

Rule 406

Transport Workers Union - San Francisco

Municipal Railway Trust Fund

Applicability: Rule 406 shall apply **only** to the Transit Operators of the Municipal Transportation Agency (MTA).

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Applicability: Rule 406 shall apply **only** to the Transit Operators of the Municipal Transportation Agency (MTA).

Sec. 406.1 Charter Provision

- 406.1.1** Charter Section A8.404 of the Charter provides for the establishment of a fund to receive and to administer that money which represents the dollar value difference between vacation, retirement and health service benefits provided by Charter for platform employees, coach or bus operators of the Municipal Railway (hereinafter referred to as "operators") when such benefits are less than those provided in the two other street railway and bus systems and are used for the determination of wage schedules for operators of the Municipal Railway.
- 406.1.2** The Commission is mandated to adopt Rules, subject to approval by the Board of Supervisors by ordinance, for the establishment and general administration of the fund. Such Rules must provide for a joint administration of the fund by representatives of the city government, including representatives of the MTA Board of Directors and representatives of the organized operators.
- 406.1.3** The Charter further states that such Rules may provide a procedure for final and binding arbitration of the disputes which may arise between representatives of the City government and the representatives of the organized operators.
- 406.1.4** The Charter further requires that the Rules provide that all investments of the fund shall be of the character legal for insurance companies in California.

Sec. 406.2 Determination of Dollar Value of Differences in Benefits

The dollar-value difference between vacation, retirement and health service benefits provided by Charter for operators of the Municipal Railway, when such benefits are less than those provided in the two other street railway and bus systems used for the establishment of wage schedules for operators of the Municipal Railway, shall be determined by the Commission after consultation with Local 250A, Transport Workers Union of America, (or the employee organization having exclusive group representational rights before the MTA Board of Directors), and shall be included in the Ordinance adopted pursuant to the provisions of Section 8.404 of the Charter. The procedure for payment of moneys due to the Fund in accordance with Charter authority and the provisions of this Rule shall be established by the Controller.

Sec. 406.3 Establishment of Trust Fund

In accordance with the authority of Charter Section A8.404, there is hereby established a Transport Workers Union-San Francisco Municipal Railway Trust Fund (hereinafter, for the purpose of this Rule, to be referred to as the "Trust Fund") to be administered as hereinafter set forth.

Sec. 406.4 Board of Trustees

406.4.1 The Trust Fund shall be administered by a Board of Trustees (hereinafter referred to as "The Board") of six (6) members to be selected as follows:

- 1) two (2) trustees to be appointed by the MTA Board of Directors who shall serve at the pleasure of the MTA Board of Directors;
- 2) one (1) trustee to be appointed by the Civil Service Commission who shall serve at the pleasure of the Civil Service Commission;
- 3) three (3) trustees to be appointed by Local 250A, Transport Workers Union of America, (or the employee organization having exclusive group representational rights before the MTA Board of Directors), who shall serve at the pleasure of the Union; and
- 4) the appointing authority may also appoint and at its pleasure remove one (1) alternate for each trustee to serve when trustees are not available to attend meetings of the Board. An alternate when serving in the place of a trustee shall have full power to act as a trustee.

Sec. 406.4 Board of Trustees (cont.)

- 406.4.2** Members of the Board and their alternates shall serve until such time as they separate themselves or are removed from their appointment. If a trustee position is vacated, the trustee's alternate shall serve until a successor is designated by the appropriate designating authority.
- 406.4.3** The Board shall elect one (1) member as president and one (1) member as vice president and shall establish their terms of office, provided however, that a member appointed by management (MTA Board of Directors or Civil Service Commission) and a member appointed by the employees (Transport Workers Union) shall alternate terms in each such office and that a member appointed by management shall serve as vice president during the term in which a member appointed by the employees holds office as president, and vice versa.
- 406.4.4** Actions of the Board shall be by majority vote of all of the trustees.
- 406.4.5** Trustees who are employees of the City shall be authorized to attend meetings of the Board held during regular working hours of the employee without loss of pay.
- 406.4.6** No trustee shall receive payment or emolument of any kind for services but may be reimbursed from the Trust Fund for all reasonable expenses incurred in the performance of duties as trustee.

Sec. 406.5 Powers and Duties of Board of Trustees

The Board shall have the power and it shall be its duty to:

- 406.5.1** establish by Rule the detailed procedure for the receipt of moneys to the Trust Fund and for the administration of the Trust Fund, which shall include a provision that all investments of the Trust Fund shall be of the character legal for insurance companies in California;
- 406.5.2** appoint an administrator or secretary of the Trust Fund who shall be the Executive Officer and Secretary of the Board and whose duties and responsibilities shall be set forth by the Board and who shall serve at the pleasure of the Board;
- 406.5.3** establish such other positions as in the judgment of the Board may be required to staff the office of the Trust Fund and to make appointments to such positions;

Sec. 406.5 Powers and Duties of Board of Trustees (cont.)

- 406.5.4** provide for the bonding of the trustees, the administrator, and such other employees of the Trust Fund as in the judgment of the Board should be bonded;
- 406.5.5** select a location for quarters for the Trust Fund and provide for the equipment of such office;
- 406.5.6** provide for the costs of administration of the Trust Fund including the salaries of all employees and the costs involved in the purchase, lease or rental and the equipment of quarters;
- 406.5.7** establish the types of benefits that shall be made available to the operators and the procedures and methods for the disbursement of such benefits;
- 406.5.8** establish procedures for the investment of funds within the restrictions herein provided, which procedures may provide for the employment of the services of an investment counsel;
- 406.5.9** provide for the retention of legal or actuarial counsel when such assistance is deemed by the Board to be required;
- 406.5.10** establish accounting procedures to properly account for the administration of the Trust Fund; and
- 406.5.11** prepare an annual report to the MTA Board of Directors and to the officers and members of Local 250A of the Transport Workers Union of America (or the employee organization having exclusive group representational rights before the MTA Board of Directors), which report shall include a summary of the income, investments, disbursements and administrative expenses of the Trust Fund.

Sec. 406.6 Vested Rights

Neither the City, nor the Union, or the individual operators shall have any vested rights in or to the Trust Fund or any part thereof except the right of the qualified operators, their dependents, their beneficiaries, or next of kin to receive the benefits provided for in the plan to which they may be respectively entitled.

Sec. 406.7 **Protection of Trustees**

406.7.1 Neither the trustees nor any individual or successor trustee shall be personally answerable or personally liable for any liabilities or debts of the Trust Fund contracted by them as such trustees, or for the non-fulfillment of contracts, but the same shall be paid out of the Trust Fund and the Trust Fund is hereby charged with a first lien in favor of each of such trustees for security and indemnification for any amounts paid out by such trustee for any such liability and for the trustee's security and indemnification against any liability of any kind which the trustees or any of them may incur hereunder; provided however, that nothing herein shall exempt any trustee from liability arising out of the trustee's own willful misconduct or bad faith or entitle such trustee to indemnification for any amounts paid or incurred as a result thereof.

406.7.2 The trustees and each individual trustee shall not be liable for any error of judgment or for any loss arising out of any act or omission in the execution of the Trust Fund, as long as they act in good faith; nor shall any trustee, in the absence of the trustee's own willful misconduct or bad faith, be personally liable for the acts or omissions (whether performed at the request of the trustees or not) of any other trustee, employee, agent or attorney elected or appointed by or acting for the trustees.

406.7.3 The costs and expenses of any action, suit or proceeding brought by or against the trustee or any of them (including counsel fees) shall be paid from the Trust Fund, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such trustee was acting in bad faith in the performance of the trustee's duties hereunder.

Sec. 406.8 **Mediation and Arbitration**

In the event of a dispute on any matter before the Board for action, the Board may by affirmative vote of three members refer the matter to mediation or arbitration. The Board shall provide the procedure for the mediation of any dispute. If a matter is referred to arbitration, then the Board shall attempt to agree on the selection of an impartial arbitrator. If an impartial arbitrator cannot be agreed upon within forty-eight (48) hours, then an arbitrator designated by the American Arbitration Association shall hear and determine the issue. The written decision of the arbitrator shall be final and binding upon the Board.

Sec. 406.9 **Audit Report**

406.9.1 The Trust Fund shall be audited semi-annually by an auditor to be designated by the Controller of the City and County. The auditor's report shall be made to the Board of Supervisors, with copies to Local 250A, Transport Workers Union of America (or to the employee organization having exclusive group representational rights before the MTA Board of Directors), the MTA Board of Directors, the Civil Service Commission, and the Controller and 12 copies to the Secretary of the Trust Fund for distribution to each trustee and alternate trustee.

406.9.2 The cost of such audit report shall be paid for by the City and County from funds to be appropriated for such purpose by the Board of Supervisors. The Board of Trustees and Local 250A of the Transport Workers Union of America (or the employee organization having exclusive group representational rights before the MTA Board of Directors) may, each at its respective option whenever deemed desirable, arrange for an additional independent audit of the Trust Fund by a qualified auditor of its choice, the expense of which shall be borne by the Trust Fund when ordered by the trustees and by Local 250A, Transport Workers Union of America (or the employee organization having exclusive group representational rights before the MTA Board of Directors), when ordered by the Union.