

ORDINANCE NUMBER O- 21864 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 16 2024

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 24.0103 AND 24.0104; AND AMENDING CHAPTER 2, ARTICLE 4, DIVISION 4 BY ADDING SECTIONS 24.0403.0005 AND 24.0403.0006, 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 sections 140, 141.1, and 150 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 elected officers and employees who were initially hired or assumed office on or after July 20, 2012, were ineligible to participate in the City's defined benefit plan, administered by the San Diego City Employees' Retirement System (SDCERS), and would participate only in a defined contribution plan, the City's Supplemental Savings Plan – H (SPSP-H); and

WHEREAS, Charter section 141.1 created a new SDCERS Tier V benefit for sworn police officers; and

WHEREAS, for employees represented by the San Diego Police Officers Association (POA), Proposition B operated to exclude police recruits in the City's police academy from participating in SDCERS and instead placed them in SPSP-H; and

WHEREAS, Proposition B also changed the terms of newly hired sworn police officers' participation in SDCERS from Tier IV to a new Tier V benefit; and

WHEREAS, because the City and POA were parties to an existing Memorandum of Understanding (MOU), setting forth the terms of retirement benefits at the time Proposition B became effective on July 20, 2012, Proposition B was not implemented for POA-represented employees until the parties entered into a new MOU, effective July 1, 2013; 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 that the provisions of the Charter added by Proposition B were 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 directing the City and City Council to comply with the judgment by striking the Proposition B provisions from the Charter and amending the San Diego Municipal Code (Municipal Code) and any other related enactments or regulations accordingly; and

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

WHEREAS, although POA did not participate in the litigation concerning the validity of Proposition B, POA's MOUs with the City after the effective date of Proposition B provided the parties would meet and confer over the invalidation of Proposition B, and the parties began meeting and conferring on the issue on April 26, 2021; and

WHEREAS, by Ordinance O-21333, effective June 24, 2021, the City Council first amended Municipal Code sections 24.0103, 24.0104, and 24.1702, so that elected 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 SDCERS prospectively; and

WHEREAS, the City Council acknowledged that police recruits in the City's police academy hired on or after July 10, 2021, would continue to participate in the SPSP-H Plan and would not be eligible to participate in SDCERS until the City and POA reached agreement on the terms of their participation in SDCERS; and

WHEREAS, the City Council also acknowledged a subsequent amendment to the Municipal Code would be necessary once the City and its recognized employee organizations reached agreement to allow current elected officers and employees initially hired or assuming office on or after July 20, 2012, but before July 10, 2021, to participate in SDCERS prospectively; and

WHEREAS, by Resolution R-313873, effective February 2, 2022, the City 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 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 City Council subsequently approved agreements with the Deputy City Attorneys Association (DCAA) by Resolution R-314149, effective June 22, 2022, California Teamsters Local 911 (Local 911) by Resolution R-314158, effective June 22, 2022, and the San Diego City Firefighters, I.A.F.F. Local 145 (Local 145) by Resolution R-314166, effective June 22, 2022, regarding the unwinding of Proposition B for current DCAA, Local 911, and Local 145-represented employees; and

WHEREAS, by Ordinance O-21474, effective July 1, 2022, the City 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, the City Council again acknowledged the City and POA had not yet reached agreement regarding the unwinding of Proposition B for affected POA-represented employees, and therefore, police recruits in the City's police academy would continue to participate in the SPSP-H Plan and sworn police officers affected by Proposition B would continue participating in Tier V of SDCERS; and

WHEREAS, by Resolution R-315580, effective June 11, 2024, the City Council approved an agreement with POA regarding the unwinding of Proposition B for police recruits in

the City's police academy and sworn police officers currently participating in Tier V of SDCERS, and extended the terms of that agreement to all sworn unrepresented employees in the Police Department who were initially hired into an eligible standard hour position on or after July 1, 2013; and

WHEREAS, it is now necessary to amend the Municipal Code to implement the terms of the agreement with POA concerning the unwinding of Proposition B for police recruits in the City's police academy, sworn police officers currently participating in Tier V of SDCERS, and all sworn unrepresented police officers who were initially hired into a standard hour position on or after July 1, 2013; and

WHEREAS, Charter section 143.1(a) does not require a vote of the SDCERS membership because none of the amendments concerning police recruits or sworn police officers initially hired on or after September 9, 2024, affects the benefits of any current employee under SDCERS, and the amendments concerning sworn police officers currently participating in Tier V of SDCERS are necessary to comply with the meet and confer requirements of the *Quo Warranto* action, now that Charter section 141.1 has been repealed and SDCERS Tier IV has been reopened for participation; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff (including information provided by affected third parties and verified 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 sections 24.0103 and 24.0104, to read as follows:

§24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

Accumulated Additional Contributions through Elected Officer [No change in text.]

