

ORDINANCE NUMBER O- 20610 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 29 2016

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON JUNE 7, 2016, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE VII, SECTION 70, RELATING TO THE POWER TO FIX SALARIES IN THE CITY OF SAN DIEGO.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by San Diego Ordinance O-20603, introduced and adopted on February 8, 2016, the Council has called a Municipal Special Election to be consolidated with the California State Primary Election to be held June 7, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, Charter section 70 establishes the power of the Council to fix salaries of certain City officers and the power of the City Manager and other department heads outside of the administrative departments to recommend salaries of all other officers and employees; and

WHEREAS, the original language of Charter section 70 was approved by City voters on April 7, 1931, and the section was amended by City voters on March 13, 1951, and November 8, 1977; and

WHEREAS, Charter section 70 has not been amended to conform to the City's Strong Mayor form of government, which was made permanent by City voters on June 8, 2010; and

WHEREAS, Charter section 70 does not include recognition of the City's duty to comply with the Meyers-Milias-Brown Act, at California Government Code (Government Code) sections 3500 through 3511, the state law governing collective bargaining that is binding on the City as a public agency employer; and

WHEREAS, Charter section 70 contains language considered to be archaic that would be replaced with language considered to be current and plain; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one proposition amending the Charter to conform the provisions of Charter section 70 to the Strong Mayor form of government by clarifying who in the City has authority to fix the compensation of specified officers and employees; to incorporate the Meyers-Milias-Brown Act into the provisions related to fixing salaries; and update language; and

WHEREAS, amendments to this Charter provision were proposed initially by City staff; and

WHEREAS, this proposed Charter amendment was heard and reviewed by the Council's Charter Review Committee, and the Council, through this Ordinance, now seeks to place the proposed amendment on the June 7, 2016 Municipal Special Election ballot; and

WHEREAS, the Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. That one proposition amending the City Charter by amending Article VII, section 70, related to the power to fix salaries in the City of San Diego, is hereby submitted to the qualified voters at the Municipal Special Election to be held on June 7, 2016, and consolidated with the California State Primary Election to be held on the same date, with the proposition to read as follows:

PROPOSITION

ARTICLE VII

FINANCE

SECTION 70: POWER TO FIX SALARIES

The Council shall have the power to fix salaries of the ~~City Manager~~Mayor, the City Clerk, ~~the City Treasurer~~, the City Auditor and ~~Comptroller~~, the Independent Budget Analyst, and all other officers under ~~its~~ the Council's jurisdiction. All members of Commissions ~~shall~~ serve without compensation except where otherwise provided by State law or this Charter. Except as otherwise provided by law, the ~~City Manager~~ Mayor and other departmental heads outside of the departments under control of the ~~City Manager~~ Mayor shall have power to recommend fix salaries and wages subject to the personnel classification determined by the Civil Service Commission, of all other officers and employees within the total amount contained in the Annual Appropriation Ordinance for personal service in each of the several departments of the ~~City Government~~. All increases and decreases of salary or wages of officers and employees ~~shall~~ must be ~~determined at the time of the preparation and adoption of the budget, and no such~~ consistent with the compensation schedules established by the annual salary ordinance, and in accordance with the Meyers-Milias-Brown Act or other legal requirements

governing labor relations that are binding upon the City. No increases or decreases shall be to the compensation schedules are effective prior to the fiscal year for which the budget is adopted; ~~provided, however, that i. If,~~ during any fiscal year, the Council ~~should~~ finds and determines that because of a significant change in living costs, the salaries and wages fixed for ~~such~~ that fiscal year are not comparable to the level of other salaries and wages of other public or private employments for comparable services, and as a result, the best interests of the City are not being protected or are in jeopardy, ~~said Legislative Body~~ the Council, upon recommendation of the ~~Manager~~ Mayor or other ~~non-mayoral~~ department heads, and if funds are available, may revise ~~such salary and wage~~ the compensation schedules to the extent necessary to protect the City's interests.

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

PROPOSITION ____ . CHARTER AMENDMENT REGARDING POWER TO FIX SALARIES. Shall City Charter section 70 be amended to conform to existing provisions related to the Strong Mayor form of government, by updating titles of specified officers and clarifying who has authority to fix their salaries and the City's compensation schedules; to specify the City's legal duty to comply with California's collective bargaining laws in establishing annual compensation schedules; and to update language?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.


Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFD:SBS:ccm
02/22/2016
Or.Dept: Council
Doc. No.: 1229595

Passed by the Council of The City of San Diego on FEB 29 2016, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 29 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Stacy Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on FEB 29 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Stacy Brady, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 20610