

(O-93-87)

ORDINANCE NUMBER O- 17877 (NEW SERIES)

ADOPTED ON DEC 08 1992

AN ORDINANCE AMENDING ORDINANCE NO. O-17781 (NEW SERIES), AS AMENDED, ENTITLED "AN ORDINANCE ESTABLISHING A SCHEDULE OF COMPENSATION FOR OFFICERS AND EMPLOYEES OF THE CITY OF SAN DIEGO FOR THE FISCAL YEAR 1992-93" BY AMENDING SECTION 14 RELATING TO RETIREMENT CONTRIBUTIONS TO THE RETIREMENT SYSTEM.

WHEREAS, The City of San Diego currently pays into the Retirement System a percentage of employee base compensation as additional employer contribution for Retirement System contributory purposes for those officers and employees who are members of the Retirement System in accordance with a schedule set forth in Section 14, of Ordinance No. O-17781, adopted on May 26, 1992; and

WHEREAS, the additional employer contribution for Retirement System contributory purposes described in Section 14 is commonly referred to as the "retirement contribution offset;" and

WHEREAS, the amount of the retirement contribution offset is an amount in addition to base compensation which is paid for by the City from City Funds; and

WHEREAS, the amount of the retirement contribution offset is not included in the base compensation for the calculation of a retirement allowance; and

WHEREAS, the amount of retirement contribution offset paid by the City is not credited to or deposited in the officer's or employee's account; and

WHEREAS, the City has agreed to implement a program to pick up for tax purposes only that portion of the officer's or employee's contribution remaining after the application of the retirement contribution offset; and

WHEREAS, Section 414(h)(2) of the Internal Revenue Code ("IRC") authorizes an "employer pick up" program whereby employee contributions are non-taxable when they are reported as paid by the employer; and

WHEREAS, the retirement contributions made pursuant to IRC section 414(h)(2) shall be referred to as the "retirement contribution pick up" so as to distinguish them from the retirement contribution offset; and

WHEREAS, IRC section 414(h)(2) provides that contributions, otherwise designated as employee contributions, shall be treated as employer contributions for tax purposes only if such contributions are made to a plan established by a state government or a political subdivision thereof, which is described in IRC section 401(a), and are picked up by the employing unit; and

WHEREAS, the federal income tax treatment to be given contributions which are picked up by the employer within the meaning of IRC section 414(h)(2) is specified in Revenue Ruling 77-462, 1977 2 C.B. 358 which provides that the contributions to the plan picked up by the employer are excluded from the employee's income until such time as they are distributed to the employee; and

WHEREAS, the City's Retirement System is a governmental plan for purposes of IRC section 401(a); and

WHEREAS, the City has the authority to implement the provisions of IRC section 414(h)(2); and

WHEREAS, IRC section 414(h)(2) requires that the City specify that (1) the retirement contributions, although designated as employee contributions, are being paid by the employer for tax purposes only; and (2) the employee must not be given the option of choosing to receive the contributions directly instead of having them paid by the City to the Retirement System; and

WHEREAS, the amount of the retirement contribution pick up shall be deducted from the officer's or employee's salary and credited to the individual employee's account; and

WHEREAS, the amount of the retirement contribution pick up shall be treated for all purposes, other than taxation, in the same way that employee contributions are treated by the Retirement System; and

WHEREAS, the amount of the retirement contribution pick up shall be included in the base compensation for the calculation of a retirement allowance, in contrast to the retirement contribution offset which is not included in the base compensation for the calculation of a retirement allowance; and

WHEREAS, the City has agreed to implement a retirement contribution pick up program pursuant to IRC section 414(h)(2) for legislative officers, unclassified employees, classified unrepresented employees, and employees in job classifications in

the San Diego Police Officers Association, Firefighters Local 145, Municipal Employees Association and AFSCME Local 127 bargaining units; and

