

ORDINANCE NUMBER O- 13915 (NEW SERIES)

DATE OF FINAL PASSAGE APR 23 2010

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 10 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 22.1006 RELATING TO LEAVE OF ABSENCE – UNCLASSIFIED SERVICE; AND AMENDING CHAPTER 2, ARTICLE 3, DIVISION 11, BY AMENDING SECTION 23.1103 RELATING TO ANNUAL LEAVE PAY UPON TERMINATION

WHEREAS, terminal leave is a benefit provided under the City of San Diego (City) Civil Service Rules, at Rule X, section 3(3), which is codified at San Diego Municipal Code section 23.1103; and

WHEREAS, San Diego Charter section 118 provides that the City's Civil Service Commission shall recommend to the San Diego City Council (City Council) all rules and amendments thereto for the government, supervision and control of the classified service; and

WHEREAS, San Diego Charter section 118 sets forth the procedure for amendment of a Civil Service Rule by the City Council as follows: No rule or amendment shall become effective until it is adopted by ordinance after a noticed public hearing; following such public hearing the City Council may adopt, amend, or reject the rule or amendment as recommended by the Civil Service Commission; and any rule or amendment adopted by ordinance shall have the force and effect of law; and

WHEREAS, under San Diego Charter sections 11.1 and 11.2, it is the legislative responsibility of the City Council to set the compensation for City employees, which includes the terminal leave benefit; and

WHEREAS, the Meyers-Milias-Brown Act requires that the City provide reasonable written notice to the City's recognized employee organizations an opportunity to negotiate any

proposed change within the scope of representation, which includes, under California Government Code section 3504, all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment; and

WHEREAS, during labor negotiations with the City's recognized employee organizations for successor memoranda of understanding for Fiscal Year 2011, beginning July 1, 2009, the City proposed elimination of the terminal leave benefit; and

WHEREAS, on April 14, 2009, following an impasse hearing held pursuant to City Council Policy 300-06, the City Council, by San Diego Resolution R-304803, imposed elimination of the terminal leave benefit for employees represented by Local 127, American Federation of State, County and Municipal Employees, AFL-CIO, contingent upon review and recommendation by the Civil Service Commission, with a request that the Civil Service Commission provide review and recommendation to the City Council as soon as practicable; and

WHEREAS, on April 14, 2009, following an impasse hearing held pursuant to City Council Policy 300-06, the City Council, by San Diego Resolution R-304804, imposed elimination of the terminal leave benefit for employees represented by the San Diego Police Officers' Association, contingent upon review and recommendation by the Civil Service Commission, with a request that the Civil Service Commission provide review and recommendation to the City Council as soon as practicable; and

WHEREAS, on August 6, 2009 and on September 3, 2009, the Civil Service Commission heard a staff report, accepted public comments, and reviewed the requested revision to Civil Service Rule X to eliminate terminal leave; and

WHEREAS, the Civil Service Commission did not take any action regarding the elimination of terminal leave; and

WHEREAS, as the City Council directed by Resolutions R-304803 and R-304804, the Civil Service Commission has been provided with opportunity to review and make a recommendation to the City Council regarding elimination of the terminal leave benefit for City employees represented by Local 127, American Federation of State, County and Municipal Employees, AFL-CIO, and the San Diego Police Officers' Association; and

WHEREAS, because the Civil Service Commission has reviewed this matter in compliance with San Diego Charter section 118, it is returned to the City Council for amendment of the Civil Service rule in conformance with the imposed terms established by resolutions on April 14, 2009; NOW, THEREFORE,

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

Section 1: That Chapter 2, Article 2, Division 10 of the San Diego Municipal Code is amended by amending section 22.1006 to read as follows:

§ 22.1006 Leaves of Absence – Unclassified Service

Employees and officers of the Unclassified Service of the City of San Diego shall have the same rights and benefits relative to leaves of absence as is provided for the Classified Service under the provisions of Chapter 2, Article 3, Division 11 of this Code, except that unrepresented employees in the Unclassified Service shall not be eligible for terminal annual leave as defined in Chapter 2, Article 3, Division 11, section 23.1103 of this Code.

Section 2. That Chapter 2, Article 3, Division 11, of the San Diego Municipal Code is amended by amending section 23.1103 to read as follows:

§ 23.1103 Annual Leave

(Rule X, section 3 of the Rules of the Civil Service Commission)

(a) through (b) [No change in text]

(c) **Annual Leave Pay Upon Termination:** Upon separation from service for any cause, an eligible employee shall be entitled to pay in lieu for the number of accumulated annual leave days credited to his or her account under the provisions of this rule. If, in the case of retirement, an eligible employee elects to place himself or herself on terminal annual leave, the period of terminal annual leave shall be considered in computing currently earned annual leave. Employees represented by the San Diego Police Officers Association; employees represented by Local 127, American Federation of State, County and Municipal Employees; and classified unrepresented employees shall not be eligible for terminal annual leave.

(d) through (e) [No change in text]

Section 3: That, pursuant to San Diego Charter Section 116, the Personnel Director shall take any and all necessary action to conform existing Personnel Regulations and any other relevant rules or provisions to this action.

Section 4. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Joan F. Dawson
Joan F. Dawson
Deputy City Attorney

JFD:jdf
03/01/2010
Or.Dept:Labor Relations

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 20 2010

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 4-23-10
(date)

[Signature]
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor