

Item 52  
6/22/21

(O-2021-148 REV.)

ORDINANCE NUMBER O- 21333 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 24 2021

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 17 BY AMENDING SECTION 24.1702, ALL RELATING TO THE 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 (entitled "Finance") and IX (entitled "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 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 San Diego 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 San Diego Municipal Code to remove the changes made related to the SDCERS to implement Proposition B; and

WHEREAS, it is first necessary to amend San Diego 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, may participate in the SDCERS, prospectively; and

WHEREAS, a subsequent amendment to the San Diego Municipal Code will be necessary to allow current Officers and employees initially hired or assuming office on or after

July 20, 2012, and before July 10, 2021, to participate in the SDCERS, prospectively, and to address the purchase of SDCERS service credit for the period of time these individuals were City Officers or employees, but not eligible to participate in SDCERS due to Proposition B, once the City and its recognized employee organizations reach agreement on these issues for represented employees; and

WHEREAS, police recruits in the City's Police Academy initially hired on or after July 10, 2021 will continue to participate in the City of San Diego Supplemental Savings Plan H and will not be eligible to participate in the SDCERS until the City and the San Diego Police Officers' Association reach agreement on the terms of their participation in 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; 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:

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

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

**§24.0103 Definitions**

Unless otherwise stated, for purposes of this Article:

*Accumulated Additional Contributions* through "DROP" [No change in text.]

*Elected Officer* means a person who is elected to serve as the City's Mayor, a member of the City Council, or the City Attorney, and who is initially hired or assumes office with the City before July 20, 2012, or on or after July 10, 2021.

*Final Compensation* means the *Member's* highest one-year period of *Base Compensation* while a *Member*, for *General Members* hired before July 1, 2009, and *Elected Officers* regardless of hire date.

*Final Compensation* means the average of the *Member's* three highest years of *Base Compensation* while a *Member*, for *General Members* hired after June 30, 2009, but before July 20, 2012, or on or after July 10, 2021.

*Final Compensation* means the *Member's* highest one-year period of *Base Compensation* while a *Member*, for: (1) *Safety Members* employed in the *City Police Department* who were on the *City's* active payroll before January 1, 2012, (2) *Safety Members* employed in the *City Lifeguard Services* who were on the *City's* active payroll before July 1, 2011, and (3) *Safety Members* employed in the *City Fire Department* who were on the *City's* active payroll before January 1, 2012.

*Final Compensation* means the average of a *Member's* three highest years of *Base Compensation* while a *Member*, for: (1) *Safety Members* employed in the *City Police Department* who were hired by the *City* after December 31, 2011, but before July 1, 2013, (2) *Safety Members* employed in the *City Lifeguard Services* who were hired by the *City* after June 30, 2011, and (3) *Safety Members* employed in the *City Fire Department* who were hired by the *City* after December 31, 2011.

*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 hired by the *City* after June 30, 2013.

*General Member* means a *Member* who was initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, and who is not a *Safety Member* or an *Elected Officer*.

*Health Eligible Retiree 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 who was initially hired before July 20, 2012, or on or after July 10, 2021, (3) a full-time *City* lifeguard who was initially hired before July 20, 2012, or on or after July 10, 2021, 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. 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) Except as provided in subsection (c), membership in the *System* is compulsory and a condition of employment for all: (1) salaried, classified and unclassified employees initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, who regularly work at least half-time, (2) police recruits initially hired before July 1, 2013, and (3) sworn officers in the *City's* police department regardless of hire date.

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

(d) Effective August 11, 1993, an unclassified employee who regularly works for the *City* at least half-time must join the *System* upon employment, if the employee: (1) was initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, or (2) is a sworn police officer in the *City's* Police Department. Upon joining the *System*, the employee will receive all the privileges and benefits afforded other *Members* and will be bound by all regulations governing such membership.

(e) [No change in text.]

Section 2. That Chapter 2, Article 4, Division 17 of the San Diego Municipal Code is amended by amending section 24.1702, to read as follows:

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

**Division 17: Elected Officers' Retirement Plan**

**§24.1702 Membership by Elected Officers Permissive**

Every *Elected Officer* in office on July 1, 1971, or elected after that date, may become a *Member* of this *System*, provided he or she initially assumes office or is initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, and files with the *Board* a written election to become a *Member*.

Section 2. That this ordinance applies retroactively to all 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.

Section 3. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 4. That this ordinance will take effect and be in force on the 30th day after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Thomas J. Brady  
Thomas J. Brady  
Deputy City Attorney

TJB:jvg  
5/10/21  
6/23/21 REV.  
Or.Dept: Human Resources  
Doc. No.: 2674734\_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 6/22/2021.

ELIZABETH S. MALAND  
City Clerk

By /s/ Matthew R. Hilario  
Deputy City Clerk

Approved: 6/29/21  
(date)

  
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 17 BY AMENDING SECTION 24.1702, ALL RELATING TO THE CITY EMPLOYEES' RETIREMENT SYSTEM.

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

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

**§24.0103 Definitions**

Unless otherwise stated, for purposes of this Article:

*Accumulated Additional Contributions* through "Drop" [No change in text.]

*Elected Officer* means a person who is elected to serve as the City's Mayor, a member of the City Council, or the City Attorney, and who is initially hired or assumes office with the City before July 20, 2012, or on or after July 10, 2021.

*Final Compensation* means the Member's highest one-year period of Base Compensation while a Member, for General Members hired before July 1, 2009, and Elected Officers regardless of hire date.

*Final Compensation* means the average of the Member's three highest years of Base Compensation while a Member, for General Members hired after June 30, 2009, but before July 20, 2012, or on or after July 10, 2021.



*Final Compensation* means the *Member's* highest one-year period of *Base Compensation* while a *Member*, for: (1) *Safety Members* employed in the *City Police Department* who were on the *City's* active payroll before January 1, 2012, (2) *Safety Members* employed in the *City Lifeguard Services* who were on the *City's* active payroll before July 1, 2011, and (3) *Safety Members* employed in the *City Fire Department* who were on the *City's* active payroll before January 1, 2012.

*Final Compensation* means the average of a *Member's* three highest years of *Base Compensation* while a *Member*, for: (1) *Safety Members* employed in the *City Police Department* who were hired by the *City* after December 31, 2011, but before July 1, 2013, (2) *Safety Members* employed in the *City Lifeguard Services* who were hired by the *City* after June 30, 2011, and (3) *Safety Members* employed in the *City Fire Department* who were hired by the *City* after December 31, 2011.

*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 hired by the *City* after June 30, 2013.

*General Member* means a *Member* who was initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, and who is not a *Safety Member* or an *Elected Officer*.

*Health Eligible Retiree 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* who was initially hired before July 20, 2012, or on or after July 10, 2021, (3) a full-time *City* lifeguard who was initially hired before July 20, 2012,

or on or after July 10, 2021, 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. 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) Except as provided in subsection (c), membership in the *System* is compulsory and a condition of employment for all: (1) salaried, classified and unclassified employees initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, who regularly work at least half-time, (2) police recruits initially hired before July 1, 2013, and (3) sworn officers in the *City's* police department regardless of hire date.

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

(d) Effective August 11, 1993, an unclassified employee who regularly works for the *City* at least half-time must join the *System* upon employment, if the employee: (1) was initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, or (2) is a sworn police officer in the *City's* Police Department. Upon joining the *System*, the employee will receive all the privileges and benefits afforded other *Members* and will be bound by all regulations governing such membership.

(e) [No change in text.]

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

**Division 17: Elected Officers' Retirement Plan**

**§24.1702 Membership by Elected Officers Permissive**

Every *Elected Officer* in office on July 1, 1971, or elected after that date, may become a *Member* of this *System*, provided he or she initially assumes office or is initially hired by the *City* before July 20, 2012, or on or after July 10, 2021, and files with the *Board* a written election to become a *Member*.

TJB:jvg  
5/26/21  
Or.Dept: Human Resources  
Doc. No.: 2671622\_2

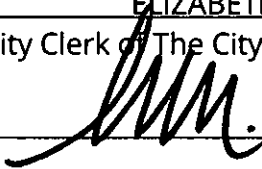
Passed by the Council of The City of San Diego on JUN 22 2021, by the following vote:

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"/>
Monica Montgomery Steppe	<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"/>
Chris Cate	<input type="checkbox"/>	<input checked="" 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 24 2021

AUTHENTICATED BY: TODD GLORIA  
Mayor of The City of San Diego, California.

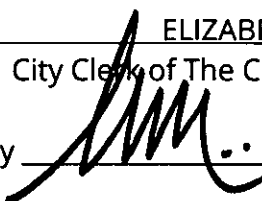
(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , 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 JUN 08 2021, and on JUN 24 2021.

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) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California  
**21333**  
Ordinance Number O-\_\_\_\_\_