

## ARTICLE IX

*(Effective 01-01-2006, all executive authority, power, and responsibilities conferred upon the City Manager in this Article were transferred to the Mayor. See section 260.)*

### THE RETIREMENT OF EMPLOYEES

#### **Section 140: Establishment of Separate Retirement Pension Systems; Definitions**

*(Addition voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel. Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

*[Prior Language](#)*

#### **Section 141: City Employees' Retirement System**

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of service for which payment has been made, except such employees may be given the option to retire at the age of fifty-five years after twenty years of service for which payment has been made with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of service for which payment has been made may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

The Council may also in said ordinance provide:

- (a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.

- (b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.
- (c) Retirement with benefits of an employee who, after ten years of service for which payment has been made, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.
- (d) For health insurance benefits for retired employees.

*(Editor's note: Supplement No. 655)*

*(Amendment voted 03-13-1945; effective 04-09-1945.)*

*(Amendment voted 04-19-1949; effective 05-20-1949.)*

*(Amendment voted 03-13-1951; effective 03-26-1951.)*

*(Amendment voted 06-08-1954; effective 01-10-1955.)*

*(Amendment voted 11-06-1990; effective 02-19-1991.)*

*(Amendment voted 11-08-1994; effective 01-30-1995.)*

*(Amendment voted 11-05-1996; effective 02-10-1997.)*

[Prior Language](#)

#### **Section 141.1: Reform of Sworn Police Officer Defined Benefit Pension Plan**

*(Addition voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel.*

*Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)

#### **Section 141.2: Full and Fair Employee Contributions for The Defined Benefit Pension Plan**

*(Addition voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel.*

*Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)

**Section 141.3: Elimination of Pension Benefit for Felony Convictions**

*(Addition voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel. Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)

**Section 141.4: Transparency and Public Disclosure of City Pension Payouts**

*(Addition voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel. Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)

**Section 142: Employment of Actuary**

The Board of Administration hereinafter provided, shall secure from a competent actuary a report of the cost of establishing a general retirement system for all employees of The City of San Diego. Said actuary shall be one who has had actual experience in the establishing of retirement systems for public employees, and his position shall be considered one requiring expert or technical training within the meaning of subdivision (k) of Section 118 of Article VIII of this Charter.

**Section 143: Contributions**

The retirement system herein provided for shall be conducted on the contributory plan, the City contributing jointly with the employees affected thereunder. Employees shall contribute according to the actuarial tables adopted by the Board of Administration for normal retirement allowances, except that employees shall, with the approval of the Board, have the option to contribute more than required for normal allowances, and thereby be entitled to receive the proportionate amount of increased allowances paid for

by such additional contributions. The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees. The mortality, service, experience or other table calculated by the actuary and the valuation determined by him and approved by the board shall be conclusive and final, and any retirement system established under this article shall be based thereon. Funding obligations of the City shall be determined by the Board on an annual basis and in no circumstances, except for court approved settlement agreements, shall the City and the Board enter into multi-year contracts or agreements delaying full funding of City obligations to the system. When setting and establishing amortization schedules for the funding of the unfunded accrued actuarial liability, the Board shall place the cost of the past service liability associated with a new retirement benefit increase on no greater than a fixed, straight-line, five year amortization schedule. Effective July 1, 2008, the Board shall place the cost associated with net accumulated actuarial losses on no greater than a fifteen year amortization schedule and the Board shall place the benefit associated with net accumulated actuarial gains on no less than a five year amortization schedule. Notwithstanding the above, the Board shall retain plenary authority and fiduciary responsibility for investment of moneys and administration of the system as provided for in article XVI, section 17 of the California Constitution. The setting and establishing of amortization schedules by the Board pursuant this section is not intended and shall not be interpreted to preclude the City from issuing pension obligation bonds or other similar instruments containing repayment terms exceeding fifteen years.

