

151
5/24

ORDINANCE NUMBER O- 20056 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 31 2011

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0103, AND ADDING NEW SECTION 24.0108; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 4 BY AMENDING AND RENUMBERING SECTION 24.0402.1 TO 24.0402.0001; BY AMENDING SECTION 24.0403; BY RENUMBERING SECTION 24.0405.1 TO 24.0405.0001; BY ADDING NEW SECTIONS 24.0405.0002, 24.0405.0003, AND 24.0405.0004, ALL RELATING TO THE CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, from November 18, 2009 until April 6, 2010, the Management Team of the City of San Diego (City) met and conferred with the San Diego Police Officers Association (SDPOA), regarding wages, hours, and other terms and conditions of employment for employees represented by SDPOA; and

WHEREAS, on July 12, 2010, the San Diego City Council (City Council) approved by San Diego Resolution R-305971 a tentative agreement between the City and SDPOA, for a term to begin July 1, 2010; and

WHEREAS, the tentative agreement included a provision that Final Compensation for purposes of determining retirement calculations for Safety Members of the San Diego City Employees' Retirement System (Retirement System) represented by the SDPOA hired on or after January 1, 2012, will be calculated using the average of the Member's three highest years of Base Compensation at any time during membership in the Retirement System, rather than the Base Compensation for the highest one-year period during membership; and

WHEREAS, from October 14, 2009 until February 19, 2010, the City's Management Team met and conferred with the California Teamsters Local 911 (Local 911), regarding wages, hours, and other terms and conditions of employment for employees in the Lifeguard Services represented by Local 911; and

WHEREAS, on June 28, 2010, the City Council adopted San Diego Resolution R-305919, ratifying a Memorandum of Understanding (MOU) between the City and Local 911 on terms and conditions of employment for Fiscal Year 2011; and

WHEREAS, the MOU with Local 911 includes a provision that Final Compensation for purposes of determining retirement calculations for Safety Members of the Retirement System represented by Local 911 hired after June 30, 2011, will be calculated using the average of the Member's three highest years of Base Compensation at any time during membership in the Retirement System, rather than the Base Compensation for the highest one year period during membership; and

WHEREAS, the MOU with Local 911 also includes changes to the retirement calculation factors for Lifeguards hired after June 30, 2011; and

WHEREAS, the City's Management Team met and conferred with the San Diego City Firefighters, International Association of Fire Fighters Local 145 (Local 145), regarding wages, hours, and other terms and conditions of employment for employees represented by Local 145; and

WHEREAS, on April 11, 2011, the City Council approved by San Diego Resolution R-306738 a tentative agreement between the City and Local 145 on terms and conditions of employment for Fiscal Year 2012; and

WHEREAS, the tentative agreement with Local 145 includes a provision that Final Compensation for purposes of determining retirement calculations for Safety Members of the Retirement System represented by Local 145 hired on or after January 1, 2012, will be calculated using the average of the Member's three highest years of Base Compensation at any time during membership in the Retirement System, rather than the Base Compensation for the highest one year period during membership; and

WHEREAS, the tentative agreement with Local 145 also includes a change in the retirement calculation factors for Firefighters hired on or after January 1, 2012; and

WHEREAS, the tentative agreements have been approved by the City Council, pursuant to City Council Policy 300-06, and the City Council now desires to make necessary amendments to the San Diego Municipal Code to implement the agreed-upon terms; and

WHEREAS, section 414(h)(2) of the Internal Revenue Code provides that for any plan established by a governmental employer, where the contributions are designated as employee contributions, but the employer elects to "pick up" the contributions, the contributions are treated as employer contributions for tax purposes; and

WHEREAS, the City Council implemented a pick-up election on December 8, 1992, by adopting San Diego Ordinance O-17877, which amended the Fiscal Year 1993 Salary Ordinance; and

WHEREAS, the City Council now wishes to codify the pick-up election in the retirement plan document, as contained in Chapter 2, Article 4 of the San Diego Municipal Code; and

WHEREAS, the City Council also wishes to amend its pick-up election to conform with Revenue Ruling 2006-43; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 4, Division 1 of the San Diego Municipal Code is amended by amending section 24.0103 to read as follows:

§ 24.0103 Definitions

For purposes of this article, defined terms appear in italics. The following definitions apply in this article:

“Accumulated Additional Contributions” through *“Final Compensation”* for *General Members* hired on or after July 1, 2009 [No change in text.]

“Final Compensation” for *Safety Members* means the *Base Compensation* for the *Safety Member’s* highest one-year period during membership in the *Retirement System* for: (1) *Safety Members* employed in the City Police Department who were on the active City payroll before January 1, 2012, (2) *Safety Members* employed in the Lifeguard Services who were on the active City payroll before July 1, 2011, and (3) *Safety Members* employed in the City Fire Department who were on the active City payroll before January 1, 2012.

“Final Compensation” means the average of a *Safety Member’s* three highest years of *Base Compensation* at any time during membership in the *Retirement System* for: (1) *Safety Members* employed in the City Police Department who were hired by the City on or after January 1, 2012, (2) *Safety Members* employed in the Lifeguard Services who were hired by the City after June 30,

2011, and (3) *Safety Members* employed in the City Fire Department who were hired by the City on or after January 1, 2012.

“*General Member*” through “*Undistributed Earnings Reserve*” [No change in text.]

“*Unmodified Service Retirement Allowance*” means the monthly allowance paid to a *Member* based on a formula using the *Member’s* age at retirement, the *Member’s Final Compensation*, and the applicable Retirement Calculation Factor in accordance with this Article.

Section 2. That Chapter 2, Article 4, Division 1 of the San Diego Municipal Code is amended by adding new section 24.0108 to read as follows:

§ 24.0108 Salary Reduction Pick-Up Plan

Employee contributions, less any amounts paid by the City on behalf of the employee pursuant to the annual salary ordinance, are deducted from the gross pay of each *Member* and are transferred to the *Retirement System* on a bi-weekly basis for crediting to the *Member’s* employee contribution account.

The City of San Diego will “pick up” the full amount of each *Member’s* bi-weekly employee contribution to the *Retirement System*, as permitted by Internal Revenue Code section 414(h)(2) and in accordance with Revenue Ruling 2006-43 and any subsequent Internal Revenue Service guidance. The City Council specifies that these picked up contributions, although designated as employee contributions and deducted from each *Member’s* gross pay, are being paid by the City. No *Member* has been, or will be, given a cash or deferred

election right (within the meaning of Treasury Regulation section 1.401(k)-1(a)(3)) with respect to any designated employee contributions.

The adoption of this section by Ordinance constitutes official action, as required by Revenue Ruling 2006-43, evidencing the pick-up of contributions prospectively, and the prior pick-up of contributions on and after January 7, 1992, when the City first established this pick-up election by adopting San Diego Ordinance O-17877 on December 8, 1992.

Section 3. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by amending and renumbering section 24.0402.1 to section 24.0402.0001 to read as follows:

§ 24.0402.0001 *General Member Retirement Allowance For Employees Hired On or After July 1, 2009*

(a) through (c) [No change in text.]

(d) The *Unmodified Service Retirement Allowance* is calculated by multiplying the *Member's* years of *Creditable Service* by the retirement factor for his or her age at retirement, as shown in the *General Member Retirement Calculation Factors* table. The resulting number is then multiplied by the *Member's Final Compensation*. The *System* prorates the factors from the *General Member Retirement Calculation Factors* table, to reflect quarterly increments in the *Member's* retirement age.

(e) [No change in text.]

GENERAL MEMBER RETIREMENT CALCULATION FACTORS

[No change in text of Table.]

Section 4. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by amending section 24.0403 to read as follows:

§ 24.0403 *Safety Member Retirement Allowances*

- (a) Upon retirement from service, a *Safety Member* is entitled to receive an *Unmodified Service Retirement Allowance*, which consists of:
 - (1) A *Service Retirement Annuity*, and
 - (2) A *Creditable Service Pension*.
- (b) Subject only to the retirement allowance cap described in subsection (c) of this section, the *Unmodified Service Retirement Allowance* is calculated by multiplying a *Safety Member's* years of *Creditable Service* by the Retirement Calculation Factor set forth in the Unmodified Retirement Calculation Factors for Lifeguard, Fire and Police table by the *Safety Member's Final Compensation*. The factors set forth in the Unmodified Retirement Calculation Factors for Lifeguard, Fire and Police table are prorated to reflect quarterly increments in the *Safety Member's* age at retirement.
- (c) The *Unmodified Service Retirement Allowance* for a *Safety Member* may not exceed ninety percent of the *Safety Member's Final Compensation*, except as provided in subsections (d) and (e) of this section.

- (d) If the *Unmodified Service Retirement Allowance* of a *Safety Member* exceeds ninety percent of the *Safety Member's Final Compensation* using the Retirement Calculation Factors in effect and applicable to his or her membership category (Police, Fire or Lifeguard) on December 31, 1996, that *Safety Member* may elect to continue to accrue benefits under the Retirement Calculation Factors in effect and applicable to his or her membership category on December 31, 1996, and not be subject to the ninety percent retirement allowance cap. A *Safety Member* who makes this election is not required to pay any additional contributions as recommended by the *actuary* related to the increase in benefits effective January 1, 1997.
- (e) If, on a date after January 1, 1997 but before April 1, 1997, the *Unmodified Service Retirement Allowance* of a *Safety Member* exceeds ninety percent of the *Safety Member's Final Compensation* using the Retirement Calculation Factors in effect and applicable to his or her membership category on January 1, 1997, that *Safety Member* may elect to accrue benefits in excess of the ninety percent retirement allowance cap, but his or her accrual of benefits will stop at the level he or she has attained on March 31, 1997.
- (f) Except as otherwise provided in sections 24.0405.0002 through 24.0405.0004, effective July 1, 2000, a *Safety Member* may choose at the time of his or her retirement either: (1) the Retirement Calculation Factor in effect and applicable to his or her membership category on

July 1, 2000, with no change in the *Safety Member's Final Compensation*, or (2) a ten percent increase in the *Safety Member's Final Compensation*, with the *Safety Member's Unmodified Service Retirement Allowance* calculated using the Retirement Calculation Factors in effect and applicable to his or her membership category in effect on June 30, 2000.

UNMODIFIED RETIREMENT CALCULATION FACTORS*

LIFEGUARD, FIRE, AND POLICE

	Lifeguards	Fire	Police	Lifeguards	Fire and Police	Lifeguard, Fire, and Police
Retirement Age	Effective 12/31/96	Effective 12/31/96	Effective 12/31/96	Effective 1/01/97 – 6/30/00	Effective 1/01/97 – 6/30/00	Effective 7/01/00
50	2.00%	2.20%	2.50%	2.20%	2.50%	3.00%
51	2.10%	2.32%	2.54%	2.32%	2.60%	3.00%
52	2.22%	2.44%	2.58%	2.44%	2.70%	3.00%
53	2.34%	2.57%	2.62%	2.57%	2.80%	3.00%
54	2.47%	2.72%	2.66%	2.72%	2.90%	3.00%
55+	2.62%	2.77%	2.70%	2.77%	2.9999%	3.00%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. The *Unmodified Service Retirement Allowance* is actuarially reduced if *Member* elects any optional retirement settlements pursuant to Division 6 of this Chapter.

Section 5. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by renumbering section 24.0405.1 to 24.0405.0001 to read as follows:

§ 24.0405.0001 Special Class Safety – Opportunity to Transfer to Safety

[No change in text.]

Section 6. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by adding new section 24.0405.0002 to read as follows:

§ 24.0405.0002 Retirement Allowance for Police Officer *Safety Members* Hired After June 30, 2009

Notwithstanding the provisions of section 24.0403, a *Safety Member* employed in the City Police Department who was hired by the City after June 30, 2009, is not entitled to a Retirement Calculation Factor of three percent until the *Safety Member* reaches age 55 with at least ten years of *Creditable Service*. Such a *Safety Member* may, however, retire at age 50 with 20 years of *Creditable Service*, with a proportionately reduced *Unmodified Service Retirement Allowance*, as set forth in the table in this section.

UNMODIFIED RETIREMENT CALCULATION FACTORS*

POLICE OFFICER *SAFETY MEMBERS* HIRED

AFTER JUNE 30, 2009

Retirement Age	Police Hired After June 30, 2009
50	2.5%
51	2.6%
52	2.7%
53	2.8%
54	2.9%
55+	3.0%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. The *Unmodified Service Retirement Allowance* is actuarially reduced if *Member* elects any optional retirement settlements pursuant to Division 6 of this Chapter.

Section 7. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by adding new section 24.0405.0003 to read as follows:

§ 24.0405.0003 Retirement Allowance for Firefighter *Safety Members* Hired On or After January 1, 2012

Notwithstanding the provisions of section 24.0403, a *Safety Member* employed in the City Fire Department who was hired by the City on or after January 1, 2012, is not entitled to a Retirement Calculation Factor of three percent until the *Safety Member* reaches age 55 with at least ten years of *Creditable Service*. Such a *Safety Member* may, however, retire at age 50 with 20 years of *Creditable Service*, with a proportionately reduced *Unmodified Service Retirement Allowance*, as set forth in the table in this section.

UNMODIFIED RETIREMENT CALCULATION FACTORS*

FIREFIGHTER SAFETY MEMBERS HIRED

ON OR AFTER JANUARY 1, 2012

Retirement Age	Firefighters Hired on or After January 1, 2012
50	2.5%
51	2.6%
52	2.7%
53	2.8%
54	2.9%
55+	3.0%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. The *Unmodified Service Retirement Allowance* is actuarially reduced if *Member* elects any optional retirement settlements pursuant to Division 6 of this Chapter.

Section 8. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by adding new section 24.0405.0004 to read as follows:

§ 24.0405.0004 Retirement Allowance for Lifeguard *Safety Members* Hired After June 30, 2011

Notwithstanding the provisions of section 24.0403, a Safety Member employed in the Lifeguard Services who was hired by the City after June 30, 2011, is not entitled to a Retirement Calculation Factor of three percent until the Safety Member reaches age 55 with at least ten years of *Creditable Service*. Such a Safety Member may, however, retire at age 50 with 20 years of *Creditable Service*, with a proportionately reduced *Unmodified Service Retirement Allowance*, as set forth in the table in this section.

UNMODIFIED RETIREMENT CALCULATION FACTORS*

LIFEGUARD *SAFETY MEMBERS* HIRED AFTER JUNE 30, 2011


Retirement Age	Lifeguards Hired After June 30, 2011
50	2.5%
51	2.6%
52	2.7%
53	2.8%
54	2.9%
55+	3.0%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. The *Unmodified Service Retirement Allowance* is actuarially reduced if *Member* elects any optional retirement settlements pursuant to Division 6 of this Chapter.

Section 9. 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 10. 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 
Roxanne Story Parks
Deputy City Attorney

RSP:ccm
2/15/2011
4/26/2011 REV.
5/09/2011 COR. COPY
Or.Dept:Human Resources

I certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of **MAY 24 2011**.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5-31-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor