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ORDINANCE NUMBER O- 19566 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 17 2007

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 19, TITLED "VOTER APPROVAL OF RETIREMENT SYSTEM BENEFIT INCREASES" RELATING TO THE IMPLEMENTATION OF CHARTER SECTION 143.1

WHEREAS, a ballot proposition was approved by the qualified voters of the City of San Diego on November 7, 2006, that amended City Charter section 143.1, regarding approval of increases to Retirement System Benefits; and

WHEREAS, this ballot proposition requires that no ordinance amending the retirement system which increases the benefits of any employee, legislative officer or elected official under the 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;

WHEREAS, the City of San Diego and its labor organizations have met and conferred in good faith regarding this ordinance, in order to implement the amendment to Charter section 143.1; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 4, of the San Diego Municipal Code be and is hereby amended by adding Division 19, sections 24.1901 through 24.1906, titled "Voter Approval of Retirement System Benefit Increases", to read as follows:

**§ 24.1901 Purpose**

The purpose of this ordinance is it to implement an amendment to San Diego City Charter section 143.1, regarding voter approval of Retirement System Benefit increases.

**§ 24.1902 Definition of an “Increase” in Retirement System Benefits**

An “increase” in Retirement System Benefits that is subject to voter approval pursuant to City of San Diego Charter section 143.1, shall mean any increase in the Retirement System Benefits to be provided to any employee, legislative officer or elected official under such retirement system, with the exception of Cost of Living Adjustments as currently provided under the language in the San Diego Municipal Code, Chapter 2, Article 4, Division 15, Section 24.1505, due to:

- (a) a change in the retirement formula of percentage credit per year of service;
- (b) a change in the 2 percent maximum annual change cap in the Cost of Living Adjustment as provided in the San Diego Municipal Code, Chapter 2, Article 4, Division 15, Section 24.1505;
- (c) a change in retiree health benefits;
- (d) a change in the formula for retiree death benefits;
- (e) a change in the formula for those retiring due to disability;
- (f) a new Retirement System Benefit; or
- (g) a change in any other Retirement System Benefit, unless specifically excluded below.

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**§ 24.1903 Changes that are Not Considered an “Increase” in Retirement System Benefits**

The following changes shall not be considered to be an increase in Retirement System Benefits, and thus are not subject to voter approval under Charter section 143.1:

- (a) salary increases, special salary increases, special salary adjustments, salary step increases, pay for performance payments, or gain sharing payouts;
- (b) “negotiated specialty add-ons”, such as those set forth in the City’s annual listing of earnings codes included in retirement base earnings;
- (c) the City’s “pick up” of employee contributions to the Retirement System;
- (d) the establishment of a defined contribution plan for retiree medical expenses for employees hired on or after July 1, 2005, as previously agreed to between the City and certain labor unions (Memorandum of Understanding between the City of San Diego and San Diego Municipal Employees’ Association of July 1, 2005 through June 30, 2008, Article 22(D)(1); Memorandum of Understanding between the City of San Diego and Local 145, International Association of Fire Fighters, AFL-CIO of July 1, 2005 through June 30, 2006, Article 23(2)(E)(1); Memorandum of Understanding between the City of San Diego and Local 127, American Federation of State, County and Municipal Employees, District Council 36, AFL-CIO of July 1, 2005 through June 30, 2008, Article 43(1)(E)(1); Memorandum of Understanding

between City of San Diego and Deputy City Attorney Association of July 1, 2005 through June 30, 2006, Article 7), or

- (e) enhanced services provided by the Retirement System.

**§ 24.1904 Timing and Process for Voter Approval of Negotiated Retirement System**

**Benefit Increases**

- (a) The process for voter approval of Retirement System Benefit increases agreed to by one or more labor organizations representing employees of the City of San Diego and the City shall be as follows. Once the City and a labor organization reach a tentative agreement on a Memorandum of Understanding, the tentative agreement shall be reduced to writing and shall be adopted or rejected by the City Council of the City of San Diego and by the membership of the labor organization.
- (b) If the City Council and the labor organization ratify the tentative agreement (the "Ratified Tentative Agreement"), the terms and conditions contained in the Ratified Tentative Agreement shall be incorporated into a Memorandum of Understanding, along with a statement that the Retirement System Benefit increase is subject to approval by the qualified electors and the San Diego City Employees Retirement System membership. If the Ratified Tentative Agreement contains an increase to Retirement System Benefits as defined in this ordinance, then the City Attorney shall cause a measure to be prepared and submitted to the Mayor and City Council for approval, and then to the qualified voters of the City of San Diego at the next special, general or primary City-wide election,

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provided that no election shall be called for the sole purpose of approval of a Retirement System Benefit increase. The measure shall provide that the Retirement System Benefit increase shall not be implemented by the City unless approved by the San Diego City Employees Retirement System membership, as appropriate, and a majority of those qualified electors voting on the matter approve the measure. If approved as set forth above, the Retirement System Benefit increase shall take effect at such time as was agreed to in the Memorandum of Understanding.

- (c) In the event a measure pertaining to Retirement System Benefit increases will appear on a ballot, the Mayor agrees to support the measure in writing, by so stating in the appropriate ballot materials and in any other appropriate forum, as allowed by applicable laws, regulations and City policies.
- (d) In the event that the qualified electors voting on the measure reject the Retirement System Benefit increase, the Retirement System Benefit increase shall not take effect. Should the term of the Memorandum of Understanding which contains the rejected Retirement System Benefit increase be three years or longer, then the Memorandum of Understanding will reopen on economic terms only 24 months after the effective date of the Memorandum of Understanding.

**§ 24.1905      Costs of Placing the Measure on the Ballot**

All costs related to any measure placed on the ballot for voter approval of Retirement System Benefit increases shall be borne by the City of San Diego.

The City shall not consider the cost of such ballot measures in determining whether to make concessions of Retirement System Benefit increases in collective bargaining.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of passage.

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

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Catherine Stolley  
for William Gersten  
Deputy City Attorney

WG:CMBjb  
11/22/2006  
Or.Dept:Mayor  
O-2007-58

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 09 2007

ELIZABETH S. MALAND  
City Clerk

By [Signature]  
Deputy City Clerk

Approved: 1-17-07  
(date)

[Signature]  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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JERRY SANDERS, Mayor