Section 54953(b) or any successor legislation after the Board of Supervisors has adopted an ordinance pursuant to subsection (c) allowing such participation when the member is physically unable to attend in person, as certified by a health care provider, due to the member's pregnancy, childbirth, or related condition. The Board of Supervisors may also, as part of a parental leave policy adopted pursuant to subsection (c), authorize a member of a board or commission to participate in meetings by teleconferencing or other electronic means when the member is absent to care for his or her child after birth of the child, or after placement of the child with the member or the member's immediate family for adoption or foster care. Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

(c) Notwithstanding the provisions of Charter Section 10.101, the Board of Supervisors shall provide by ordinance for parental leave policies for members of appointive boards, commissions or other units of government, including, but not limited to, authorization to participate in meetings by teleconferencing or other electronic means pursuant to subsection (b) and subject to the restrictions listed in that subsection.

## **San Francisco Charter Section 12.204**

### **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. 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. Subject to the approval of the Board of Supervisors by resolution, the Retiree Health Care Trust Fund Board (Board) may, upon the adoption of a resolution, authorize specific payments for specific amounts enumerated in the resolution shall pay for such administrative costs from the RHCTF.

(b) The Board shall govern the RHCTF. The Board shall consist of the following five trustees: the City Controller, the City Treasurer, and the Executive Director of the San Francisco Employees' Retirement System, or their respective designees; and two trustees 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.

(Amended by Proposition B, 6/3/2008; Proposition A, 11/5/2013)

## **San Francisco Charter Section A8.432**

### **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) 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 on or after January 10, 2009, shall contribute their respective Employer's Normal Cost to the RHCTF. The annual active officer and employee RHCTF contribution rate for each Employer shall be that Employer's Normal Cost, as determined by that Employer's respective Governmental Accounting Standards Board (GASB) Actuary, computed as a percentage of compensation not to exceed 2% of pre-tax compensation for each officer and employee. Each Employer's GASB Actuary shall determine that 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. Thereafter, 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 that Employer's GASB Actuary, except that the contribution rate for officers and employees shall not exceed 2% of pre-tax compensation. In the event that the contribution rates set forth above do not cover the entire Normal Cost, the Employer shall contribute the balance into the RHCTF.

**(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 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 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 officers and employees who Commenced Employment on or before January 9, 2009, shall not exceed their Employer's Normal Cost as determined by each Employer's respective General Accounting Standards Board (GASB) Actuary on a bi-annual basis.

Starting July 1, 2016, the Employers shall contribute 0.25% of compensation into the RHCTF for each officer and 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 officer and 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. Thereafter, 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 that Employer's GASB Actuary, except that the contribution rate for officers and employees shall not exceed 1% of pre-tax compensation. In the event that the contribution rates set forth above do not cover the entire Normal Cost, the Employer shall contribute the balance into the RHCTF.

**(c) Segregation of Retiree Health Care Trust Fund Assets**

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

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

(1) In order to ensure a long-term and sustainable funding source to defray the cost of the City's obligation to pay for health coverage for retired persons and their survivors entitled to health coverage under Section A8.428, the Board may authorize

disbursements from the City's sub-trust, other than disbursements to defray the reasonable expenses of administering the RHCTF, only during periods when the City's GASB Actuary has determined that the City's sub-trust is Fully Funded. When the City's sub-trust is Fully Funded, the Board may disburse sub-trust assets to defray the cost of the City's obligation to pay for health coverage for its 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 in consultation with the City's GASB Actuary.

(2) Notwithstanding Section A8.432(d)(1) above, and in order to stabilize City contributions during the transition period until 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, after consultation with 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)(2), 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.

(3) Upon a recommendation of the Controller, after consultation with 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 disbursement limitations different from the limitations set forth in Sections A8.432(d)(1) and A8.432(d)(2) above. The Mayor, the Board of Supervisors and the Board may approve or reject, but not alter, the Controller's recommended changes to the disbursement limitations set forth in Sections A8.432(d)(1) and A8.432(d)(2) above. Such recommended changes must effectively balance the City's goal of attaining and maintaining a Fully Funded trust with the City's overall financial obligations.

(4) For Participating Employers other than the City and County of San Francisco, the Board may not make any disbursements from a Participating Employer's sub-trust until the Participating Employer's governing body, after consultation with the Participating Employer's GASB Actuary, has recommended to the Board by a two-thirds vote, and the Board has approved, disbursement limitations that effectively balance the Participating Employer's goal of attaining and maintaining a Fully-Funded trust against the Participating Employer's overall financial obligations.

**(e) 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 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.

**(f) 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.

**"Employer"** and **"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 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 each Employer's normal cost under GASB No. 45 as determined by each Employer's GASB Actuary.

**"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 respective governing boards to participate in the Retiree Health Care Trust Fund.

**(g) 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. 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, such ordinances as are necessary to create and administer the Retiree Health Care Trust Fund, and such further ordinances as may be necessary to establish and maintain the purpose described in Sections 12.204 and A8.432.

(Amended by Proposition B, 6/3/2008; Proposition D, 6/8/2010; Proposition C, 11/8/2011; Proposition A, 11/5/2013)

**San Francisco Charter Section A.432-1**

**A8.432-1. ADDITIONAL CONTRIBUTIONS TO RETIREE HEALTH CARE TRUST FUND**

Beginning on July 1, 2011, in each year when the contribution to the Retirement System required under Section A8.510 is less than the Retirement System employer normal cost rate; (1) the City and County shall deposit the difference into the Retiree Health Care Trust Fund; and (2) the Participating Employers shall deposit the difference into the Retiree Health Care Trust Fund only upon resolution by their respective governing boards.

(Added by Proposition D, Approved 6/8/2010)