

Article 4: City Employees' Retirement System

*("Retirement System" incorp 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S.
adopted 11-29-1926; repealed 10-25-1962 by O-8744 N.S.)
("City Employees' Retirement System" added 10-25-1962 by O-8744 N.S.)*

Division 1: Creation of System and Definitions

*("Definitions" incorp. 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S. adopted 11-29-1926;
repealed 10-25-1962 by O-8744 N.S.)
("Creation of System and Definitions" added 10-25-1962 by O-8744 N.S.)*

§24.0100 Purpose of Article

The purpose of this article is to recognize a public obligation to City employees for their long service in public employment by making provision for retirement compensation and death benefits as additional elements of compensation for future services and to provide a means by which City employees who become disabled may be replaced without inflicting hardship on the employees removed.

("Purpose of Article" added 12-8-1976 by O-11964 N.S.)

§24.0101 Creation of System

The City Employees' Retirement System created and established by the terms and provisions of Ordinance No. 10792, adopted by the Common Council of The City of San Diego on November 29, 1926, be, and the same is hereby continued in existence, except as hereinafter changed and modified.

("Creation of System" added 12-8-1976 by O-11964 N.S.)

§24.0102 Rights and Benefits

The rights and benefits heretofore earned, and which have become vested under the City Employees' Retirement System as created by said Ordinance No. 10792 of members of such system who have heretofore retired and are now receiving retirement allowances are hereby preserved in all particulars, and nothing in this ordinance contained shall be construed in any way to affect any of such rights and benefits.

("Rights and Benefits" added 12-8-1976 by O-11964 N.S.)

§24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

“*Accumulated Additional Contributions*” means the sum of additional contributions standing to the credit of a Member’s individual account and interest thereon.

“*Accumulated Contributions*” means Accumulated Normal Contributions plus any Accumulated Additional Contributions standing to the credit of a Member’s account.

“*Accumulated Normal Contributions*” means the sum of all normal contributions standing to the credit of a Member’s individual account and interest thereon.

“*Actuarial Equivalent*” means a benefit of equal value when computed upon the basis of the mortality, interest, and other tables adopted by the Board by Rule. These Board Rules, as the same may be amended or adopted by the Board from time to time, are incorporated by reference into this Article as part of the Plan document. This definition is effective July 1, 1989.

“*Actuary*” means the actuary regularly employed on a full or part–time basis by the Board.

“*Annuity*” means payment for life derived from contributions made by a Member.

“*Base Compensation*” means and includes the base salary or wages paid (standard hours multiplied by the hourly rate) on a regular bi-weekly basis to an employee for his or her services in any given pay period, including (by way of example) but not limited to such items of compensation as: time during which the employee is excused from work for holidays, annual leave taken, sick leave taken, compensatory time off taken, industrial leave taken, discretionary or furlough leave taken, and pay for out-of-class assignments. Base Compensation means salary before pre-tax deductions for such items as participation in a deferred compensation plan, SDCERS, or for authorized dependent health care premiums. Base compensation shall not be reduced for temporary salary adjustments necessitated by City budgetary reductions so long as the contributions to SDCERS as required by Charter section 143 are determined by the base salary before the temporary salary adjustment. A complete listing of included and excluded items of compensation or remuneration is memorialized in a document entitled “Earnings Codes Included in Retirement Base Compensation” [the Earnings Codes Document], which is prepared annually and which shall be kept on file in the Office of the City Clerk, and also maintained by the City Manager, the City Auditor, the Retirement Administrator and the Personnel Director. The Earnings Code Document shall be amended annually, as necessary to reflect any changes or additions made during the City’s budget adoption process.

For purposes of calculating retirement benefits, “*Base Compensation*” shall not include any item of compensation or remuneration which is identified in the Earnings Codes Document as excluded from Base Compensation, including (by way of example) but not limited to: the Flexible Benefits Plan dollar value available to an employee each fiscal year; the amount of an employee’s retirement system contribution which the City pays on behalf of the employee [the Retirement Offset]; payments made for overtime work (whether at straight or premium pay, and whether paid directly or by conversion to compensatory time off); payments made by the City to the Supplemental Pension Savings Plan on behalf of an employee; payments made by the City to an employee in lieu of the employee’s taking of accrued annual leave; payments made by the City to an employee as a Uniform Allowance or Uniform Reimbursement, or the monetary value of employer-provided uniforms; payments made by the City to an employee as a Tool Allowance; payments made by the City to an employee as an Automobile Allowance or for reimbursement of miles driven while using a personal vehicle for work-related duties; payments made by the City to an employee as a Moving Allowance; payments made by the City to an employee for exceptional performance or pursuant to a “pay for performance” plan, unless such payments are expressly designated in the annual Salary Ordinance for inclusion in Base Compensation; payments made to an employee pursuant to the City’s Long Term Disability Plan or pursuant to the Worker’s Compensation Statute; and cash conversions of accrued, unused annual leave or “old” sick leave, in connection with or in anticipation of separation from employment.

