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ORDINANCE NUMBER O- 20057 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 02 2011

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 10 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 22.1006 AND AMENDING CHAPTER 2, ARTICLE 3, DIVISION 11, BY AMENDING SECTION 23.1103, RELATING TO ELIMINATION OF THE TERMINAL ANNUAL LEAVE BENEFIT.

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

WHEREAS, San Diego Charter (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, 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 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 annual leave benefit; and

WHEREAS, the Meyers-Milias-Brown Act (MMBA) requires that the City provide reasonable written notice to the City's recognized employee organizations and 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, the MMBA, at California Government Code section 3505.1, provides that if agreement is reached by the representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the governing body or its statutory representative for determination; and

WHEREAS, Council Policy 300-06 provides, in pertinent part, at Section VIII.A, when the meeting and conferring process is concluded between the City and an Exclusively Recognized Employee Organization, all agreed upon matters shall be incorporated in a written Memorandum of Understanding signed by the Management Team and representatives of the Exclusively Recognized Employee Organization; and

WHEREAS, Council Policy 300-06 further provides, in pertinent part, at Section VIII.B, as to those matters within the authority of the Civil Service Commission, the Memorandum of Understanding shall be submitted to the Civil Service Commission for determination, or preliminary approval, if such matters must be then carried for final approval to the City Council; and

WHEREAS, Council Policy 300-06 further provides, in pertinent part, at Section VIII.D, on those matters that fall within the authority of the Civil Service Commission and/or City Council, no Memorandum of Understanding signed by the Management Team shall be binding upon the Civil Service Commission or City Council, until or unless ratified by the Civil Service Commission and/or City Council; and

WHEREAS, the City's Management Team has been engaged in negotiations with the City's recognized employee organizations regarding elimination of the terminal annual leave benefit for all terminating employees, whether for retirement or any other reason; and

WHEREAS, the City has reached agreement with the California Teamsters Local 911 (Local 911), approved by the City Council on June 21, 2010 (San Diego Resolution R-305919) regarding elimination of the terminal annual leave benefit, upon termination of City employment for any reason, effective June 30, 2011; and

WHEREAS, the City has reached tentative agreement with the San Diego City Firefighters, International Association of Fire Fighters Local 145 (Local 145), approved by the City Council on April 11, 2011 (San Diego Resolution R-306738) regarding elimination of the terminal annual leave benefit, upon termination of City employment for any reason, effective July 1, 2011; and

WHEREAS, the City has reached agreement with the San Diego Municipal Employees' Association, approved by the City Council on April 25, 2011 (San Diego Resolution R-306776) regarding elimination of the terminal annual leave benefit, upon termination of City employment for any reason, effective July 1, 2011; and

WHEREAS, under Charter section 118, the MMBA, and Council Policy 300-06, to implement the agreement between the City and its recognized employee organizations, the Civil Service Commission must make appropriate recommendations to the City Council; and

WHEREAS, the City's Management Team submitted these agreements to the Civil Service Commission, in compliance with Council Policy 300-06 and Charter section 118, for consideration on April 28, 2011; and

WHEREAS, the Civil Service Commission voted to recommend to the City Council modification of Rule X to conform to the agreements to eliminate terminal annual leave; and

WHEREAS, the City's Management Team has also reached tentative agreement regarding elimination of terminal annual leave, upon termination of City employment for any reason, with the Deputy City Attorneys Association, whose unclassified members are not covered by Civil Service Rule X, but whose members may receive leave under Municipal Code section 22.1006; this agreement was approved by the City Council on April 11, 2011 (San Diego Resolution R-306740); 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 are provided for the Classified Service under the provisions of Chapter 2, Article 3, Division 11 of this Code, except that, effective May 23, 2010, unrepresented employees in the Unclassified Service and, effective July 1, 2011, employees represented by the Deputy City Attorneys Association shall not be eligible for terminal annual leave upon termination of City employment for any reason.

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)

(Introductory paragraph) [No change in text.]

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

(c) Annual Leave Pay Upon Termination: Upon termination of City employment for any reason, an eligible employee is 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. At the time of retirement, an eligible employee may elect to place himself or herself on terminal annual leave, and the period of terminal annual leave shall be considered in computing currently earned annual leave. The following employees are not eligible for terminal annual leave:

- (1) Effective May 23, 2010, employees represented by Local 127, American Federation of State, County, and Municipal Employees; employees represented by the San Diego Police Officers Association; and classified unrepresented employees are not eligible for terminal annual leave upon termination of City employment for any reason.
- (2) Effective June 30, 2011, employees represented by the California Teamsters Local 911 are not eligible for terminal annual leave upon termination of City employment for any reason.

- (3) Effective July 1, 2011, employees represented by the San Diego City Firefighters, International Association of Fire Fighters, Local 145, and employees represented by the San Diego Municipal Employees' Association are not eligible for terminal annual leave upon termination of City employment for any reason.

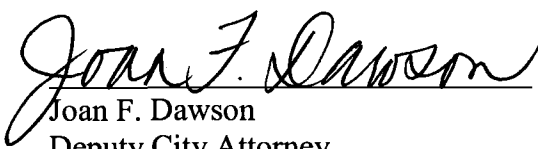
(d) through (e) [No change in text.]

Section 3. That, pursuant to 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 AS TO FORM: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFD:ccm:jab
04/22/2011 REV.
09/28/2010
Or.Dept:Human Resources

I hereby 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 *Manoj Kumar*
Deputy City Clerk

Approved: 6.2.11
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor