

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 180891

Amending Chapter 2, Code of Ordinances, "Administration," by enacting a new Division 11, in Article IX, consisting of Sections 2-1397.1 to 2-1397.7 entitled "Post Employment Health Plan" to allow retiring employees to designate sick and vacation leave funds to reimburse qualified medical insurance premiums following retirement.

WHEREAS, the City allows eligible employees to retire without a reduction in pension benefits in accordance with the retirement system of which the employee is a part;

WHEREAS, retired employees are required to pay medical insurance premiums upon retirement;

WHEREAS, the City recognizes that medical insurance premiums can be costly;

WHEREAS, the City offers a lump sum payment of vacation leave and a portion of sick leave balances to employees upon termination of employment, which are taxable under the IRS code;

WHEREAS depositing such payment to the Post Employment Health Plan trust to reimburse qualified medical insurance premiums has positive tax implications, for both retiring employees and the City, and allows the employee to better afford medical insurance premiums; and

WHEREAS, the City wishes to offer a program whereby eligible employees designate a percentage of sick and vacation leave that would be paid to the employee upon retirement and have that lump sum payment deposited to the Post Employment Health Plan Trust to reimburse the employee for qualified medical insurance premiums;
NOW THEREFORE

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2, Code of Ordinances of the City of Kansas City, Missouri, entitled "Administration," is hereby amended by enacting a new Division 11 of Article IX to read as follows:

**DIVISION 11.
POST EMPLOYMENT HEALTH PLAN**

Sec. 2-1397.1. Purpose.

The purpose of the Post Employment Health Plan established by this division is to establish a benefit program through which eligible employees designate certain percentages of their sick and vacation leave funds to be placed in trust for use to reimburse qualified medical insurance premiums for the employee and certain qualified dependents following retirement.

Sec. 2-1397.2. Definitions.

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

Board means the Deferred Compensation Board of Trustees established in Section 2-1365.

Code means the Internal Revenue Code of 1986, as amended, and includes any regulations thereunder.

Employee means any person employed by the City or any City official who earns sick or vacation leave from the City.

Member means any employee who is eligible for normal, optional or voluntary retirement as defined by the Retirement System of which the employee is a member.

Member Group means a class of employees grouped together based on commonalities for purpose of administration of the Plan.

Participant means any retired eligible employee who did not opt out of the PEHP plan established in accordance with this section.

PEHP means Post Employment Health Plan.

Plan means the City of Kansas City, Missouri Post Employment Health Plan.

Qualified Medical Insurance means qualified insurance as defined in the Internal Revenue Code.

Trust means the City of Kansas City, Missouri PEHP Trust, as set forth in this division.

Sec. 2-1397.3. Authorization to Administer Plan.

The Board, on behalf of the City, is authorized to adopt, continue, cancel or allow to lapse the Plan in accordance with the Plan.

Sec. 2-1397.4. Administration of the Plan.

(a) The Board shall administer the Plan. The responsibilities and authority of the Board shall be to:

- (1) Maintain the Plan whereby members designate funds from sick and vacation leave to be deposited into the Trust in a percentage as determined annually by their Member Group to be held and used to reimburse qualified medical insurance premiums paid for the Participant and Participant's spouse and qualified dependents following retirement.

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- (2) The members of the Board may be insured against fiduciary and liability claims relating to Plan administration by insurance coverage on their behalf. The premium expense of such coverage shall be paid, at the election of the City, either by the City or from funds of the Trust.
- (3) Define and designate the eligible Member Groups.
- (4) Establish a budget for the costs of the administration of the Plan.
- (5) Make reimbursements pursuant to the Plan from the Trust consistent with the provisions of the Plan.
- (6) Obtain, by employment or contract, the services necessary to administer the Plan, including actuarial, custodial, and investment services.
- (7) Procure and dispose of goods and property of the Trust necessary to administer the Plan.

(b) The Director of Human Resources of the City shall appoint a Plan Administrator/Secretary. The Plan Administrator/Secretary shall attend all meetings of the Board and shall conduct the Plan in accordance with the Board's directives. The Plan Administrator/Secretary shall take and retain all meeting records.

(c) The Board shall have sole discretionary responsibility for the operation, interpretation, and administration of the Plan and for determining reimbursement for Plan benefits. Any action taken on any matter within the discretion of the Board shall be final, conclusive and binding on all parties. In order to discharge its duties hereunder, the Board shall have the power to and authority to adopt, interpret, alter, amend or revoke rules and regulations necessary to administer the Plan, and to delegate ministerial duties. A member of the Board who is otherwise eligible may participate in the Plan, but shall not be entitled to make decisions solely with respect to the member's own participation and benefits under the Plan.

(d) The percentage of sick and vacation time that members contribute to the PEHP Trust shall be determined annually for the established Member Groups. These funds will be held for reimbursement of qualified medical insurance premiums for the participant, and the participant's spouse and/or qualified dependents.

Sec. 2-1397.5. Establishment of the Trust.

On or before December 31, 2018, the City shall create a Trust in accordance with and subject to this division. The Board shall be the trustee of all funds deposited into the PEHP Trust and shall, subject to the provisions of this division, have full power to invest and reinvest them.

Sec. 2-1397.6. Assignment of rights.

No Participant or member of a PEHP Plan nor his or her qualified dependent nor any other designee shall have any right to commute, sell, assign, transfer, encumber or otherwise convey the right to receive any payments under the Plan. Upon death of the Participant in the PEHP Plan, any outstanding balance from the Participant's contribution to the PEHP Trust shall remain in trust for use by the Participant's spouse and/or qualified dependents. If the deceased Participant does not have a spouse or qualified dependent or upon death of the final qualified dependent/spouse, any remaining outstanding balance of funds from the Participant's contribution shall be forfeited to the PEHP Trust and redistributed pro rata to the remaining Participants in the Member Group.

Sec. 2-1397.7. Miscellaneous.

(a) *Limitation of Rights; Employment Relationship.* Neither the establishment of this Plan nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits under the Plan, shall be construed as giving an employee or any other person legal or equitable rights against the City. In no event shall the terms of employment or independent contractor relationship of any Employee be modified or any way be affected by the Plan.

(b) *Representations.* The City does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequences will result from participation in the program.

(c) *Severability.* If a court of competent jurisdiction holds any provision of this Plan to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

(d) *Amendment and Termination.* The City may amend the provisions of this Plan as necessary for the administration of the Plan. The City may terminate or discontinue the Plan at any time without liability for such termination or discontinuance in accordance with the Plan. Upon Plan termination, termination will occur in accordance with the terms of the Plan.

Approved as to form and legality:

Saskia Jacobse
Assistant City Attorney