*(Amendment voted 03-13-1945; effective 04-09-1945.)*

*(Amendment voted 06-08-1954; effective 01-10-1955.)*

*(Amendment voted 11-02-2004; effective 01-21-2005.)*

[Prior Language](#)

#### **Section 143.1: Approval of Retirement System Benefit**

- (a) No ordinance amending the retirement system which affects the benefits of any employee under such retirement system shall be adopted without the approval of a majority vote of the members of said system. No ordinance amending the retirement system which increases the benefits of any employee, legislative officer or elected official under such retirement system, with the exception of Cost of Living Adjustments, shall be adopted without the approval of a majority of those qualified electors voting on the matter. No ordinance amending the retirement system which affects the vested defined benefits of any retiree of such retirement system shall be adopted without the approval of a majority vote of the affected retirees of said retirement system.

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- (b) Prior to any proposed amendment of the retirement system which increases benefits of any employee, legislative officer or elected official under such retirement system being placed on the ballot, the retirement system shall prepare an actuarial study of the cost due to the benefit changes proposed based upon the amortization schedules established by Charter Section 143. A summary of the actuarial study shall be published in the ballot pamphlet.
- (c) Nothing in subsection (a) of this section shall prevent City officials from negotiating tentative agreements with employee organizations incorporating benefit changes to the extent permitted by state law, provided, however that no amendment of the retirement system which increases benefits, with the exception of the Cost of Living Adjustments, of any employee, legislative officer or elected official under such retirement system, shall become binding or effective until approved by a majority of those qualified electors voting on the matter, and shall not have any force or effect if rejected by said voters. The City Council shall have no authority to enter into final or binding agreements regarding retirement system benefit increases until and unless those increases to retirement system benefits are approved by a majority of those qualified electors voting on the matter.
- (d) The requirement for voter approval of retirement system benefit increases shall become operative on January 1, 2007, for all proposed increases in retirement system benefits tentatively agreed upon by the City on or after that date. This requirement shall remain in effect for a period of fifteen (15) years from that date, at which time this requirement shall be automatically repealed and removed from the Charter.

*(Addition voted 06-08-1954; effective 01-10-1955.)*

*(Amendment voted 11-06-1990; effective 02-19-1991.)*

*(Amendment voted 11-07-2006; effective 12-13-2006.)*

*(Amendment voted 06-05-2012; effective 07-20-2012.)*

*(The last two sentences of Section 143.1, subdivision (a) have been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel. Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFLCIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)

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**Section 144: Board of Administration**

Effective April 1, 2005, the system shall be managed by a newly constituted Board of Administration which shall consist of 13 members. Seven members shall constitute a quorum of the Board and the concurring vote of seven members shall be required for the Board to take any action. Prior to April 1, 2005, in anticipation of the effective date, and thereafter, members shall be selected to serve as follows:

- (a) Seven (7) members shall be appointed by the Mayor and confirmed by the Council. No person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category. Such appointees shall have the professional qualifications of a college degree in finance, economics, law, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have a minimum of fifteen (15) years experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting. Members of the Board serving in this category shall serve staggered terms of four (4) years each (inaugural appointments shall have three (3) members serving two year terms) and members in this category shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed. Such appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee.
- (b) One (1) police safety member of the Retirement System elected by the active police safety members to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (c) One (1) fire safety member of the Retirement System elected by the active fire safety members to serve a four (4) year term.
- (d) Two (2) general members of the Retirement System elected by active general members of the Retirement System to serve a four (4) year term.
- (e) One (1) retired member of the Retirement System elected by the retired members of the Retirement System to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (f) One (1) City management employee in the administrative service appointed by the City Manager to serve at the pleasure of the City Manager selected from the following: City Manager, City Treasurer, Deputy or Assistant City Manager, or person in a similar position who reports to the City Manager.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of the City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.

