

(O-93-185)

ORDINANCE NUMBER O-17938 (NEW SERIES)
ADOPTED ON JULY 12, 1993

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 1, SECTIONS 24.0103 AND 24.0105; DIVISION 2, BY REPEALING SECTION 24.0208; DIVISION 3, BY AMENDING SECTION 24.0308.5; DIVISION 5, BY AMENDING SECTION 24.0501; DIVISION 10, BY AMENDING THE TITLE AND TEXT OF SECTION 24.1012; BY ADDING DIVISION 13, ENTITLED "PURCHASE OF SERVICE CREDIT," AND SECTION 24.1301; BY RENUMBERING AND AMENDING SECTION 24.1001 TO 24.1302; BY RENUMBERING AND AMENDING SECTION 24.0312 TO 24.1303; BY RENUMBERING AND AMENDING SECTION 24.1003 TO 24.1304; BY RENUMBERING AND AMENDING SECTION 24.0310 TO 24.1305; BY ADDING SECTION 24.1306; BY RENUMBERING AND AMENDING SECTION 24.0313 TO 24.1307; BY RENUMBERING AND AMENDING SECTION 24.1006 TO 24.1308; BY RENUMBERING AND AMENDING SECTION 24.1007 TO 24.1309; BY ADDING SECTIONS 24.1310 AND 24.1311; BY RENUMBERING AND AMENDING SECTION 24.1004 TO 24.1312; ALL RELATING TO CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, as a result of meet and confer negotiations between The City of San Diego and various employee organizations, an agreement was reached between the parties regarding improvements in retirement benefits; and

WHEREAS, the improvements in retirement benefits included mandatory membership in the Retirement System for all unclassified employees hired after the effective date of this ordinance; and

WHEREAS, it was also agreed upon that any medical condition occurring during any mandatory waiting periods prior to eligibility for

membership in the Retirement System would not be considered a preexisting condition under San Diego Municipal Code (SDMC) section 24.0501; and

WHEREAS, the Board supports the creation of a new Division 13, entitled "Purchase of Service Credit" which will contain all provisions in the SDMC relating to the purchase of service credit; and

WHEREAS, other sections of the SDMC governing the purchase of service credit including SDMC section 24.1001 (purchase of six month probationary period), SDMC section 24.0312 (purchase of credits for previous City service), SDMC section 24.1003 (purchase of creditable service for part-time or hourly service prior to membership), SDMC section 24.0310 (reinstatement of safety officer), SDMC section 24.1006 (officer or employee not previously included within the field of membership), SDMC section 24.1007 (military service - - Board Rule covering) and SDMC section 24.1004 (most recent service to be purchased first) will be renumbered, amended, retitled and moved into the new division; and

WHEREAS, the requirement that purchase of service credit be accomplished within one year after becoming a member of the Retirement System previously set forth in SDMC section 24.0312 has been deleted; and

WHEREAS, subject to any limitations imposed by the Internal Revenue Code, payment for purchase of service credit may be made by lump sum, installment payments or a direct-transfer to the Retirement System from any tax qualified defined contribution plan maintained by the City; and

WHEREAS, any sums paid by a Member to purchase service credit shall be considered to be and administered as member contributions; and

WHEREAS, the provision that any medical condition occurring during any mandatory waiting periods prior to eligibility for membership in the Retirement System shall not be considered a preexisting medical condition is subject to a vote of the membership pursuant to Charter section 143.1 with said vote to be counted and certified on July 6, 1993, with a vote of YES 3,814, NO 366, and VOID 7; and

WHEREAS, the results of the vote will be submitted to the Board for its approval at its regularly scheduled meeting on July 16, 1993; and

WHEREAS, as a matter of housekeeping, the reference to general membership pensioners inadvertently set forth in SDMC section 24.1012 should be deleted because the benefit agreed to and voted upon (under Charter section 143.1) on April 13, 1992, was limited to special class safety widows/widowers; and

WHEREAS, the definition of creditable service in SDMC section 24.0103 should be amended to reflect a reference to Division 13; and

WHEREAS, it is now necessary and appropriate to amend the SDMC

to provide for the above-recited changes; and

WHEREAS, the sections of the SDMC reflecting the above-recited changes have been reviewed and approved by the Board; and

WHEREAS, the Board now recommends approval by the City Council of the amendments contained in this ordinance; NOW, THEREFORE,

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

Section 1. That Chapter II, Article 4, Division 1 of the San Diego Municipal Code be and the same is hereby amended by amending Sections 24.0103 and 24.0105 to read as follows:

SEC. 24.0103 Definitions

Unless the context otherwise requires, the definitions and general provisions contained in this section govern the construction of this article.

a. through s. ¶No change.σ

t. "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 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 Division 13 hereof, 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," wherever used in this article, shall mean the same as creditable service.

u. ¶No change.σ

SEC. 24.0105 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. 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.

