

RESOLUTION NUMBER R- **316274**

DATE OF FINAL PASSAGE **JUN 18 2025**

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING THE CITY JOB  
CLASSIFICATIONS THAT ARE ELIGIBLE FOR OVERTIME  
COMPENSATION IN FISCAL YEAR 2026.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. Council Policy 300-02 provides that it is necessary for the efficient and effective administration of the City of San Diego's government to call upon employees to work beyond their normal working hours in certain circumstances, with the need for overtime to be determined by the Mayor or designee, or independent department directors, in accordance with controlling law.

B. The San Diego City Council (Council) has established local overtime rules for certain employees, as specified in Council Policy 300-02, Personnel Manual Index Code H-4, and memoranda of understanding between the City and its recognized employee organizations approved by the Council.

C. Local overtime is City-authorized working time beyond an employee's normally scheduled hours. Under these local overtime rules, the City distinguishes between "regular rate overtime," which is compensation for overtime worked at the employee's "base rate" of pay, and "premium rate overtime," which is compensation at one and one-half times the employee's "base rate" of pay.

D. In *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985), the United States Supreme Court concluded that the Fair Labor Standards Act (FLSA), at 29 U.S.C. §§ 201-219, which sets forth federal minimum wage and overtime provisions, is applicable to states, cities, and local agencies, including the City.

E. The FLSA generally requires the City to pay those employees covered by the FLSA with overtime pay for hours worked over 40 in a workweek, which is defined as any fixed and regularly recurring period of 168 hours or seven consecutive 24-hour periods, at a rate of not less than one and one-half times the regular rate of pay as that term is defined by the FLSA.

F. In accordance with the FLSA and its regulatory provisions promulgated by the United States Department of Labor, certain employees are designated as exempt from FLSA-required overtime pay, if they meet minimum requirements related to their primary job duties and they are paid on a salary basis of not less than the minimum amounts as specified in the regulations.

G. The current minimum salary amount to designate an employee salaried and exempt from the FLSA is \$684 per week.

H. The Civil Service Commission designates classifications in the Classified Service that are covered by and exempt from local overtime rules and the FLSA. These designations must be approved by the Council in accordance with San Diego Charter sections 11.1 and 130 and Council Policy 300-02.

I. The Council wishes to approve the job classifications in the Classified Service that are eligible for overtime compensation, which are set forth in Addendum A of Personnel Manual Index Code H-4, titled Attachment A – Overtime, on file in the Office of the City Clerk as Document No. RR- 316274.

J. This Resolution is intended to be consistent with the overtime provisions set forth in the Fiscal Year 2026 Salary Ordinance O-21965 (May 13, 2025).

K. The Council also intends to ensure that the City complies with local rules and the FLSA in compensating employees in the Unclassified Service.

L. Under the City's rules, employees in the Unclassified Service are not eligible for local overtime as long as they are paid on a regular, biweekly, salaried basis for one-half, three-quarter, or full-time work. As set forth in the Fiscal Year 2026 Salary Ordinance, these employees will be paid for absences of less than one day, with no deduction from the employee's pay, leave credits, or other monetary amounts made to recover the cost of the absence, unless the deduction is required by law.

M. Under the City's rules, employees in the Unclassified Service are compensated for overtime if they are designated to be paid on an hourly basis.

N. The FLSA, at 29 U.S.C. § 203(e)(2)(C), expressly excludes those City employees, who are not subject to the City's civil service provisions, and who (1) hold City elective office, (2) are selected by an elective officer to be a member of their personal staff, (3) are appointed by a City elective officer to serve on a policymaking level, (4) serve as an immediate advisor to an elective officer on constitutional or legal powers of the office, or (5) are employees in the legislative branch or body of the City.

O. In accordance with this definition, the Council acknowledges that the following classifications are excluded from the FLSA and its regulatory provisions, including those defining overtime eligibility, and are not entitled to overtime under any circumstances:

Assistant to Mayor (UC 2120)

Mayor Representative I (UC 2165)

Principal Assistant to Mayor (UC 2174)  
Mayor Representative II (UC 2178)  
Principal Assistant to City Attorney (UC 2182)  
Council Representative I (UC 2211)  
Council Representative II (UC 2212)  
Council Representative II (UC 2213)  
Assistant Executive Services Director (UC 2128)  
Confidential Secretary to City Attorney (UC 2205)  
Confidential Secretary to City Council (UC 2206)  
Confidential Secretary to Mayor (UC 2208)  
Council Committee Consultant (UC 2210)  
Senior Council Committee Consultant (UC 2223); and

P. The Council authorizes the Mayor, in consultation with the Personnel Director, Comptroller, and City Attorney, to make any necessary adjustments to overtime calculations in Fiscal Year 2026 to ensure compliance with the FLSA, including applicable regulations and case law interpreting the statute.

Q. The Office of the City Attorney prepared this Resolution 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 and accurate.

#### ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. The Council approves the job classifications in the City's Classified Service that are eligible for overtime compensation for Fiscal Year 2026, which are set forth in Addendum A

of Personnel Manual Index Code H-4, titled Attachment A – Overtime, on file in the Office of the City Clerk as Document No. RR- **316274**. The Council also authorizes overtime compensation for employees in compliance with the FLSA.

2. The Council acknowledges that, under 29 U.S.C. § 203, the following classifications are excluded from the FLSA and not entitled to overtime under any circumstances:

Assistant to Mayor (UC 2120)

Mayor Representative I (UC 2165)

Principal Assistant to Mayor (UC 2174)

Mayor Representative II (UC 2178)

Principal Assistant to City Attorney (UC 2182)

Council Representative I (UC 2211)

Council Representative II (UC 2212)

Council Representative II (UC 2213)

Assistant Executive Services Director (UC 2128)

Confidential Secretary to City Attorney (UC 2205)

Confidential Secretary to City Council (UC 2206)

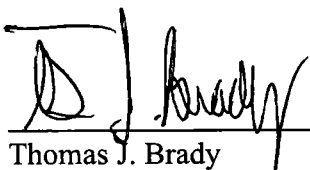
Confidential Secretary to Mayor (UC 2208)

Council Committee Consultant (UC 2210)

Senior Council Committee Consultant (UC 2223).

3. The Council authorizes the Mayor, in consultation with the Personnel Director, Comptroller, and City Attorney, to make any necessary adjustments to overtime calculations or Attachment A in Fiscal Year 2026 to ensure compliance with the FLSA, including applicable regulations and case law interpreting the statute.

APPROVED: HEATHER FERBERT, City Attorney

By   
Thomas J. Brady  
Senior Deputy City Attorney

TJB:jvg  
May 20, 2025  
Or.Dept: Human Resources  
Doc. No. 4066207

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on  
JUN 17 2025.

DIANA J.S. FUENTES  
City Clerk

By   
(Deputy City Clerk)

Approved: 6/17/2025  
(date)

  
TODD GLORIA, Mayor

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

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

Passed by the Council of The City of San Diego on JUN 17 2025, 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 JUN 18 2025.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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 Linda Irwin, Deputy

Office of the City Clerk, San Diego, California

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