

ORDINANCE NUMBER O- 18746 (NEW SERIES)

ADOPTED ON JAN 31 2000

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 24.0715, 24.1201, AND 24.1202 ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, Assembly Bill 3478 (AB 3478), passed by the California Legislature in the 1995-96 session, *inter alia*, removed the "remarriage penalty" and added California Labor code Section 4856; and

WHEREAS, the "remarriage penalty" prohibited the surviving spouses from continuing to receive retirement benefits after the death of the spouse and the subsequent remarriage of the surviving spouse, under the Public Retirement Law governing the California Public Employees' Retirement System (PERS); and

WHEREAS, California Labor Code Section 4856 requires local governments to provide health benefits for the surviving families of firefighters and peace officers killed in the line of duty on or after September 30, 1996 under the same terms and conditions provided prior to the firefighter's or peace officer's death; and

WHEREAS, in response to AB 3478, the San Diego Municipal Code (SDMC) was amended as part of the Manager's Proposal in 1997, to remove the remarriage penalty in SDMC Sections 24.0709 and 24.0710.2, for Safety Members and General Members, respectively, and add SDMC Section 24.0715, entitled Continued Health Coverage; and

WHEREAS, SDMC Section 24.0715 made continued health coverage available to any surviving spouse eligible for expressly identified death benefits available under the San Diego City Employees' Retirement System (SDCERS) but did not mention dependents; and

WHEREAS, SDMC Section 24.0715 specifically references California Labor Code Section 4856, which specifically references dependents with respect to the availability of continued health coverage; and

WHEREAS, it is the intent of the Council of The City of San Diego in enacting this ordinance to amend SDMC Section 24.0175 so that it includes the surviving children of the deceased Member who was employed by the City and was killed in the line of duty; and

WHEREAS, the payment for the continued health coverage for dependents generally is not paid by the City of San Diego because of specific language in California Labor Code Section 4856, which allows for the continued health benefits to be provided under the same terms and conditions provided prior to the Member's death; and

WHEREAS, the City of San Diego has determined it is in compliance with California Labor Code Section 4856 because although dependent health care coverage is made available to active or retired employees, it is not paid for by the City of San Diego; and

WHEREAS, Senate Bill 563, passed by the California Legislature in the 1996-97 session requires local governments to provide health benefits to the surviving spouse and minor children of firefighters and peace officers who died in the line of duty prior to September 30, 1996; and

WHEREAS, SB 563 requires health benefits to be provided under the same terms and conditions provided prior to the firefighter's or peace officer's death; and

WHEREAS, the City Manager has proposed to offer post retirement health benefits to surviving spouses and dependent children (under the age of 21) of City employee Members are killed in the line of duty by external violence or physical force, or as a result of an accident or injury caused by external violence or physical force, in an amount equivalent to the annual Flexible Benefits Allotment, as provided in Division 12, Post Retirement Health Benefits; and

WHEREAS, this benefit will be funded through SDCERS and available only to City employees who are members of SDCERS; and

WHEREAS, the General Counsel for the Board of Administration was requested to prepare the amendments to the San Diego Municipal Code as set forth in this ordinance; and

WHEREAS, it is now necessary and proper to amend the San Diego Municipal Code to reflect the benefit improvements described in this Ordinance;

NOW, THEREFORE,

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

Section 1. That Chapter II, Article 4, Division 7, of the San Diego Municipal Code is amended by amending Sections 24.0715, 24.1201, and 24.1202 to read as follows:

SEC. 24.0715 Continued Health Coverage

Any surviving spouse eligible for death benefits pursuant to Sections 24.0705, 24.0706, 24.0709, 24.0710, 24.0710.1, 24.0710.2 and 24.0710.3 shall be entitled to continued health coverage as provided in California Labor Code Section 4856 and may be entitled to additional benefits to the extent provided by Section 24.1201.

