

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 13 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 24.1312.2 RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM AND THE PURCHASE OF UNEARNED CREDIT.

WHEREAS, Section 141 of the San Diego City Charter requires a General Member of the San Diego City Employees' Retirement System [System] to complete 20 (twenty) years of service by age 55 or 10 (ten) years of service by age 62 in order to qualify for a service retirement and requires a Safety Member of the System to complete 10 (ten) years of service by age 55 or 20 (twenty) years of service by age 50 in order to qualify for a service retirement; and

WHEREAS, in 2002 San Diego voters rejected Proposition C which would have shortened the ten-year vesting requirement contained in Charter section 141 to five years; and

WHEREAS, in 2002 Ordinance No. 19126 was enacted to remove the prohibition against counting a purchase of Creditable Service set forth in San Diego Municipal Code section 24.1312 towards the ten-year vesting requirement set forth in section 141 of the San Diego City Charter such that the following language was removed from Municipal Code section 24.1312: "Any Member employed by the City of San Diego on the date of December 31, 1996, may purchase up to a maximum of five (5) years of Credible Service in addition to any other purchase of Credible Service benefit for which that Member was eligible as of December 31, 1996. However, in no event shall the years purchased pursuant to this provision qualify to satisfy the ten year vesting requirements set forth in Section 141 of the San Diego City Charter."; and

WHEREAS, the enactment of Ordinance No. 19126 was in violation of the express language of City Charter section 141 and in violation of the express will of the voters who rejected Proposition C; and

WHEREAS, section 24.1312 of the San Diego Municipal Code allows a member to purchase up to 5 (five) years of unearned Creditable Service [PSC] based upon the full employer and employee cost of said service; and

WHEREAS, despite the years of service requirements of San Diego City Charter section 141, the PSC has been used for the purpose of satisfying the 10 and 20 years service requirements thereunder in contravention of the City Charter; and

WHEREAS, despite the terms of San Diego Municipal Code section 24.1312, applicable MOUs entered into by the City and the recognized employee organizations, as well as all historic pronouncements underlying the PSC, that any years purchased would be cost neutral, erroneous calculations have been made to the financial detriment of the Retirement System in the approximate amount of \$146 million dollars; and

WHEREAS, it is thus necessary to amend San Diego Municipal Code section 24.1312 to rectify the past and current usage and preclude future usage of PSC years towards the 10/20 year completion requirements of section 141 of the San Diego Charter; and

WHEREAS, it is thus necessary to amend San Diego Municipal Code section 24.1312 to rectify the past and current and preclude future erroneous calculations of the years purchased under the PSC program; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 4, of the San Diego Municipal Code is amended by adding Division 13, section 24.1312.2, to read as follows:

**§24.1312.2 Actual Value for Creditable Service Purchased**

Any benefit paid for creditable service purchased under section 24.1312 shall not exceed the actual value of the amount paid for the creditable service. The SDCERS actuary shall determine the number of years purchased by using the actual amount paid and applying appropriate and reasonable actuarial assumptions. The calculation of years purchased shall be made on an individual basis. In no event will the City be charged for creditable service exceeding the amount actually paid. This provision applies to all members of the SDCERS system, including those who have already retired. The determination of creditable service under this section shall be subject to review by the City's actuary. In case of any dispute the matter shall be subject to binding arbitration.


Section 2. The City Attorney and Retirement System are directed to take all necessary actions to rectify the past erroneous calculations for those years previously purchased under the PSC program.

Section 3. It is the express intent of the City Council that any economic benefit, savings, or effect of this ordinance shall not be used directly or indirectly, to fund, support in any way, or ratify any employment or retirement benefit determined to be illegal by a court of law, or be construed to prevent further modification or rescission of any employment or retirement benefit.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written copy having been available to the City Council and the public prior to the day of passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from  
and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
\_\_\_\_\_  
Michael J. Aguirre  
City Attorney

MJA:amt  
09/24/2007  
Or.Dept:CityAtty  
O-2008-20

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

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

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

\_\_\_\_\_  
JERRY SANDERS, Mayor