“*Base Retirement Benefit*” means the monthly retirement benefit for service or disability paid to a Member, or a like amount which is deposited monthly in the account of a DROP Participant, which includes: 1) the Unmodified Service Retirement allowance (which will be modified if the member selects an optional retirement as provided in Division 6); 2) the Cost of Living Annuity; 3) the annual Cost of Living Adjustment (COLA) described in Section 24.1505; and 4) the Surviving Spouse Annuity described in Section 24.0601 if selected by the Member. The Base Retirement Benefit does not include the Annual Supplemental Benefit (13th check) described in Section 24.1503 or the Supplemental COLA adjustment described in Section 24.1504.

“*Beneficiary*” means any person in receipt of a pension, annuity, retirement allowance, death benefit, or any other benefit authorized by this Article.

“*Board*” means the Board of Administration for the City Employees’ Retirement System.

“*City sponsored health insurance plan*” means a group health insurance plan, selected by and in contractual privity with the City of San Diego, made available to Health Eligible Retirees.

“Code” unless otherwise indicated means the Internal Revenue Code of 1986, as amended.

“Continuous Service” means service of an eligible Member deemed to be of a continuous nature pursuant to Section 24.1005 of this Code. “Continuous Service” shall not be construed as synonymous with “Creditable Service.”

“Cost of Living Annuity” means an amount to be added to the retirement allowance of a Member or Officer, calculated by computing the actuarial equivalent of the accumulated contributions in the cost of living annuity account of the Member or Officer at the time of the retirement of the Member or Officer.

“Creditable Service” for purposes of qualification for benefits and retirement allowances under this System means service rendered for compensation as an employee or officer (employed, appointed or elected) of the City or a contracting agency, and only while he or she is receiving compensation from the City or contracting agency, and is a Member of and contributing to this System pursuant to appropriate provisions of this Article. Except as provided in Chapter 2, Article 4, Division 13, for which repurchase of credits may be permissible, time during which a Member is absent from City service without compensation shall not be allowed in computing Creditable Service. The term “Current Service,” shall mean the same as Creditable Service.

“Creditable Service Pension” means the pension derived from the contributions of the City, that when added to the Member’s Service Retirement Annuity, is sufficient to equal the Unmodified Service Retirement Allowance.

“Deferred Member” means any Member who leaves his or her employee contributions on deposit with the Retirement System after terminating City or contracting agency service. When a Deferred Member applies for retirement benefits, he or she is entitled, when eligible, for the retirement benefits in effect on the day the Deferred Member terminates City or contracting agency service and leaves his or her contributions on deposit with the Retirement System.

“Drop” means Deferred Retirement Option Plan, an alternative method of benefit accrual described in Division 14.

“Elected Officer” means the Mayor, members of the City Council, and the City Attorney.

“Final Compensation” for General Members hired before July 1, 2009 and Elected Officers means the Base Compensation based on the highest one year period during membership in the Retirement System for those Members and Elected Officers who are on the active payroll of the City of San Diego on or after June 30, 1989, and who retire on or after July 1, 1989.

“*Final Compensation*” for General Members hired on or after July 1, 2009 means the Base Compensation based on the average of the General Member’s three highest years at any time during membership in the Retirement System.

“*Final Compensation*” for Safety Members means the Base Compensation for the highest one year period during membership in the Retirement System, for those Safety Members who are on the active payroll of The City of San Diego on or after January 1, 1988, and who retire on or after July 1, 1988.

“*General Member*” is any Member not otherwise classified as a Safety Member or Elected Officer.

“*Health Eligible Retiree*” means any retired General Member, Safety Member, or Elected Officer who: (1)was on the active payroll of the City of San Diego on or after October 5, 1980, and (2)retires on or after October 6, 1980, and (3)is eligible for and is receiving a retirement allowance from the Retirement System.

“*Investment Earnings Received*” means all interest received (net of interest purchased) on notes, bonds, mortgages, short– term money market instruments, and savings accounts; cash dividends received on stock investments; and all realized gains and losses from the sale, trade, or conversion of any investments of the Retirement System.

“*Member*” means any person employed by the City of San Diego who actively participates in and contributes to the Retirement System, and who will be entitled, when eligible, to receive benefits from the Retirement System. There are three classes of Member: General, Safety, and Elected Officer.

“*Normal Contributions*” means contributions by a Member at the normal rates of contribution, but does not include additional contributions by a Member.

“*Prior Service*” means service prior to January 1, 1927.

“*Public Agency*” means any city or public agency, located or having jurisdiction wholly or partially within the County of San Diego, that has no private sector ownership or control and has only public employees.

“*Public Agency Participant*” means a Public Agency employee who is: (1) compensated through the Public Agency’s payroll system, (2) treated as an employee by the Public Agency for tax-reporting and other purposes, and (3) participates in the Public Agency’s retirement plan administered by the Retirement System under Division 18 of this Article.

“*Qualified Retiree*” means a retiree who is eligible to receive the annual supplemental benefit set forth in Division 15.

“*Retirement Fund*” means the trust fund created by the City Charter in Article IX.

“*Retirement System*” and “*System*” means the City Employees’ Retirement System as created by this Article, and the “1981 Pension System” means the Employees’ Retirement System as created by Chapter II, Article 4, Division 11.

“*Rule(s)*” means the current set of funding, contribution and actuarial equivalent factor rules promulgated by the Board and covering the period from July 1, 1989 to June 30, 2008, attached as Appendix A to this Article, and said rules, as may be amended or adopted from time to time by the Board, which will constitute part of the SDCERS written plan document for purposes of the qualification requirements of Internal Revenue Code Section 401(a).

“*Safety Member*” means any Member who is: (1) a sworn officer of the City Police Department hired after July 1, 1946, (2) a uniformed member of the City Fire Department hired after July 1, 1946, (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. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the Police Department, Fire Department and lifeguard service are not Safety Members.

“*Service Retirement Annuity*” means the Annuity which is the Actuarial Equivalent of the Member’s Accumulated Normal Contributions at the time of the Member’s retirement.

“*Surviving Spouse*” means the Member’s spouse at the time of the Member’s death.

“*Surviving Spouse Annuity*” means an amount to be added to the Member’s Base Retirement Benefit, calculated by computing the Actuarial Equivalent of the Accumulated Contributions in the Member’s Surviving Spouse Annuity account at the time of the Member’s retirement or participation in DROP, if the Member is not married at the effective date of retirement and elects to annuitize.

“*Undistributed Earnings Reserve*” shall mean the balance remaining in the account to which the earnings to the fund are credited, after the annual distribution to the employee and employer reserve accounts in accordance with interest assumption rates established by the Board, plus accumulated earnings which have not been so distributed.

“*Unmodified Service Retirement Allowance*” means the monthly allowance paid to a Member based on a formula using the Member’s age at retirement, the Member’s Final Compensation, and the applicable Retirement Calculation Factor in accordance with Sections 24.0402, 24.0402.1 and 24.0403.

(Amended 6-3-2003 by O-19183 N.S.)

(Amended 4-28-2008 by O-19740 N.S.; effective 5-28-2008.)

(Amended 6-25-2009 by O-19874 N.S.; effective 7-25-2009.)

§24.0103.1 Compliance with the California Domestic Partner Rights and Responsibilities Act of 2003

Unless otherwise stated, for purposes of this article: "surviving spouse" includes a registered Domestic Partner pursuant to the California Domestic Partner Rights and Responsibilities Act of 2003. This Section 24.0103.1, as added by O-19568 N.S., is retroactively effective January 1, 2005, to comply with operation pursuant to California law..

*(“Compliance with the California Domestic Partner Rights and Responsibilities Act of 2003” added 1-17-2007 by O-19568 N.S.; effective 2-16-2007.)
(Amended 4-28-2008 by O-19740 N.S.; effective 5-28-2008.)*

§24.0104 Membership

- (a) Membership in the Retirement System shall be compulsory and a condition of employment for all members of the classified and unclassified service.
- (b) Effective July 1, 1991, employees in the Classified Service are required to join the Retirement System on the date of their employment.
- (c) Employees in the classified service paid on an hourly basis are not eligible for membership in the Retirement System nor shall they accrue any benefits in this system except as provided in Section 24.1304. Salaried employees in the classified service including those working one-half(1/2) or three-quarter (3/4) time are eligible for and shall become members of the Retirement System. Retirement benefits shall accrue to the above eligible members in the same proportion to full benefits as their service relates to the service of a full-time member.
- (d) Effective August 11, 1993, employees in the unclassified service are required to join the Retirement System on the date of their employment providing they are employed one-half (1/2), three-quarter (3/4) or full-time. Upon joining the System, they shall receive all the privileges and benefits afforded other members and shall be bound by all regulations governing such membership.
- (e) All eligible members in the Classified service transferring to the unclassified service pursuant to Section 117 of the City Charter shall be required to remain in and maintain membership in the Retirement System unless said person first terminates classified employment prior to assuming the unclassified position.

(“Membership” renumbered from Sec. 24.0105 and amended 3-31-1997 by O-18392 N.S.)

§24.0105.1 Same—Exclusion From

Notwithstanding the provisions of Section 24.0104, all persons hired by The City of San Diego after January 3, 1975, pursuant to provisions of federally funded programs of limited duration not requiring as a condition of such program transition to permanent positions in the Classified Service of the City, shall be ineligible for membership in the Retirement System.

(“Same—Exclusion From” added 2–13–1975 by O–11488 N.S.)

§24.0106 Transfer of Special Class

All members of the Police and Fire Retirement System for policemen and firemen of The City of San Diego who were regularly employed on June 30, 1946, are hereby transferred to the City Employees’ Retirement System, who from the effective date of this amendment shall be classed and known as safety members of a special class, or special class safety members. From and after the effective date of this amendment all of such members so transferred shall be entitled to all of the privileges and benefits of safety members of the City Employees’ Retirement System, except as hereinafter in this ordinance specifically provided to the contrary.

(“Transfer of Special Class” added 12–8–1976 by O–11964 N.S.)

§24.0107 Severability

If any section or part of this article be, for any reason, held unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of this division, but such remaining portions shall be and remain in full force and effect.

(“Severability” added 1–12–1971 by O–10479 N.S.)