Sec. 24.1201 Eligible Retirees

(a) Effective August 1, 1997, two separate post retirement health benefits shall be offered, one to Health Eligible Retirees and one to Non Health Eligible Retirees as set forth in this Division. A Health Eligible Retiree is any General Member, Safety Member or Legislative Officer who: (1) was on the active payroll of The City of San Diego on or after October 5, 1980, and (2) retires on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from the Retirement System. A Non Health Eligible Retiree is any retiree who: (1) retired or terminated employment as a vested member from The City of San Diego prior to October 6, 1980; and (2) is eligible for and is receiving a retirement allowance from the Retirement System.

(b) [No change.]

(c) Effective December 31, 1998, a third post retirement health benefit shall be offered to the spouses and dependents (under the age of 21) of a City employee Member killed in the line of duty by external violence or physical force, or as a result of an accident or injury caused by external violence or physical force and suffered in the line of duty, shall be entitled to receive post retirement health benefits, in an amount equivalent to the annual Flexible Benefits Allotment as defined in the Annual Salary Ordinance adopted by the City Council, as Health Eligible Retirees as set forth in Division 12, Post Retirement Health Benefits. No benefits shall be provided under this section if : (1) the death or injury resulting in death was caused by the intentional misconduct of the employee or by the

employee's intention to bring about his or her death or injury; (2) the employee was voluntarily intoxicated at the time of his or her death; (3) the employee was performing his or her duties in a grossly negligent manner at the time of death or injury; or (4) to any individual who would otherwise be entitled to a benefit under this section if such individuals actions were a substantial contributing factor to the death or catastrophic injury of the employee.

Section 24.1202 Post Retirement Health Benefits Defined

(a) Non Health Eligible Retirees shall be entitled to payment or reimbursement of an amount not to exceed \$600.00 per year for health insurance expenses.

(b) Health Eligible Retirees shall be entitled to participate in and obtain health coverage under any currently available City sponsored health insurance plan or any other health insurance plan of their choice and have their premiums paid or reimbursed in accordance with the limitations set forth in this Division.

(c) Regardless of the health insurance plan selected, payment or reimbursement to a Health Eligible Retiree shall not exceed the lower of (1) the cost of the Medicare eligible or Non-Medicare eligible retiree-only premium for the highest cost Health Maintenance Organization (HMO) plan which is a City sponsored health insurance plan, or (2) the actual premium cost incurred by or for the Health Eligible Retiree.

(d) [No change.]

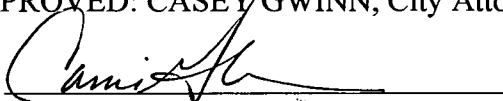
(e) [No change.]

(f) Effective December 31, 1998, the surviving spouse of a City employee Member, pursuant to Section 24.1201, shall be entitled to receive post retirement health benefits as a Health Eligible Retiree, in an amount equivalent to the annual Flexible Benefits Allotment, for the payment of health premiums only, as defined in the Annual Salary Ordinance adopted by the City Council. Minor dependents of the deceased employee, shall continue to receive benefits under the coverage provided by the surviving spouse or, if there is no surviving spouse, until the age of 21 years. However, the surviving spouse may not use the benefits provided by this section to pay for health benefits for a new spouse, stepchildren, or other children or family members who were not dependants of the deceased employee.

Section 2. This ordinance shall take effect and be in force no earlier than the thirtieth day from and after its passage by the City Council.

APPROVED: CASEY GWINN, City Attorney

By



Carrie Gleeson
Deputy City Attorney

LEC:CG:db:ms
12/14/99
Or Dept: Labor R.
O-2000-90

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING DEPT. NO.: AC 2000526
 088

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount 71,550 Fund 60011

Purpose Authorizing expenditure of funds for Public Safety Widows health benefit pursuant to AB3478 and SD 563.

Date November 22, 1999 By: *Archie San Pedro*
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	60011			9634					\$71,550.00
TOTAL AMOUNT										\$71,550.00

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed \$ _____

Vendor _____

Purpose _____

Date _____ By: _____
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE