

#5402-A
(O-2019-4) 7/30/18

ORDINANCE NUMBER O- 20968 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 30 2018

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018, ONE MEASURE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0501, REGARDING AN INDUSTRIAL DISABILITY RETIREMENT BENEFIT FOR MEMBERS OF THE SAN DIEGO POLICE OFFICERS ASSOCIATION.

WHEREAS, the San Diego Charter (Charter) establishes the San Diego City Employees' Retirement System (Retirement System); and

WHEREAS, Charter section 143.1 provides that no ordinance amending the Retirement System "which increases the benefits of any employee, legislative officer or elected official under such retirement system, with the exception of Cost of Living Adjustments, shall be adopted without the approval of a majority of those qualified electors voting on the matter"; and

WHEREAS, San Diego Municipal Code (Municipal Code) section 24.0501(d) includes a benefit that has been provided under the Retirement System; and

WHEREAS, Municipal Code section 24.0501(d) provides that a Member of the Retirement System (Member) who was employed by the City on July 1, 2000, and who suffered a violent attack at work resulting in great bodily harm, is eligible for an industrial disability retirement benefit for a resulting mental or nervous disorder that renders the Member incapable of performing his or her normal and customary duties (the industrial disability retirement benefit); and

WHEREAS, a Member who is not represented by the San Diego Police Officers' Association (SDPOA) can receive the industrial disability retirement benefit under Municipal Code section 24.0501(d) if the violent attack occurred before July 1, 2005; and

WHEREAS, a Member who is represented by the SDPOA can receive the industrial disability retirement benefit under Municipal Code section 24.0501 if the violent attack occurred before July 1, 2010; and

WHEREAS, the City agreed, in a Memorandum of Understanding (MOU) between the City and SDPOA, to take steps to reinstate the industrial disability retirement benefit for police officers who suffer permanent mental or nervous disorder as a result of a violent attack that causes great bodily harm to the officer; and

WHEREAS, the agreement was memorialized in Article 44, section G.3, of the MOU between the City and SDPOA for Fiscal Years 2016 through 2020; and

WHEREAS, reinstatement of this benefit requires a vote of the City electors under San Diego Charter section 143.1 because it "increases the benefits of any employee, legislative officer, or elected official and [the] retirement system"; and

WHEREAS, the City Council approved San Diego Resolution R-311759 (May 22, 2018), in which the City agreed to initiate a San Diego Charter section 143.1 vote of the electorate for the November 2018 election; and

WHEREAS, in accordance with the Meyers-Milias-Brown Act, the state law related to collective bargaining between the City and its represented employees, this ballot measure is not subject to the Mayor's veto power because the City is contractually obligated to initiate a San Diego Charter section vote of the electorate for the November 2018 election by San Diego Resolution R-311759 (May 22, 2018); and

WHEREAS, by Ordinance No. O-20963, introduced and adopted on July 17, 2018, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 6, 2018, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one ballot measure that would amend the San Diego Municipal Code to seek voter approval to reinstate the industrial disability retirement benefit, as provided in this ordinance; NOW, THEREFORE,

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

Section 1. One measure authorizing the amendment of the San Diego Municipal Code to reinstate the industrial disability retirement benefit is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 6, 2018, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

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

Chapter 2, Article 4, Division 5 of the San Diego Municipal Code is amended by amending section 24.0501 as follows:

Article 4: City Employees' Retirement System

Division 5: Disability Retirements

§24.0501 Industrial Disability—Safety and General Members

- (a) Any *Member* who joined the *System* on or before September 3, 1982, is eligible for an industrial disability retirement allowance, regardless of his or her age or years of *Service Credit*, if:

- (1) the *Member* is permanently incapacitated from the performance of duty,
 - (2) the *Member's* incapacity is the result of injury or disease arising out of or in the course of his or her *City* employment, and
 - (3) the *Member's* incapacity renders his or her retirement necessary.
- (b) Any *Member* who enrolled in the *System* after September 3, 1982 will receive an industrial disability retirement allowance, regardless of his or her age or years of *Service Credit*, if:
- (1) the *Member* is permanently incapacitated from the performance of duty,
 - (2) the *Member's* incapacity is the result of injury or disease arising out of or in the course of his or her *City* employment,
 - (3) the *Member's* incapacity renders his or her retirement necessary, and
 - (4) the *Member's* incapacity did not arise from:
 - (A) a preexisting medical condition, or
 - (B) a nervous or mental disorder.
- (c) For purposes of section 24.0501, a preexisting medical condition is a condition that occurred or existed before the *Member* joined the *System*. Any medical condition that occurs during a mandatory waiting period before the *Member* is eligible to join the *System* is not a preexisting condition.
- (d) Despite section 24.0501(b)(4), a *Member* who is employed by the *City* as of July 1, 2000 is eligible for an industrial disability retirement if all of the following conditions are met:

- (1) the *Member* is a victim of a violent attack involving the use of deadly force,
 - (2) the attack occurs after June 30, 2000,
 - (3) the attack occurs ~~before July 1, 2010, if the *Member* is in the Police Officers' Association bargaining unit, or before July 1, 2005, for all other *Members*~~ within the applicable time period set forth in section 24.0501(e),
 - (4) the attack occurs while the *Member* is performing his or her duties as a *City* employee,
 - (5) the attack causes the *Member* great bodily harm,
 - (6) the attack causes the *Member* to suffer a nervous or mental disorder, and
 - (7) the *Board* determines, based upon the medical evidence, that the *Member* has become psychologically or mentally incapable of performing his or her normal and customary duties, as a result of the attack.
- (e) To receive an industrial disability retirement under section 24.0501(d), the attack must occur:
- (1) before July 1, 2005, if the *Member* is not represented by the Police Officers' Association, or
 - (2) either before July 1, 2010, or on or after _____, 2018, if the *Member* is represented by the Police Officers' Association.

The City Clerk is instructed to insert the effective date of this Ordinance, once known, in the blank space provided in San Diego Municipal Code section 24.0501(e)(2).

END OF MEASURE

Section 2. The measure 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:

MEASURE ____ . REINSTATEMENT OF INDUSTRIAL DISABILITY RETIREMENT BENEFIT FOR POLICE OFFICERS. Shall the San Diego Municipal Code be amended to reinstate an industrial disability retirement benefit for members of the San Diego Police Officers Association who suffer a violent attack at work resulting in great bodily harm, with the benefit provided when a resulting mental or nervous disorder renders the member incapable of performing normal and customary duties?	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 measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

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

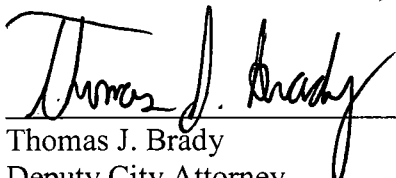
Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. In compliance with 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. This ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Thomas J. Brady
Deputy City Attorney

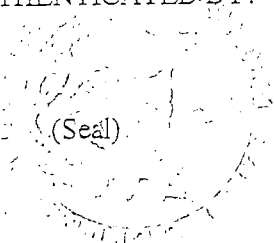
TJB:SBS:jvg:ccm:jdf
07/16/18
Or.Dept: Human Resources
Doc. No.: 1789522

Passed by the Council of The City of San Diego on JUL 30 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 30 2018

AUTHENTICATED BY:



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

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

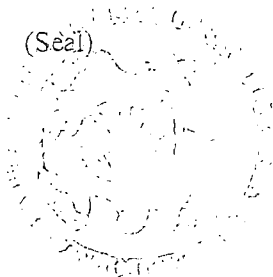
By Linda Bruen, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 30 2018, said ordinance being of the kind and character authorized for passage on its introduction by Section 295 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.

By Linda Bruen, Deputy



Office of the City Clerk, San Diego, California

Ordinance Number O- 20968