

ORDINANCE NUMBER O- 19300 (New Series)

ADOPTED ON JUL 19 2004

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2004, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE IX, SECTION 144 AND AMENDING ARTICLE X, ALL REGARDING THE COMPOSITION OF THE RETIREMENT BOARD.

WHEREAS, pursuant to section 223 of the San Diego City Charter, section 3(b), Article 11 of the California Constitution, and Section 9255(a)(2) of the California Elections Code, the City Council has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O- 19305, adopted on JUL 26 2004, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the Statewide General Election on November 2, 2004, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, during the past year concern has been expressed about the current unfunded liability of the San Diego City Employees Retirement System; and

WHEREAS, in response to these concerns, the Mayor, with the approval of the City Council, has established a Pension Reform Committee pursuant to City Charter section 43(b); and

WHEREAS, one of the responsibilities of the Pension Reform Committee was to examine whether the make-up and representative constitution of the Retirement Board should be restructured; and

WHEREAS, the Pension Reform Committee has recommended that the membership of the Retirement Board be restructured to increase the membership to individuals who do not have a financial interest in the City's pension system; and

WHEREAS, this changes to the structure and membership of the Retirement Board may be implemented only by amending article IX, section 144, and article X of the Charter of the City of San Diego; and

WHEREAS, the City Council desires to submit to the voters at the Municipal Election one proposition amending the Charter of the City of San Diego by amending article IX, section 144, and amending article X; NOW, THEREFORE,

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

Section 1. One proposition amending City Charter article IX, section 144, and amending City Charter article X, is hereby submitted to the qualified voters to be held on November 2, 2004, the proposition to read as follows:

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**PROPOSITION**

**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

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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.

**Article X: Transfer Of Police And Fire Department Employees Into The Retirement System**

Notwithstanding any language in Article IX of this Charter to the contrary the City Council shall, upon the taking effect of this amendment, by ordinance provide for the transfer into the City Employees' Retirement System of all members of the Police and Fire Departments of the City of San Diego who were regularly employed and members of their respective Pension systems on June 30, 1946; provided, however, that in any such ordinance said Council shall provide as follows:

- (1) A minimum retirement allowance of \$200.00 per month when a member has completed the required number of years of service as provided in this Charter, and who at the effective date of the ordinance is receiving a monthly salary of at least \$400.00.
- (2) For retirement of members of the Police Department who entered the service of the department on or prior to the 8th day of May, 1941, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Police Department who entered the service of the department subsequent to the 8th day of May, 1941, after completion of 25 years of service in the aggregate.
- (3) For retirement of members of the Fire Department who entered the service of the Department on or prior to January 1, 1936, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Fire Department who entered the service of the department subsequent to the 1st day of January, 1936, after completion of 25 years of service in the aggregate.

- (4) Each member of either the Fire or Police Department who is entitled to retire after 20 years of aggregate service with the City shall receive a pension credit of 2 ½% of his final compensation for each year completed at the effective date of said ordinance, but in no case shall such credit exceed 50 % of such final compensation. For each year completed after the effective date of said ordinance the member shall be credited with 1/60th of his final compensation. The pension credits specified above will not be allowable until after such member shall have reached the age of 50 years. No member of either department who is entitled to retire after 20 years as above and who has had 20 years of service in the aggregate shall receive less than the following: \$200.00 per month as retirement allowance, together with such additional amount per month as will represent the actuarial equivalent of that portion of the contributions of such member contributed after his 20th year of service but before his attainment of age 50.
- (5) Members of the Fire and Police Departments who are not eligible for retirement until the completion of 25 years of service in the aggregate shall receive a pension credit of 2 % of their final compensation for each year completed at the effective date of said ordinance, provided that such credit shall not exceed 50 % of such final compensation, and in addition thereto shall be entitled to credits of 1/60th of their final compensation for each year completed after the effective date of the ordinance. The pension credits specified in this paragraph will not be allowable until after such member shall have reached the age of 55 and has completed 20 years of aggregate service in the department, provided, however, that such member may be permitted to retire at the age of 50 years after 20 years of aggregate service in the department with a reduced allowance, as provided in Article IX and the

ordinance passed pursuant thereto. Except as to those members who are forced to retire because of disability or who die, 'Final Compensation' within the meaning of paragraphs 4 and 5 hereof shall be the highest average compensation received during any five consecutive years of service, limited, however, to the following monthly maximums for members who retire: During the first year after the ordinance is adopted, \$400.00; during the second year, \$500.00; during the third year, \$600.00; during the fourth year, \$700.00; during the fifth year, \$800.00; and after the end of the fifth year there shall be no ceiling considered in determining the amount of the final compensation. As to those members who are compelled to retire because of disability or who die after the ordinance becomes effective 'Final Compensation' shall be defined as above, but with the following monthly maximums: For death or disability occurring during the first year, after the ordinance is adopted, \$500.00; during the second year, \$600.00; during the third year, \$700.00; during the fourth year, \$800.00; during the fifth year, \$900.00; and after the end of the fifth year no ceiling shall be considered in determining the amount of the final compensation.

- (6) No member of either the Fire or Police Departments transferred pursuant to the provisions of this Article of the Charter shall be required to contribute in excess of 8% of his total salary; and each member so transferred shall be classed as a safety member of a special class and shall be entitled to all of the service credit earned by such member in the Police and Fire Retirement System up to the date of transfer without further contributions from said member because of absences prior thereto while serving in the armed forces of the United States.

Immediately upon the taking effect of the ordinance making the transfer of members into the City Employees' Retirement System, all of the provisions of Article IX not inconsistent with the hereinabove provided, together with any ordinance passed pursuant thereto, shall be applicable to such transferred members, and the Police and Fire Retirement System heretofore created in 1947 is abolished, and except as prescribed by this amendment all benefits therein authorized are canceled.

All moneys in the Police and Fire Retirement Fund at the date of the taking effect of the ordinance transferring said members are hereby transferred to the City Employees' Retirement Fund.

Nothing herein contained shall be construed in any way so as to affect the vested rights of members of the Police and Fire Departments who have been heretofore retired by virtue of any retirement or pension system of The City of San Diego.

**END OF PROPOSITION**

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Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<p><b>PROPOSITION ____ . AMENDS THE CITY CHARTER TO CHANGE THE COMPOSITION OF THE RETIREMENT BOARD</b></p>	<p>YES</p>	
<p>Shall the Charter be amended to change the composition of the Retirement Board as follows: seven highly qualified citizen appointees without interests in the City's pension system, four members elected from classifications of active membership (one police, one fire, two general), one member elected from the ranks of the retired, and one member appointed by the City Manager from City management?</p>	<p>NO</p>	



Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

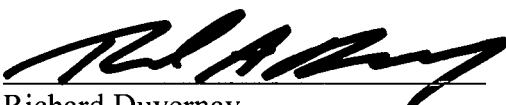
Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Election.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. Pursuant to Section 17 of the San Diego City Charter, this ordinance relating to elections shall take effect on JUL 19 2004 which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By   
Richard Duvernay  
Deputy City Attorney

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07/19/2004  
07/20/2004 REV.  
Or.Dept: Rules,Fin.&Intergov.Relations  
O-2005-12