

ORDINANCE NUMBER O- 20085 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 28 2011

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 9 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0908, AND BY ADDING SECTIONS 24.0913 AND 24.0914, ALL RELATING TO THE POWERS AND DUTIES OF THE BOARD OF ADMINISTRATION OF THE SAN DIEGO PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, pursuant to San Diego Charter (Charter) Article IX, section 144, the Board of Administration of the San Diego City Employees' Retirement System (Board) is vested with the sole authority under ordinances adopted by the San Diego City Council (City Council) as to the conditions under which persons may be admitted to benefits under the San Diego City Employees' Retirement System (System) and has exclusive control of the administration and investment of the System's assets; and

WHEREAS, pursuant to Charter section 146, the City Council is fully empowered by a majority vote of its members to enact any and all ordinances necessary to carry into effect the provisions of Article IX governing the retirement of City employees, and any such ordinance shall have equal force and effect with Article IX; and

WHEREAS, this empowerment confers upon the City Council the authority to control the activities of the Board by the passage of general ordinances (*Grimm v. City of San Diego*, 94 Cal. App. 3d 33, 39 (1979)); and

WHEREAS, the Board has, without City Council authority delegated to it by ordinance, settled pending litigation against it by agreeing to pay monetary sums, with those sums charged to the City by inclusion in the System's Unfunded Actuarially Accrued Liability (UAAL) and with a resulting increase in the City's Annually Required Contribution; and

WHEREAS, the Board has not been authorized by ordinance of the City Council to expend funds on the City's behalf, and thus such action is in excess of the Board's limited Charter-granted authority to exercise plenary authority over the administration of benefits and investment of System funds; and

WHEREAS, it is the express intent and direction of the City Council that it must approve all claims and settlements of litigation resulting in a direct financial charge to the City, or an indirect charge to it through inclusion in the UAAL; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 4, Division 9 of the San Diego Municipal Code is amended by amending section 24.0908 to read as follows:

§ 24.0908 *Board Hearings*

The *Board* may, in its discretion, hold an administrative hearing to determine any question presented to it involving the administration of benefits under the *System*. The *Board* may issue subpoenas to compel the attendance of witnesses and the production of documents. When holding a hearing, the *Board* may administer oaths and require testimony to be presented under oath. The *Board* may determine the time and place of a hearing and may continue the hearing as necessary.

Section 2. That Chapter 2, Article 4, Division 9, of the San Diego Municipal Code is amended by adding sections 24.0913 and 24.0914 to read as follows:

§ 24.0913 *Settlement of Litigation*

In the absence of City Council approval, the *Board* shall have no authority to settle any claim or litigation involving the payment of funds that are chargeable to the City directly or indirectly through inclusion in the City's Annually Required

Contribution or the *System's* Unfunded Actuarially Accrued Liability. All provisions in any prior agreements to the contrary, if any, are hereby superseded and no longer effective. All provisions in any future agreements to the contrary shall have no effect.

§ 24.0914 Power and Authority of the *Board*

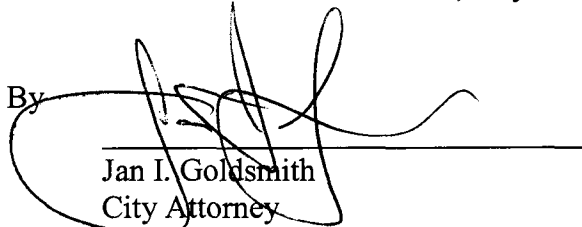
Except as otherwise specifically provided in Chapter 2, Article 4 of this Code and the City Charter, the *Board* shall have no less and no greater authority and power than that provided to it by the California Constitution.

Section 3. 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 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN GOLDSMITH, City Attorney

By

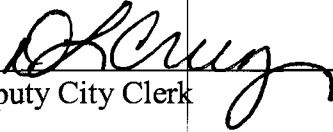


Jan I. Goldsmith
City Attorney

JIG:WCC:ccm
07/26/11 REV.
06/10/11
Or.Dept:City Attorney
Doc. #204530_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 13 2011

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9-28-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor