

(O-93-91)

ORDINANCE NUMBER O- 17891 (NEW SERIES)

ADOPTED ON FEB 08 1993

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 5, SECTION 24.0501 RELATING TO DISABILITY RETIREMENTS FOR THE CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, The 1981 Pension Plan, as originally enacted, eliminated disability retirements; and

WHEREAS, The 1981 Pension Plan was subsequently amended on October 11, 1985 for safety members and June 15, 1989 for general members to provide for disability retirements subject to certain restrictions; and

WHEREAS, one of these restrictions was an express prohibition against an industrial disability retirement arising out of a preexisting medical condition; and

WHEREAS, at the time that members of The 1981 Pension Plan were transferred to the City Employees' Retirement System (January 8, 1988 for safety members and July 1, 1989 for general members) the restriction concerning the preexisting condition was expressly maintained; and

WHEREAS, the City Attorney reviewed the preexisting medical condition exclusion and concluded that any injury or disease which arose out of or occurred while an employee was a member of The 1981 Pension Plan when that plan had no disability retirement provision was a preexisting medical condition; and

WHEREAS, several applications for disability retirement have been denied on this basis; and

WHEREAS, after considerable discussion, it was agreed through the meet and confer process that a condition arising out of or occurring during membership in The 1981 Pension Plan (September 3, 1982 - June 30, 1989) should not be considered a preexisting medical condition under the San Diego Municipal Code; and

WHEREAS, it is the intent of all parties to make this change in the definition of preexisting medical condition retroactive to October 11, 1985; and

WHEREAS, the Retirement Board has approved the change to the definition of preexisting medical condition described in this ordinance; and

WHEREAS, in accordance with Section 143.1 of The Charter for The City of San Diego, the active membership voted on the amended definition for preexisting medical condition with 4,043 YES votes, 405 NO votes and 44 VOID ballots; and

WHEREAS, the results of the election for the amended definition of preexisting medical condition were certified on October 13, 1992, and approved by the Retirement Board on October 16, 1992; and

WHEREAS, it is now necessary and proper to amend the San Diego Municipal Code to reflect the amended definition for preexisting medical condition; NOW, THEREFORE,

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

Section 1. That Chapter II, Article 4, Division 5, of the San Diego Municipal Code be and the same is hereby amended by amending Division 5, Section 24.0501 to read as follows:

**DIVISION 5**

**DISABILITY RETIREMENTS**

**SEC. 24.0501 Industrial Disability - Safety and General Member**

(a) Any member of the Retirement System enrolled before September 3, 1982, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment, shall be retired for disability with retirement allowance, regardless of age or amount of service.

(b) Any member of the Retirement System enrolled on or after September 3, 1982, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment; and

(1) not arising from a preexisting medical condition, or

(2) not arising from a nervous or mental disorder, irrespective of claimed causative factors, shall be retired for disability with retirement allowance, regardless of age or amount of service. For purposes of this section, a preexisting medical condition is defined as any condition which occurred or existed prior to membership

in the Retirement System.

(c) Irrespective of the enrollment date into the Retirement System, any member permanently incapacitated from any other cause shall be retired regardless of age but with a retirement allowance only after ten years of creditable service.

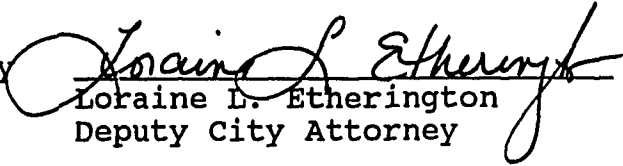
(d) The Board of Administration shall prescribe rules and regulations setting forth the procedure for the retirement of a member or safety members for disability. Applicants for any disability retirement shall be governed by the limitations set forth in California Code of Civil Procedure Section 1094.6.

Section 2. Upon enactment, this ordinance shall be retroactive to October 11, 1985.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

BY

  
Loraine L. Etherington  
Deputy City Attorney

LLE:mrh  
01/04/93  
Or.Dept:Retire.  
O-93-91  
Form=o.code

(0-93-91)

STRIKEOUT ORDINANCE

OLD LANGUAGE: STRUCK OUT  
NEW LANGUAGE: SHADED

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4,  
DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE  
BY AMENDING DIVISION 5, SECTION 24.0501  
RELATING TO DISABILITY RETIREMENTS FOR THE  
CITY EMPLOYEES' RETIREMENT SYSTEM.

DIVISION 5

~~Disability Retirements for Members and Safety Members~~

SEC. 24.0501

Industrial Disability--Safety and General Member

(a) Any member of the Retirement System enrolled before September 3, 1982, ~~including a safety member,~~ permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment, shall be retired for disability with retirement allowance, regardless of age or amount of service. ~~Any member, including a safety member, permanently incapacitated from any other cause shall be retired regardless of age but with a retirement allowance only after ten years of creditable service.~~

(b) Any member of the Retirement System enrolled on or after September 3, 1982, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment; and

(1) not arising from a preexisting medical condition, or

0-17891

(2) not arising from a nervous or mental disorder, irrespective of claimed causative factors, shall be retired for disability with retirement allowance, regardless of age or amount of service. For purposes of this section, a preexisting medical condition is defined as any condition which occurred or existed prior to membership in the Retirement System.

(c) Irrespective of the enrollment date into the Retirement System, any member permanently incapacitated from any other cause shall be retired regardless of age but with a retirement allowance only after ten years of creditable service.

(d) The Board of Administration shall prescribe rules and regulations setting forth the procedure for the retirement of a member or safety members for disability. Applicants for any disability retirement shall be governed by the limitations set forth in California Code of Civil Procedure Section 1094.6.

LLE:mrh  
01/04/93  
o-93-91

FEB 08 1993

Passed and adopted by the Council of The City of San Diego on.....  
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
District 8 Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SUSAN GOLDING

AUTHENTICATED BY:

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By  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

JAN 25 1993

FEB 08 1993

....., and on.....

~~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.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By  Deputy.

Office of the City Clerk, San Diego, California

Ordinance 0- 17891  
Number.....

Adopted FEB 08 1993

RECEIVED  
CITY CLERK'S OFFICE  
93 JAN 13 PM 5:06  
SAN DIEGO, CALIF.

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CERTIFICATE OF PUBLICATION

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SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK  
CITY ADMINISTRATION BUILDING  
202 C STREET, 2ND FLOOR  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

DISABILITY RETIREMENTS FOR THE CITY EMPLOYEES'  
RETIREMENT SYSTEM

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

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This Ordinance amends Chapter II, Article 4, Division 5 of the San Diego Municipal Code relating to disability retirements for members of the City Employees' Retirement System by clarifying the definition of preexisting medical condition as used in San Diego Municipal Code section 24.0501.  
INTRODUCED ON January 28, 1993.  
Passed and adopted by the Council of the City of San Diego on February 8, 1993.  
AUTHENTICATED BY: SUSAN GOLDING, Mayor of The City of San Diego, CA  
CHARLES G. ABDELNOUR, City Clerk of The City of San Diego, CA  
By Suzanne Olive, Deputy  
Pub. Feb. 22, 1993. Ord. No. 256478

ORDINANCE NUMBER O-17891 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

FEBRUARY 22

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 22nd day of FEB., 1993.

*Corey Donahue*  
(Signature)

2 x 2 = \$ 53.76