WHEREAS, the amount of the retirement contribution pick up will be the amount of employee contribution remaining after the application of the retirement contribution offset described in Section 14 of O-17781 (New Series); and

WHEREAS, it is now necessary and appropriate to amend Section 14 concerning the retirement contribution in Ordinance No. O-17781, adopted on May 26, 1992, to provide for a pick up within the meaning of IRC section 414(h)(2) of the retirement contribution remaining after the application of the retirement contribution offset for those officers and employees described in Section 14; and

WHEREAS, the amendment to Section 14 of Ordinance No. O-17781 (New Series) described in this ordinance is permissible under Section 70 of the Charter for The City of San Diego because the implementation of a pick up pursuant to IRC section 414(h)(2) does not change base compensation; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Section 14 of Ordinance No. O-17781 (New Series), adopted on May 26, 1992, be and the same is hereby amended to read as follows:

Section 14. RETIREMENT CONTRIBUTION

In accordance with the following schedule, the City shall pay into the Retirement System a percentage of

employee base compensation as additional employer contribution for Retirement System contributory purposes for those officers and employees who are members of the System. The additional employer contribution for Retirement System contributory purposes described in the following schedule shall be referred to as the retirement contribution offset.

1. All Legislative Officers 6.9%
2. All Unclassified Officers and Employees and all unrepresented classified employees with the exception of such personnel in the Police and Fire classifications. 6.0%
3. All represented classified employees with the exception of those listed in 4. below including civilian Fire Inspectors. 5.0%
4. All employees in the Police and Fire Bargaining Units who are members of the safety retirement system and all unclassified and unrepresented officers and employees in the safety retirement system and all Lifeguard classifications which are in the safety retirement system. 6.5%

Upon acceptance of the reduced compensation schedule set forth in section 4 of this ordinance, safety employees in the Police and Firefighters bargaining unit shall be entitled to an additional .5 percent increase in City retirement contributions.

Separate from the retirement contribution offset, the City shall implement an "employer pick up" program pursuant to Internal Revenue Code section 414(h)(2) for payment of that portion of the officer's or employee's retirement contribution remaining after the application of the

retirement contribution offset.

The contributions made by the City to the City's Retirement System under this pick up program although designated as employee contributions, shall be paid by the City for tax purposes only in lieu of contributions by the employees who are members of the Retirement System. The officers or employees on whose behalf these contributions are made shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Retirement System.

It is the intent of this Council that the above provided retirement contributions, accomplished pursuant to a retirement contribution offset or a retirement contribution pick up, are benefits and options authorized and granted by Council on an annual basis and shall not be deemed or construed to create a property right in or continuing vested entitlement to such benefits from year to year.

The retirement contribution offset is additional employer contribution which is paid for by the City with City funds. The amount of retirement contribution offset shall not be credited to or deposited in the participant's contributory account but shall remain an asset of the system. The retirement contribution pick up is funded by the officer or employee through a corresponding salary reduction. The amount of the retirement contribution pick up shall be credited to and deposited in the participant's

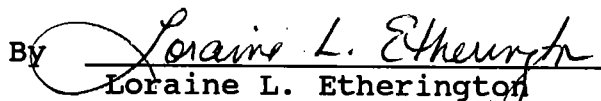
contributory account.

It is the further intent of this Council that the retirement contribution offset provided herein shall be in lieu of a like amount paid heretofore by the above designated officers and employees and that the contribution by those eligible officers and employees be reduced by a like amount.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, Attorney

By


Loraine L. Etherington
Deputy City Attorney

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11/13/92
11/16/92 COR.COPY
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Passed and adopted by the Council of The City of San Diego on DEC 08 1992
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY: SUSAN GOLDING
 Mayor of The City of San Diego, California.

(Seal) CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.
 By Linda Luzano, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on NOV 17 1992, and on DEC 08 1992.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal) CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.
 By Linda Luzano, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17877 Adopted DEC 08 1992