

Article 4: City Employees' Retirement System

Division 11: (Pension Act of 1981)

§24.1100 The 1981 Pension System

There is hereby established by Ordinance No. O-15554, the 1981 Pension System. The provisions of this division shall be the sole and exclusive retirement rights and benefits for those City employees hired on and after September 3, 1982; provided, however, that the provisions of this division shall not be applicable to those employees of any other agencies or those legislative officers eligible for membership in the Legislative Officers' Retirement Plan pursuant to Division 5-C. This Division may be cited as the Pension Act of 1981.

(Amended 8-2-1982 by O-15790 N.S., effective 9-3-1982.)

§24.1102 Membership

- (a) All salaried employees working at least one-half time in the Classified Service hired on and after September 3, 1982, shall become members of the 1981 Pension Plan, as a condition of employment. Those employees shall not be compelled to join the Plan until the expiration of six months from the date of their employment, except that such employees may, at their option, join said Plan immediately upon employment without waiting for the expiration of six months. Safety Members shall enter the 1981 Pension Plan on the first day of the pay period following completion of their training academy. All other Safety Members who have completed their training at the effective date of this section and who have not completed the one-year waiting period, will automatically join the plan upon said effective date.
- (b) All salaried employees working at least one-half time in the Unclassified Service hired on and after September 3, 1982, shall have the option to elect to become members of the 1981 Pension Plan.
- (c) Employees who were hired on or before September 2, 1982 may elect to become members of the 1981 Pension Plan, by signing the appropriate election form approved by the Board. Such election must be made prior to July 1, 1983. Upon making such election, membership in the 1981 Pension Plan shall be immediate providing the employee has one year of continuous service. Membership for those lacking one year's service shall be effective

after the completion of such requirement. Such employees shall not receive creditable service under this System for services rendered prior to entry into this System. Upon such election, all contributions made to the City Employees' Retirement System shall be expeditiously returned and such employee shall waive all rights to any and all benefits he or she may otherwise have been entitled to under the City Employees' Retirement System. Notwithstanding the preceding provision, salaried unclassified employees shall have the option to become members of the 1981 Pension Plan at any time thereafter upon filing the appropriate election form and may, upon making the appropriate election, repurchase prior time in the 1981 for creditable service.

- (d) Notwithstanding any provision of this Division 11, all safety members who are members of the 1981 Pension Plan shall, effective January 1, 1988, be entitled to all the rights and benefits of the City Employees' Retirement System (CERS) Plan. Contribution rates for those safety members accorded such CERS rights and benefits shall be established by the board as provided in Division 3 of this article commencing with section 24.0301, according to the member's age of entry in the 1981 Pension Plan. In addition and notwithstanding Section 24.1102(c) above, safety members who elected to withdraw contributions from CERS participation prior to entry into the 1981 Pension Plan may buy back prior CERS creditable service by paying into the retirement system the amount refunded plus interest at the actuarial interest rate under term and conditions prescribed by the Retirement Board of Administration. The provision of section 24.1120 below shall continue in full force and applicability for all safety members who were members of the 1981 Pension Plan as of December 31, 1987 and for all safety members employed thereafter.

- (e) Notwithstanding any provision of this Division 11, all general members who are members of the 1981 Pension Plan shall, effective July 1, 1989, be entitled to all the rights and benefits of the City Employees' Retirement System (CERS) Plan except as otherwise provided herein. Contribution rates for those general members accorded such CERS rights and benefits shall be established by the Board as provided in Division 2 of this article commencing with section 24.0201, according to the member's age of entry in the 1981 Pension Plan. The provision of section 24.1120 below shall continue in full force and applicability for all general members who were members of the 1981 Pension Plan as of June 30, 1989 and for all general members employed thereafter. Pursuant to subsection (c) above, any general member who was previously covered by CERS and withdrew therefrom to enroll in the 1981 Pension Plan, shall not be entitled or permitted to repurchase said prior creditable service in

CERS. General members granted CERS benefits by this section shall not, pursuant to sections 24.1201 and 24.1202, be eligible for City– sponsored Group Health Insurance for retirees.

(Amended 8–6–1990 by O–17507 N.S.)

§24.1103 Member Contributions

- (a) General Members shall contribute 3.25% of earnable compensation except as provided otherwise in sections 24.1102 (e) and 24.0201.
- (b) Safety Members shall contribute seven percent (7.00%) of earnable compensation except as provided otherwise in sections 24.1102(d) and 24.0301.
- (c) Member contributions shall be deducted by the City Auditor and Comptroller from each payroll warrant–check and shall be transferred to the Retirement Fund for crediting to each individual member’s account.