Final Compensation means the average of a *Member's* three highest years of *Base Compensation* received on or after the date on which the *Member* first contributes to the *System* for: (1) *Safety Members* employed in the *City* Police Department who were initially hired by the *City* after December 31, 2011, but before July 1, 2013, or on or after September 9, 2024; (2) *Safety Members* employed in the *City* Police Department who were initially hired by the *City* on or after July 1, 2013 but before September 9, 2024, who were not actively employed by the *City* on September 9, 2024, but are rehired after September 9, 2024, prospectively from their rehire date; (3) *Safety Members* employed in the *City* Lifeguard Services who were initially hired by the *City* after June 30, 2011; (4) *Safety Members* employed in the *City* Fire Department who were initially hired by the *City* after December 31, 2011; and (5) *Safety Members* employed in the *City* Police Department who were initially hired by the *City* after June 30, 2013 but before September 9, 2024, and were employed by the *City's* Police Department on September 9, 2024.

Final Compensation means the *Member's* highest consecutive 36 months of *Base Compensation* as a *Member* of the *System* for *Safety Members* employed in the *City* Police Department who were initially hired by the *City* after June 30, 2013

but before September 9, 2024, and were not actively employed by the *City* on September 9, 2024.

General Member through *Rules* [No change in text.]

Safety Member means a *Member* who is one of the following: (1) a sworn officer of the *City* Police Department; (2) a uniformed member of the *City* Fire Department; (3) a full-time *City* lifeguard; or (4) a Police Department recruit employed by the *City* and participating in the *City*'s Police Academy, provided the recruit was initially hired by the *City* before July 1, 2013, or on or after September 9, 2024. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the *City*'s Police Department, Fire Department, and lifeguard service are not *Safety Members*.

Service Credit through "*Unmodified Service Retirement Allowance*" [No change in text.]

§24.0104 Membership

- (a) Membership in the *System* is compulsory and a condition of employment for all: (1) general salaried, classified and unclassified employees who work in a standard hour position except as provided in subsections (g), (h), (i), (j), and (k); (2) general salaried, classified and unclassified employees who are rehired after July 8, 2022, and work in a standard hour position, unless the employee opted to not join the *System* under subsection (l); (3) general salaried, classified and unclassified employees who are initially hired on or after July 20, 2012, but before July 10, 2021, and whose first day working in a standard hour position is on or after July 8, 2022; (4) police recruits

initially hired before July 1, 2013, or on or after September 9, 2024;
(5) police recruits actively participating in the Academy on September 9, 2024, for the remainder of their time in the Academy; (6) sworn officers in the *City's* Police Department regardless of hire date; (7) full-time *City* lifeguards; and (8) uniformed members of the *City's* Fire Department.

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

Section 2. That Chapter 2, Article 4, Division 4 of the San Diego Municipal Code is amended by adding new sections 24.0403.0005 and 24.0403.0006 to read as follows:

§24.0403.0005 Retirement Allowance for Police Officer Safety Members Initially Hired After June 30, 2013 but before September 9, 2024, and Employed in the City's Police Department on September 9, 2024

Notwithstanding sections 24.0403 and 24.0403.0004, a *Safety Member* employed in the *City's* Police Department on September 9, 2024, who was initially hired by the *City* after June 30, 2013 but before September 9, 2024, was actively employed by the *City* on September 9, 2024, and participated in the *System* under section 24.0403.0004, shall receive the same level of benefits provided to *Safety Members* under section 24.0403.0001 retroactively from their date of initial hire with the Police Department. Any missing *Accumulated Normal Contributions* due to this provision shall be paid by the *City* and deposited into the corresponding Member's account. Any missing employer contributions or unfunded liability due to this provision shall be paid by the *City* and deposited into the SDCERS Trust Fund.

§24.0403.0006 Retirement Allowance for Police Officer Safety Members Hired On or After September 9, 2024

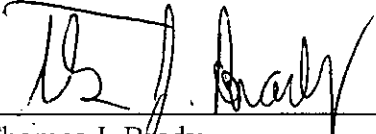
Notwithstanding sections 24.0403 and 24.0403.0004, a *Safety Member* employed in the *City's* Police Department, who was initially hired by the *City* on or after September 9, 2024, shall receive the same level of benefits provided to *Safety Members* under section 24.0403.0001. Any *Safety Member* in the *City's* Police Department who was initially hired by the *City* after June 30, 2013 but before September 9, 2024, participated in the *System* under section 24.0403.0004, was not employed by the *City's* Police Department on September 9, 2024 and was re-hired by the *City* after September 9, 2024, shall receive the same level of benefits provided to *Safety Members* under section 24.0403.0001 prospectively from their date of re-hire.

Section 3. That this ordinance applies retroactively to September 9, 2024.

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
Senior Deputy City Attorney

TJB:jvg
July 2, 2024
Or.Dept: Human Resources
Doc. No. 3709185

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 10 2024.

DIANA J.S. FUENTES
City Clerk

By *Cornie Patterson*
Deputy City Clerk

Approved: 9/16/24
(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 SECTIONS 24.0103 AND 24.0104; AND AMENDING CHAPTER 2, ARTICLE 4, DIVISION 4 BY ADDING SECTIONS 24.0403.0005 AND 24.0403.0006, ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

§§24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

Accumulated Additional Contributions through Elected Officer [No change in text.]

