

ORDINANCE NUMBER O- **21768** (NEW SERIES)

DATE OF FINAL PASSAGE **MAR 04 2024**

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0104; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 13 BY ADDING SECTIONS 24.1315 AND 24.1316, ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, on June 5, 2012, City of San Diego (City) voters approved Proposition B, a citizens' initiative to amend the San Diego Charter (Charter) known as "Comprehensive Pension Reform for San Diego" (Proposition B); and

WHEREAS, Proposition B amended Articles VII (titled "Finance") and IX (titled "The Retirement of Employees") of the Charter related to retirement benefits of City employees; and

WHEREAS, among other things, Proposition B added section 140 to Article IX of the Charter; and

WHEREAS, the Charter amendments set forth in Proposition B became effective on July 20, 2012; and

WHEREAS, Charter section 140 provided that, except for sworn police officers, all officers and employees who were initially hired or assumed office on or after the date the Charter amendment went into effect, July 20, 2012, were ineligible to participate in the City's defined benefit plan, the San Diego City Employees' Retirement System (SDCERS), and would participate only in a defined contribution plan; and

WHEREAS, by San Diego Ordinance O-20376 (June 10, 2014), Council amended various sections of the San Diego Municipal Code (Municipal Code) to close participation in the SDCERS for all officers and employees initially hired or assuming office on or after July 20, 2012, as mandated by Charter section 140; and

WHEREAS, on February 5, 2021, judgment was entered in the *Quo Warranto* action, San Diego County Superior Court Case No. 37-2019-00051308-CU-MC-CTL, *The People of the State of California ex rel. San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. City of San Diego and its City Council (Quo Warranto action)*, finding the provisions of the Charter added by Proposition B invalid; and

WHEREAS, on April 9, 2021, the judgment in the *Quo Warranto* action became final when the time for filing an appeal expired; and

WHEREAS, the court in the *Quo Warranto* action also issued a writ commanding the City and Council to comply with the judgment by striking the 2012 Proposition B provisions from the Charter and conforming the Municipal Code and any other related enactments or regulations accordingly; and

WHEREAS, to comply with the judgment, in part, among other actions, Council must amend the Municipal Code to remove the changes made related to the SDCERS to implement Proposition B and must direct the City Clerk to remove all Proposition B provisions from the Charter; and

WHEREAS, by San Diego Ordinance O-21333 (June 24, 2021), Council first amended Municipal Code sections 24.0103, 24.0104, and 24.1702, so that officers and employees initially hired or assuming office on or after July 10, 2021, with the exception of police recruits in the City's Police Academy, could participate in the SDCERS prospectively; and

WHEREAS, Council acknowledged a subsequent amendment to the Municipal Code would be necessary once the City and its recognized employee organizations reached agreement on the issues for represented employees to allow current officers and employees initially hired or

assuming office on or after July 20, 2012, but before July 10, 2021, to participate in the SDCERS prospectively, and to address the purchase of SDCERS service credit for the period of time the individuals were City officers or employees, but not eligible to participate in SDCERS due to Proposition B; and

WHEREAS, by San Diego Resolution R-313873 (February 2, 2022), Council approved an agreement with the San Diego Municipal Employees' Association (MEA) and the Local 127, American Federation of State, County and Municipal Employees, AFL-CIO (Local 127) regarding the unwinding of Proposition B for current MEA and Local 127-represented employees, and extended the terms of that agreement, with the exception of the provisions related to the seven percent interest penalty, to all unrepresented and unclassified employees in all Mayoral and non-Mayoral departments who were initially hired into an eligible standard hour position on or after July 20, 2012, but before July 10, 2021; and

WHEREAS, the Council subsequently approved agreements with the Deputy City Attorneys Association (DCAA) by San Diego Resolution R-314149 (June 22, 2022), California Teamsters Local 911 (Local 911) by San Diego Resolution R-314158 (June 22, 2022), and the San Diego City Firefighters, I.A.F.F. Local 145 (Local 145) by San Diego Resolution R-314166 (June 22, 2022), regarding the unwinding of Proposition B for current DCAA, Local 911, and Local 145-represented employees; and

WHEREAS, by San Diego Ordinance O-21474 (July 1, 2022), Council amended various sections of the Municipal Code to implement the terms of the agreements with MEA, Local 127, DCAA, Local 911, and Local 145 concerning the unwinding of Proposition B for current represented employees and unrepresented and unclassified employees affected by Proposition B; and

WHEREAS, Council acknowledged a subsequent amendment to the Municipal Code would be necessary once the City and its recognized employee organizations reached agreement regarding the unwinding of Proposition B for affected individuals who have separated from City employment; and