(Amended 5–15–1989 by O–17295 N.S.)

§24.1104 Vesting

- (a) Members who terminate service other than by death or service retirement with less than ten (10) years of creditable service shall receive a refund of their accumulated contributions including any interest accrued thereon.
- (b) Members who terminate service other than by death or service retirement with ten (10) or more years of creditable service may, in lieu of a refund of their accumulated contributions, elect to receive a service retirement allowance commencing when the age requirements have been met, based upon creditable service and final compensation at the date of termination.

(Made effective 9–3–1982 by O–15790 N.S.)

§24.1105 General Member Service Retirement

- (a) Eligibility
 - (1) General Members, upon written application, may retire for service on the first of any month following completion of twenty (20) or more years of creditable service and the attainment of age 55 or the attainment of age 62 with ten (10) or more years of creditable service, or the attainment of age 70.

- (2) General Members shall be compulsorily retired at the age of 70 years, except that the Manager, or other non-managerial department head, for the City's benefit, may thereafter continue an employee who has reached such age limit in the City service from year to year.
 - (b) Service Retirement Pension
 - (1) Upon normal retirement at age 65, General Members shall receive a retirement allowance equal to 1/90th of final compensation for each year of creditable service.
 - (2) Upon retirement prior to age 65, General Members shall receive a retirement allowance equal to the normal retirement allowance computed as in (a) above reduced by 1/2 of 1% for each month that retirement occurs prior to age 65.
 - (3) Upon retirement after age 65, General Members shall receive a retirement allowance equal to the normal retirement allowance computed as in (a) above increased by 1/2 of 1% for each month that retirement occurs after age 65.
- (Amended 8-2-1982 by O-15790 N.S., effective 9-3-1982.)*

§24.1106 Safety Member Service Retirement

- (a) Eligibility
 - (1) Safety Members may, upon written application, retire for service on the first of any month following completion of twenty (20) or more years of creditable service and the attainment of age 50 or the attainment of age 55 with ten (10) or more years of service or at age 65.
 - (2) Safety Members shall be compulsorily retired at the age of 65 years, except that the Manager, or other department head, for the City's benefit, may thereafter continue an employee who has reached such age limit in the City service from year to year.
- (b) Service Retirement Pension
 - (1) Safety Members shall receive, upon normal retirement at age 55, a retirement allowance equal to 1/50th of final compensation for each year of creditable service.

- (2) Upon retirement prior to age 55, Safety Members shall receive a retirement allowance equal to the normal retirement allowance computed as in (a) above reduced by 1/2 of 1% for each month that retirement occurs prior to age 55.
- (3) Upon retirement after age 55, Safety Members shall receive a retirement allowance equal to the normal retirement allowance computed as in (a) above increased by 1/2 of 1% for each month that retirement occurs after age 55.

(Amended 8-2-1982 by O-15790 N.S., effective 9-3-1982.)

§24.1107 Death in Active Service

- (a) Upon the death of a member while actively employed, the named beneficiary shall be paid the member's accumulated contributions.
- (b) If the named beneficiary is the member's spouse and if the member was eligible to retire for service at the date of his death, then the member's spouse may elect, in lieu of the payment in (a) above, to receive a monthly allowance equal to 50% of the amount the member would have received had he retired for service on the day preceding his death. In the event there is no spouse, or if the spouse dies prior to the date that all children attain age 18, then the allowance payable to the spouse shall be paid to the children, collectively, until the youngest child attains the age of 18.

(Amended 8-2-1982 by O-15790 N.S., effective 9-3-1982.)

§24.1108 Optional Settlements

- (a) Until the first payment of any allowance is made, a member, in lieu of the allowance for his life alone, may elect to apply the actuarial equivalent of his allowance, as of the date of retirement, to a lesser allowance payable through life in accordance with one of the optional settlements specified in this article.
- (b) Optional Settlement 1 consists of the right to have an allowance paid him until his death, and if he dies before he receives in annuity payments the amount of his accumulated contributions at retirement, to have the balance at death paid to his beneficiary or estate.
- (c) Optional Settlement 2 consists of the right to have an allowance paid him until his death, and thereafter to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the Board

at the time of his retirement.

- (d) Optional Settlement 3 consists of the right to have an allowance paid him until death, and thereafter to have one-half of his allowance paid to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the Board at the time of his retirement.
- (e) Optional Settlement 4 consists of the right to have an allowance paid him until his death and thereafter to have such other benefits as are approved by the Board, upon the advice of the actuary, continued throughout the life of and paid to such persons, having insurable interest in his life, as he nominates by written designation duly executed and filed with the Board at the time of his retirement. Such designation shall not, in the opinion of the Board and the actuary, place any additional burden upon the Retirement System.

(Amended 8-2-1982 by O-15790 N.S., effective 9-3-1982.)

§24.1109 Death After Retirement

- (a) Upon the death of any member receiving an allowance who did not elect Optional Settlement 1, 2, 3 or 4 of Section 24.1108, his surviving spouse shall receive a monthly pension equal to 50% of the decedent's monthly allowance if,
 - (1) Such spouse is designated as beneficiary, and
 - (2) Such spouse was married to the deceased member at least one year prior to the date of his retirement, and
 - (3) The monthly allowance of the deceased member was not modified in accordance with Optional Settlement 1, 2, 3 or 4 provided by this System.
- (b) Upon the death of any member receiving an allowance under Optional Settlement 1, 2, 3 or 4 of Section 24.1108, the surviving beneficiary shall receive the amounts provided under the Optional Settlement selected.
- (c) Upon the death of member receiving an allowance, there shall be paid a lump sum amount of \$5,000 to the designated beneficiary or estate of the retired member if there is no designated beneficiary.

(Amended 8-2-1982 by O-15790 N.S., effective 9-3-1982.)

§24.1110 Post Retirement Cost of Living Adjustment

- (a) The Board shall determine before each July 1 the change in the All Urban Consumer Price Index as published by the Bureau of Labor Statistics for the San Diego area—all items. The change shall be determined by dividing the average Index for the preceding calendar year by the average Index for the next preceding calendar year.
- (b) The Board, with the approval of the City Council, shall define the Index to be used in the event that the Index referred to herein is discontinued.
(Amended 5-26-1992 by O-17770 N.S.)

§24.1111 City Contributions

The City shall contribute to the Retirement Fund a percentage of compensation earnable as determined by the System’s Actuary pursuant to the annual actuarial evaluation. The required City contributions shall be determined separately by the Actuary for General Members and for Safety Members.

All deficiencies which may accrue must be amortized over a period of thirty years or less.
(Made effective 9-3-1982 by O-15790 N.S.)

§24.1112 Administration

The Board shall account separately for the assets and liabilities of the 1981 Pension System and the City Employees Retirement System. The funds of both systems may be co-mingled for investment purposes.
(Made effective 9-3-1982 by O-15790 N.S.)

§24.1113 Retired Persons

Notwithstanding any other provision of law, no person who has been retired from the service and employment of the City of San Diego pursuant to the provisions of this division shall thereafter be paid for any service rendered as an officer or employee of said City, except as an officer elected by the electors of said City.

Notwithstanding the above provision, commencing on or after July 1, 1983, any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the appropriate appointing authority, for a period not to exceed 90 working days in any one fiscal year and may be paid for such employment. Such employment shall not operate to reinstate the person as an active member of this System and no deductions shall be made from his or her salary as contributions thereto; nor shall said person, as a result of such limited duty, be considered an

eligible employee for purposes of the City’s Supplemental Pension Savings Plan or accrual of annual leave.

(Amended 5-2-1983 by O-15959 N.S.)

§24.1114 Transfer to Advances Reserve Account All Remaining Surplus Undistributed Earnings

Notwithstanding Section 24.0907, at the beginning of each fiscal year the Board shall calculate those surplus undistributed earnings which accrue as a result of contributions placed in the system on behalf of members of the 1981 Pension Act provisions. Such funds shall be credited to an advance reserve account. Surplus Undistributed Earnings are those funds remaining after having first withheld sufficient sums to meet the pro-rata budgeted expenses and costs of operating the System, including all personnel and services for the fiscal year, and to maintain such reserves for contingencies as the Board deems appropriate on the advice of its independent investment counsel.

Sums transferred to the advance reserve account shall be used solely to reduce employer contributions to the Retirement Fund during the fiscal year.

(Amended 2-25-1997 by O-18383 N.S.)

§24.1115 Safety Member Death Benefit

A Safety Member Death Benefit is payable if the deceased was a safety member, if his or her death was industrial, as determined by the Industrial Accident Commission, using the same procedure as in worker’s compensation hearing, and if there is a spouse or child who qualifies under subdivision (b) of the following section and such spouse or child elects not to receive a return of the member’s accumulated contribution pursuant to Section 24.1107.

(Amended by renumbering duplicate Section 24.1114 on 8-2-1982 by O-15791 N.S.; effective 9-3-1982.)

§24.1115.5 Safety Member Death Benefit to Designated Beneficiary or Estate

(a) If payment of a Safety Member Death Benefit is ordered pursuant to section 24.1115 above, and there is no spouse or child who qualifies for said benefit, the benefit as provided in subsection (b) below shall be paid to the beneficiary designated by the Safety Member, or if no beneficiary has been so designated, to the estate of the Safety Member.

(b) For purposes of this section, the Safety Member Death Benefit shall consist

of:

- (1) the return of the deceased employee's contributions; and
- (2) one (1) month's salary for each year of services up to a maximum of six (6) months salary.

("Safety Member Death Benefit to Designated Beneficiary or Estate" added 9-30-1985 by O-16510 N.S.; effective 10-11-1985.)

§ 24.1116 Same—Computation

The Safety Member Death Benefit shall consist of:

- (a) The accumulated contribution of the member.
- (b) An amount sufficient to be derived from employer contributions, when added to the accumulated contributions of the member to provide, when applied according to tables adopted by the Board, a monthly allowance equal to one-half of the average compensation earnable by the deceased during the three years immediately preceding his or her death, payable to the surviving spouse to whom he or she was married prior to sustaining the injury or disease resulting in death, as long as he or she lives or until his or her remarriage; or if there is no surviving spouse, or if the surviving spouse dies or remarries before all children of the deceased member attain age 18, to his or her children under 18 collectively until every child dies or attains 18.

(Amended by renumbering Section 24.1115 on 8-2-1982 by O-15791 N.S.; effective 9-3-1982.)

§ 24.1117 General Member Death Benefit

A General Member Death Benefit is payable if the deceased was a general member, if his or her death was industrial, as determined by the Industrial Accident Commission, using the same procedure as in worker's compensation hearing, and if there is a spouse or child who qualifies under subdivision (b) of the following section and such spouse or child elects not to receive a return of the member's accumulated contribution pursuant to Section 24.1107.

(Amended by renumbering Section 24.1116 on 8-2-1982 by O-15791 N.S., effective 9-3-1982.)

§ 24.1118 Same—Computation

The General Member Death Benefit shall consist of:

- (a) The accumulated contribution of the member.
- (b) An amount sufficient to be derived from employer contributions, when added to the accumulated contributions of the member to provide, when applied according to tables adopted by the Board, a monthly allowance equal to one-half of the average compensation earnable by the deceased during the three years immediately preceding his or her death, payable to the surviving spouse to whom he or she was married prior to sustaining the injury or disease resulting in death, as long as the surviving spouse lives or until the surviving spouse's remarriage. If there is no surviving spouse, or if the surviving spouse dies or remarries before all children of the deceased member attain age 18, to his or her children under 18 collectively until every child dies or attains 18.
(Amended by renumbering Section 24.1117 on 8-2-1982 by O-15791 N.S.; effective 9-3-1982.)

§ 24.1119 Effective Date of Safety Member Death Benefit, General Member Death Benefit and Death while Eligible Benefit

The Safety Member Death Benefit, the General Member Death Benefit or Death While Eligible Benefit shall begin to accrue on the day next following the date of the member's death, and shall be paid in monthly installments to the surviving eligible spouse or children as prescribed in Section 24.1107, 24.1116 or 24.1118.
(Renumbered from Sec. 24.1118 on 8-2-1982 by O-15791 N.S.; effective 9-3-1982.)

§ 24.1120 Industrial Disability — Safety Member

- (a) Any Member, as defined in section 24.0103(e), permanently incapacitated from the performance of duty as the result of physical injury or disease arising out of or in the course of his or her employment; and
 - (1) not arising from a preexisting medical condition, or
 - (2) not arising from a nervous or mental disorder, irrespective of claimed causative factors, shall be retired for disability with retirement allowance, regardless of age or amount of service.
- (b) The Board of Administration shall prescribe rules and regulations setting forth procedures for the retirement of a Member for disability.

- (c) Upon retirement of a Member for industrial disability, he or she shall receive in equal monthly installments a disability retirement allowance
 - (1) For Safety Members — 50% of his or her final compensation.
 - (2) For General Members — 33 1/3% of his or her final compensation or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if such allowance is greater. The disability retirement allowance for a Member retired because of industrial disability shall be derived from an annuity based on his or her accumulated normal contributions and a disability retirement pension derived from contributions of the City.

(Amended 5-15-1989 by O-17295 N.S.)