Final Compensation means the average of a *Member's* three highest years of *Base Compensation* received on or after the date on which the *Member* first contributes to the *System* for ~~General Members hired after June 30, 2009~~: (1) *Safety Members* employed in the *City* Police Department who were initially hired by the *City* after December 31, 2011, but before July 1, 2013, or on or after September 9, 2024; (2) *Safety Members* employed in the *City* Police Department who were initially hired by the *City* on or after July 1, 2013 but before September 9, 2024, who were not actively employed by the *City* on September 9, 2024, but are rehired after September 9, 2024, prospectively from their rehire date; (3) *Safety Members* employed in the *City* Lifeguard Services who were initially hired by the *City* after

June 30, 2011; (4) Safety Members employed in the City Fire Department who were initially hired by the City after December 31, 2011; and (5) Safety Members employed in the City Police Department who were initially hired by the City after June 30, 2013 but before September 9, 2024, and were employed by the City's Police Department on September 9, 2024.

Final Compensation means the *Member's* highest consecutive 36 months of *Base Compensation* as a *Member* of the *System* for *Safety Members* employed in the *City Police Department* who were initially hired by the *City* after June 30, 2013 but before September 9, 2024, and were not actively employed by the City on September 9, 2024.

General Member through *Rules* [No change in text.]

Safety Member means a *Member* who is one of the following: (1) a sworn officer of the *City Police Department*; (2) a uniformed member of the *City Fire Department*; (3) a full-time *City* lifeguard; or (4) ~~effective July 1, 2003,~~ a *Police Department* recruit employed by the *City* and participating in the *City's Police Academy*, provided the recruit was initially hired by the *City* before July 1, 2013, or on or after September 9, 2024. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the *City's Police Department*, *Fire Department*, and lifeguard service are not *Safety Members*.

Service Credit through "*Unmodified Service Retirement Allowance*" [No change in text.]

§24.0104 **Membership**

- (a) Membership in the *System* is compulsory and a condition of employment for all: (1) general salaried, classified and unclassified employees who work in a standard hour position except as provided in subsections (g), (h), (i), (j), and (k); (2) general salaried, classified and unclassified employees who are rehired after July 8, 2022, and work in a standard hour position, unless the employee opted to not join the *System* under subsection (l); (3) general salaried, classified and unclassified employees who are initially hired on or after July 20, 2012, but before July 10, 2021, and whose first day working in a standard hour position is on or after July 8, 2022; (4) police recruits initially hired before July 1, 2013 or on or after September 9, 2024; (5) police recruits actively participating in the Academy on September 9, 2024, for the remainder of their time in the Academy; ~~(56)~~ sworn officers in the *City's* Police Department regardless of hire date; ~~(67)~~ full-time *City* lifeguards; and ~~(78)~~ uniformed members of the *City's* Fire Department.
- (b) through (n) [No change in text.]

§24.0403.0005 Retirement Allowance for Police Officer Safety Members Initially Hired After June 30, 2013 but before September 9, 2024, and Employed in the City's Police Department on September 9, 2024

Notwithstanding sections 24.0403 and 24.0403.0004, a *Safety Member* employed in the *City's* Police Department on September 9, 2024, who was initially hired by the *City* after June 30, 2013 but before September 9, 2024, was actively employed by the *City* on September 9, 2024, and participated in the *System* under section 24.0403.0004, shall receive the same level of benefits provided to *Safety*

Members under section 24.0403.0001 retroactively from their date of initial hire with the Police Department. Any missing *Accumulated Normal Contributions* due to this provision shall be paid by the *City* and deposited into the corresponding Member's account. Any missing employer contributions or unfunded liability due to this provision shall be paid by the *City* and deposited into the SDCERS Trust Fund.

§24.0403.0006 Retirement Allowance for Police Officer Safety Members Hired On or After September 9, 2024

Notwithstanding sections 24.0403 and 24.0403.0004, a *Safety Member* employed in the *City's* Police Department, who was initially hired by the *City* on or after September 9, 2024, shall receive the same level of benefits provided to *Safety Members* under section 24.0403.0001. Any *Safety Member* in the *City's* Police Department who was initially hired by the *City* after June 30, 2013 but before September 9, 2024, participated in the *System* under section 24.0403.0004, was not employed by the *City's* Police Department on September 9, 2024 and was re-hired by the *City* after September 9, 2024, shall receive the same level of benefits provided to *Safety Members* under section 24.0403.0001 prospectively from their date of re-hire.

TJB:jvg
July 2, 2024
Or.Dept: Human Resources
Doc. No. 3709187

Passed by the Council of The City of San Diego on SEP 10 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" 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 SEP 16 2024

AUTHENTICATED BY:

(Seal)

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

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

By Connie Patterson, Deputy

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

JUL 30 2024, and on SEP 16 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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21864