[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

SUPERVISOR KAUFMAN, NEWSOM
BOARD OF SUPERVISORS
pursuant to the procedures prescribed in this Section. This Section only provides for receipt of such credits as are donated and does not provide for an absolute right of continued paid leave.

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

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

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

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

   (4) In order to continue to qualify as catastrophically ill, an employee who has been determined to be catastrophically ill may from time to time be required (i) to submit to specified examination and/or (ii) to supply further documentation of current medical status, as is necessary in the opinion of the Department of Public Health or its designee in order to continue to qualify as catastrophically ill; provided, however, that such requests shall not be made for the purpose of harassing said employee.
(5) If an employee is determined not to be catastrophically ill, the employee shall have a right to appeal the decision through an administrative appeal process to be established by the Public Health Commission, which shall include the right to a review by the Director of the Department of Public Health and, finally, a hearing before the Public Health Commission. The Department of Public Health shall automatically provide the employee with a written letter setting forth the reasons for denial and the procedure for filing an administrative appeal. The Public Health Commission shall promulgate and post the administrative appeal rules within 14 days from the effective date of this ordinance. The administrative appeal process in its entirety shall not exceed 60 days. An employee whose application has been disapproved is not obligated to exhaust the administrative appeals process before reapplying, and instead the employee may reapply after observing a 30-day waiting period from the date of the initial denial.

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

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

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

(3) All transfers are irrevocable;

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

(5) The transferring employee may transfer a maximum of 80 hours per pay period and 480 hours per calendar year; and
(6) Neither the transferring employee nor the designated recipient may be in violation of Subsection (i).

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

(f) Posting of Eligible Recipients.

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

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

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

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

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

(1) All hours transferred shall be credited as sick leave for the receiving employee. As they are used, they shall be treated as use of the employee’s own sick leave for all purposes, including for continued accrual of vacation credits, sick leave, and retirement service; service for pay increments; and eligibility for holiday pay.
(2) At the beginning of each pay period, a catastrophically ill employee must use all sick leave and vacation credits accrued during the previous pay period before using any transferred hours.

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

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

(5) If a catastrophically ill employee dies, retires, or resigns before having used all hours transferred pursuant to this provision, the unused hours shall be divided equally among catastrophically ill employees with sick leave balances of 40 hours or less, provided that no catastrophically ill employee shall receive more than 40 hours under such procedure. If this is not sufficient to exhaust the deceased, retired, or resigned employee's unused hours, the remainder shall then be divided equally among all catastrophically ill employees with sick leave balances of 80 hours or less, provided that no catastrophically ill employee shall receive more than 40 hours under such procedure; if this is not sufficient to exhaust the deceased, retired, or resigned employee's unused hours, the remainder shall then be divided equally among all catastrophically ill employees with sick leave balances of 120 hours or less, provided
that no catastrophically ill employee shall receive more than 40 hours under such procedure; further applications of this rule in increments of 40 hours shall be applied until all the deceased employee's remaining hours shall have been redistributed.

(h) Confidentiality.

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

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

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

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

(i) No Selling or Coercion.

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

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

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

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

((k) **Review.**

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

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

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

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

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

SUPERVISOR KAUFMAN
BOARD OF SUPERVISORS
Page 7
5/25/00
employees can contribute sick leave time and vacation credits to catastrophically ill co-
workers. These notices shall be distributed to all appointing officers who shall then post them
in public places where other notices advising employees of rights and benefits are posted.

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

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

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

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

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By: THOMAS J. OWEN
Deputy City Attorney

SUPERVISOR KAUFMAN
BOARD OF SUPERVISORS
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 outdated 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
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

Mayor Willie L. Brown Jr.