WHEREAS, Council subsequently approved agreements with MEA and Local 127 by San Diego Resolution R-314622 (March 7, 2023), DCAA by Resolution R-314627 (March 7, 2023), and Local 145 by Resolution R-34705 (April 14, 2023), regarding the unwinding of Proposition B for separated employees formerly represented by MEA, Local 127, DCAA, and Local 145; and

WHEREAS, it is now necessary to amend the Municipal Code to implement the terms of the agreements with MEA, Local 127, DCAA, and Local 145 regarding the unwinding of Proposition B for separated employees formerly represented by MEA, Local 127, DCAA, and Local 145; and

WHEREAS, there are no separated employees formerly represented by Local 911 who are impacted by Proposition B; and

WHEREAS, the City has not yet reached agreement with the San Diego Police Officers Association (SDPOA) regarding the unwinding of Proposition B for current or separated SDPOA-represented employees impacted by Proposition B, but the City's Management Team continues to meet and confer with SDPOA representatives; and

WHEREAS, SDPOA-represented employees initially hired on or after July 20, 2012, but before July 10, 2021, and police recruits in the City's Police Academy will continue to participate in their current City-sponsored retirement plans until the City and SDPOA reach agreement regarding participation in the SDCERS; and

WHEREAS, Charter section 143.1(a) does not require a vote of the SDCERS membership because none of the amendments contained in this ordinance will affect the benefits of any current employee under the SDCERS; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; 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 24.0104 to read as follows:

**§24.0104      Membership**

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

(m)      For each *Member* initially hired or elected on or after July 20, 2012, but before July 10, 2021, the membership date, establishing entry into the *System*, shall be the first date the *Member* worked in a standard hour position, provided that the *Member* has purchased *Service Credit* under section 24.1313, 24.1314, or 24.1315. If the *Member* has not purchased *Service Credit*, the membership date shall be the date the *Member* first contributed to the *System*.

(n) [No change in text.]

Section 2. That Chapter 2, Article 4, Division 13 of the San Diego Municipal Code is amended by adding sections 24.1315 and 24.1316 to read as follows:

**§24.1315 Voluntary Purchase of Service Credit for Certain Separated Employees Not Previously Included Within the Field of Membership**

- (a) Each employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who:
- (1) separated from *City* employment before July 9, 2022, and was not employed by the *City* on July 9, 2022, or
  - (2) separated from *City* employment before July 9, 2022, was not working for the *City* on July 9, 2022, and was rehired on or after July 9, 2022, or
  - (3) was not in a position eligible for membership on July 8, 2022, and subsequently separated from *City* employment without ever becoming eligible for membership,
- may purchase *Service Credit* for the full period of service when they were working in a standard hour position on or after July 20, 2012, through July 8, 2022 ("Prop B"), as provided in this section.
- (b) The *Actuary* will calculate the actuarial liability, or cost, to purchase the *Service Credit* and the *Normal, Surviving Spouse, and Cost-of-Living Annuity Contributions* the *Member* would have made, plus annual interest at the *System's* assumed actuarial rate of return.
- (1) For each employee described in subsection (a) above who, during Prop B, was represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF,

the *Member's* share of the liability is the *Normal, Surviving Spouse*, and *Cost-of-Living Annuity Contributions* the *Member* would have made, plus annual interest at the *System's* assumed actuarial rate of return, for the periods the *Member* worked in a standard hour position described in subsection (a) above, while they were represented.

- (2) For each employee described in subsection (a) above who, during Prop B, was represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, the *City's* share of the liability payable by the *Member* will be determined based on the amount in the separated employee's SPSP-H employer contribution account on the date of their separation from employment, plus all investment earnings (actual or assumed) after separation from *City* employment, for the periods the *Member* worked in a standard hour position described in subsection (a) above, while they were represented. The balance of the liability after the *Member's* share, as described in (1) and (2), will be the *City's* share.
- (3) For each employee described in subsection (a) above who, during Prop B, was not represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State,

County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, the *Member's* share of the liability for the *Service Credit* will be the full liability.

- (c) If an employee under subsection (a) fails to purchase the *Service Credit* under this section, they will have no further opportunity to do so, except as provided for in subsection (d) below or under section 24.1308 upon return to work at the *City* in a position eligible for membership.
- (d) A separated employee who, during Prop B, was represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, who does not take timely action under this section, to purchase *Service Credit* under this section when initially provided with a contract to do so, but is rehired by the *City* into a standard hour position, will be provided with another opportunity to purchase such *Service Credit* under this section, provided that:
  - (1) they were rehired within two years of the date of the original contract, and
  - (2) they become a *Member* of the *System* upon rehire, and
  - (3) they complete one year of continuous employment as a *Member* of the *System* from the date of rehire.
- (e) Rehired employees under subsection (d):



- (1) Within 60 days of the completion of one year of continuous employment, the *City* must notify the *Member* of their rights under this section and inform the *Member* that it is the *Member's* responsibility to request a contract from SDCERS.
- (2) The *Actuary* will calculate the actuarial liability, or cost, to purchase the *Service Credit* and the *Normal, Surviving Spouse*, and *Cost-of-Living Annuity Contributions* the *Member* would have made, plus annual interest at the *System's* assumed actuarial rate of return as of the date of the completion of one year of employment under (d).
- (3) The rehired employee will fund the contract in accordance with subsections (b)(1-3) above.
  - (A) The rehired employee will have 60 days from the date of the contract to sign the contract.
  - (B) The rehired employee will have 60 days from the date the contract is signed to fund the contract.

**§24.1316 Purchase of Service Credits for Approved Leaves of Absence for Certain Separated Employees**

- (a) Each employee initially hired by the *City* on or after July 20, 2012, but before July 10, 2021, who:
  - (1) separated from *City* employment before July 9, 2022, and was not working for the *City* on July 9, 2022, or

- (2) separated from *City* employment before July 9, 2022, was not working for the *City* on July 9, 2022, and was rehired after July 9, 2022, or
  - (3) was not in a position eligible for membership on July 8, 2022, and subsequently separated from *City* employment without ever becoming eligible for membership, and
  - (4) who purchased *Service Credit* under section 24.1315, may purchase *Service Credit* for leaves of absence when the employee was receiving long-term disability benefits from the *City*; leaves of absence protected by the Family and Medical Leave Act; leaves of absence without pay approved by the Civil Service Commission with job saved, including any period preceding reinstatement by the Civil Service Commission following an appeal of termination of employment, and military leaves of absence covered by the Uniformed Services Employment and Reemployment Rights Act, while working in a standard hour position on or after July 20, 2012, but before July 8, 2022, as provided in this section.
- (b) Within 60 days of completing the purchase of *Service Credit* under section 24.1315, each employee described in subsection (a) may request a contract to purchase *Service Credit* for any of the leaves of absence listed in subsection (a)(4).

- (c) If a separated employee fails to timely request and purchase *Service Credit* under this section, the separated employee will have no further opportunity to do so.

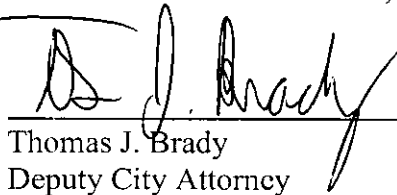
Section 3. That this Ordinance applies retroactively to January 1, 2024, for purposes of all affected separated employees who elect to purchase SDCERS Service Credit.

Section 4. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the 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: MARA W. ELLIOTT, City Attorney

By

  
Thomas J. Brady  
Deputy City Attorney

TJB:jvg:cc:cm  
January 8, 2024  
Or.Dept: Human Resources  
Doc. No. 3523230\_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 27 2024.

DIANA J.S. FUENTES  
City Clerk

By Connie Patterson  
Deputy City Clerk

Approved: 3/4/24  
(date)

Todd Gloria  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck-Out~~**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0104; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 13 BY ADDING SECTIONS 24.1315 AND 24.1316, ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

**Article 4: City Employees' Retirement System**

**Division 1: Creation of System and Definitions**

**§24.0104      Membership**

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

(m)      For each *Member* initially hired or elected on or after July 20, 2012, but before July 10, 2021, the membership date, establishing entry into ~~employment under~~ the *System*, shall be the first date the *Member* worked in a standard hour position, provided that the *Member* has purchased ~~that time~~ *Service Credit* under section 24.1313, ~~or 24.1314, or 24.1315~~. If the *Member* has not purchased ~~that time~~ *Service Credit*, the membership date shall be the date the *Member* first contributed to the *System*.

(n) [No change in text.]

## Article 4: City Employees' Retirement System

### Division 13: Purchase of Service Credit

#### §24.1315      Voluntary Purchase of Service Credit for Certain Separated Employees Not Previously Included Within the Field of Membership

(a)      Each employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who:

- (1)      separated from City employment before July 9, 2022, and was not employed by the City on July 9, 2022, or
- (2)      separated from City employment before July 9, 2022, was not working for the City on July 9, 2022, and was rehired on or after July 9, 2022, or
- (3)      was not in a position eligible for membership on July 8, 2022, and subsequently separated from City employment without ever becoming eligible for membership,

may purchase Service Credit for the full period of service when they were working in a standard hour position on or after July 20, 2012, through July 8, 2022 ("Prop B"), as provided in this section.

(b)      The Actuary will calculate the actuarial liability, or cost, to purchase the Service Credit and the Normal, Surviving Spouse, and Cost-of-Living Annuity Contributions the Member would have made, plus annual interest at the System's assumed actuarial rate of return.

- (1)      For each employee described in subsection (a) above who, during Prop B, was represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and

Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, the Member's share of the liability is the Normal, Surviving Spouse, and Cost-of-Living Annuity Contributions the Member would have made, plus annual interest at the System's assumed actuarial rate of return, for the periods the Member worked in a standard hour position described in subsection (a) above, while they were represented.

- (2) For each employee described in subsection (a) above who, during Prop B, was represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, the City's share of the liability payable by the Member will be determined based on the amount in the separated employee's SPSP-H employer contribution account on the date of their separation from employment, plus all investment earnings (actual or assumed) after separation from City employment, for the periods the Member worked in a standard hour position described in subsection (a) above, while they were represented. The balance of the liability after the Member's share, as described in (1) and (2), will be the City's share.

- (3) For each employee described in subsection (a) above who, during Prop B, was not represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, the *Member's* share of the liability for the *Service Credit* will be the full liability.
- (c) If an employee under subsection (a) fails to purchase the *Service Credit* under this section, they will have no further opportunity to do so, except as provided for in subsection (d) below or under section 24.1308 upon return to work at the *City* in a position eligible for membership.
- (d) A separated employee who, during Prop B, was represented by the San Diego Municipal Employees' Association; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the Deputy City Attorneys Association; or the San Diego City Firefighters Local 145, IAFF, who does not take timely action under this section, to purchase *Service Credit* under this section when initially provided with a contract to do so, but is rehired by the *City* into a standard hour position, will be provided with another opportunity to purchase such *Service Credit* under this section, provided that:
- (1) they were rehired within two years of the date of the original contract, and
- (2) they become a *Member* of the *System* upon rehire, and



(3) they complete one year of continuous employment as a Member of the System from the date of rehire.

(e) Rehired employees under subsection (d):

(1) Within 60 days of the completion of one year of continuous employment, the City must notify the Member of their rights under this section and inform the Member that it is the Member's responsibility to request a contract from SDCERS.

(2) The Actuary will calculate the actuarial liability, or cost, to purchase the Service Credit and the Normal, Surviving Spouse, and Cost-of-Living Annuity Contributions the Member would have made, plus annual interest at the System's assumed actuarial rate of return as of the date of the completion of one year of employment under (d).

(3) The rehired employee will fund the contract in accordance with subsections (b)(1-3) above.

(A) The rehired employee will have 60 days from the date of the contract to sign the contract.

(B) The rehired employee will have 60 days from the date the contract is signed to fund the contract.

**§24.1316 Purchase of Service Credits for Approved Leaves of Absence for Certain Separated Employees**

(a) Each employee initially hired by the City on or after July 20, 2012, but before July 10, 2021, who:

- (1) separated from City employment before July 9, 2022, and was not working for the City on July 9, 2022, or
  - (2) separated from City employment before July 9, 2022, was not working for the City on July 9, 2022, and was rehired after July 9, 2022, or
  - (3) was not in a position eligible for membership on July 8, 2022, and subsequently separated from City employment without ever becoming eligible for membership, and
  - (4) who purchased Service Credit under section 24.1315, may purchase Service Credit for leaves of absence when the employee was receiving long-term disability benefits from the City; leaves of absence protected by the Family and Medical Leave Act; leaves of absence without pay approved by the Civil Service Commission with job saved, including any period preceding reinstatement by the Civil Service Commission following an appeal of termination of employment, and military leaves of absence covered by the Uniformed Services Employment and Reemployment Rights Act, while working in a standard hour position on or after July 20, 2012, but before July 8, 2022, as provided in this section.
- (b) Within 60 days of completing the purchase of Service Credit under section 24.1315, each employee described in subsection (a) may request a contract to purchase Service Credit for any of the leaves of absence listed in subsection (a)(4).

- (c) If a separated employee fails to timely request and purchase *Service Credit* under this section, the separated employee will have no further opportunity to do so.

TJB:jvg:cc:cm  
January 8, 2024  
Or.Dept: Human Resources  
Doc. No. 3523249\_2

Passed by the Council of The City of San Diego on FEB 27 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 - vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 04 2024.

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Linda Iruen, Deputy  
For Connie Patterson

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

FEB 06 2024

, and on MAR 04 2024.

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.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Linda Iruen, Deputy  
For Connie Patterson

Office of the City Clerk, San Diego, California

Ordinance Number O- **21768**