*(Amendment voted 03-13-1951; effective 03-26-1951.)*

*(Amendment voted 11-08-1960; effective 01-09-1961.)*

*(Amendment voted 11-04-1969; effective 01-29-1970.)*

*(Amendment voted 06-04-1974; effective 08-13-1974.)*

*(Amendment voted 11-2-2004; effective 04-01-2005)*

*(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)*

[Prior Language](#)

#### **Section 145: Retirement Fund**

All moneys contributed by employees of the City or appropriated by the Council or received from any other source under the terms of this Article, shall be placed in a special fund in the City Treasury to be known as the City Employees' Retirement Fund, which said fund is hereby created. Such fund shall be a Trust Fund to be held and used only for the purpose of carrying out the provisions of this Article. No payments shall be made therefrom except upon the order of the Board of Administration. This fund may be placed by the Board under the Funds Commission for investment; but shall not be merged with other funds of the City.

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**Section 146: Additional Provisions**

The Council is hereby fully empowered by a majority vote of the members to enact any and all ordinances necessary, in addition to the ordinance authorized in Section 141 of this Article, to carry into effect the provisions of this Article; and any and all ordinances so enacted shall have equal force and effect with this Article and shall be construed to be a part hereof as fully as if drawn herein.

**Section 147: Former Pensioners Entitled to Benefits of this Article**

All persons who were receiving pensions prior to the adoption of this Charter shall be entitled to all the provisions of this Article.

**Section 148: Declaration of Intent**

It is the intent and purpose of this Article, where not in conflict with the terms of the present existing City Employees' Retirement System, to continue said system in force and effect as existing at the time this Charter is adopted.

**Section 148.1: Authority to Consolidate City Employees' Retirement System with State of California Retirement System And/or U.s. Government Social Security**

Notwithstanding any of the provisions of this Article IX to the contrary, the Council may, with the approval of a majority of all active members of the City Employees' Retirement System, enter into a contract with the State of California wherein said employees shall be entitled to become members of and enjoy all of the benefits of the State Retirement System for state employees, and/or with the U. S. Government for the conferring of Social Security benefits upon such municipal employees; provided, however, that in any such contract provision shall be made for protecting and safeguarding any and all vested rights of the active and retired members of the City Employees' Retirement System as it exists under this Charter.

*(Addition voted 04-21-1953; effective 05-29-1953.)*

**Section 149: Contracting Public Agencies**

Subject to approval by the City Council, a public agency may participate in the City Employees Retirement Trust Fund. After a finding by the City Council that the public agency is eligible for participation in the Trust Fund and approval by the City Council of a contract between the Board of Administration and the public agency, as provided by ordinance, the Board may administer the benefits adopted by the public agency for its employees. The public agency shall establish its own benefits and vesting schedule. All monies contributed by the public agency and its employees or appropriated by the public agency or received from any other source under the terms of this Article shall be placed

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in the Trust Fund to be held and used only for the purpose of paying benefits and necessary expenses of administration related to the public agency's participation. The public agency and its employees shall be responsible for all costs associated with participation in the Fund and the administration of the public agency's benefits. The Board may establish such rules and regulations as it may deem proper, within the terms of applicable Charter sections and ordinances, for the administration of the public agency's contract and benefits.

*(Addition voted 03-05-2002; effective 04-24-2002.)*

[Prior Language](#)

### **Section 150: Creation of a Defined Contribution Plan**

*(Amendment voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel. Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)

### **Section 151: Disability and Death Benefits for Defined Contribution Plan Members**

*(Amendment voted 06-05-2012; effective 07-20-2012.)*

*(This Section has been declared invalid, null and void and ordered stricken from the City charter by the Judgment entered on 2/5/2021 in People of the State California ex rel. Plaintiff-Relators San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. Defendants City of San Diego and Its City Council and Defendants-In-Intervention April Boling, T. J. Zane and Stephen B. Williams, SDSC Case No. 37-2019-00051308-CU-MC-CTL. The Judgment can be read [here](#).)*

[Prior Language](#)