Section 2. That Chapter II, Article 4, Division 2 of the San Diego Municipal Code be and the same is hereby amended by repealing section 24.0208.

Section 3. That Chapter II, Article 4, Division 3 of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0308.5 to read as follows:

SEC. 24.0308.5 Termination of Benefits -- Safety Member

Any person eligible to withdraw accumulated contributions pursuant to Section 24.0308 who requests withdrawal, and thereafter receives his or her accumulated contributions from the System, shall be deemed to have knowingly terminated membership in the System and, as a result thereof, be ineligible for any rights, privileges or benefits granted under this retirement system.

Section 4. That Chapter II, Article 4, Division 5 of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0501 to read as follows:

SEC. 24.0501 Industrial Disability - Safety and General Member

(a) Any member of the Retirement System enrolled before September 3, 1982, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment, shall be retired for disability with retirement allowance, regardless of age or amount of service.

(b) Any member of the Retirement System enrolled on or after September 3, 1982, permanently incapacitated from the performance of duty as the result of 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. For purposes of this section, a preexisting medical condition is defined as any condition which occurred or existed prior to membership in the Retirement System. Any medical condition occurring during any mandatory waiting periods prior to eligibility for membership in the Retirement System shall not be considered a preexisting condition.

(c) Irrespective of the enrollment date into the Retirement System, any member permanently incapacitated from any other cause shall be retired regardless of age but with a retirement allowance only after ten years of creditable service.

(d) The Board of Administration shall prescribe rules and regulations setting forth the procedure for the retirement of a member or safety members for disability. Applicants for any disability retirement shall be governed by the limitations set forth in California Code of Civil Procedure Section 1094.6.

Section 5. That Chapter II, Article 4, Division 10 of the San Diego Municipal Code be and same is hereby amended by amending the title and text of Section 24.1012 to read as follows:

SEC. 24.1012 Retirement Allowance of Fixed Pension Special Class Safety Retirees

Effective July 1, 1992, all special class safety members and their surviving spouses who are presently receiving a widow/widower's fixed pension pursuant to applicable provisions of this Retirement System shall have their fixed pensions raised to \$350.00 per month.

Section 6. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by adding Division 13, entitled "Purchase of Service Credit" and Section 24.1301 to read as follows:

DIVISION 13

PURCHASE OF SERVICE CREDIT

SEC. 24.1301 Purpose and Intent

Subject to procedures established by the Board, a Member of the Retirement System may purchase service credit in the Retirement System for a variety of periods of City and non City service. A Member shall establish minimum age and service requirements through current creditable service, service credit purchased pursuant to

this Division under procedures established by the Board, or a combination of the foregoing before the Member is eligible to receive retirement benefits. Except as required by Federal law, purchase of service credit for Retirement System purposes establishes eligibility for service based retirement benefits only.

Section 7. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.1001 to 24.1302 to read as follows:

SEC.24.1302 Purchase of Six Month Probationary Period

Any Member who does not have service credit for any period of eligible City service during his or her initial six month probationary period of employment with the City shall have the right to elect to receive credit for such service at retirement providing that, prior to retirement, the Member pays a lump sum into the Retirement System in an amount equal to the contributions which would have been made to the Retirement System if the employee had been a Member during that portion of the six month probationary period. The amount payable shall be computed by multiplying the average rate of contribution of General or Safety Members as determined by the Board times the compensation received by the employee during that portion of the probationary period concerned, rounding the monthly salary off to the nearest \$100, plus an average interest of four and one-half percent (4-1/2%) per year from the date of entrance into the Retirement System until the date of retirement.

Section 8. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.0312 to 24.1303 to read as follows:

SEC. 24.1303 Purchase of Service Credit for Previous City Service

A Member who contributes at the current rate, and who prior to entrance in the Retirement System held a position in the City service eligible for membership, and at that time and during that tenure was not a member of any retirement system, shall have the right to purchase service credit in the Retirement System for all or any part of the City service rendered, whether interrupted or not during the time of such City service before becoming a member. Any Member who was previously a member of the 1981 Pension Plan shall be eligible to purchase service credit for the mandatory one year

waiting period required by that plan.

Section 9. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.1003 to 24.1304 to read as follows:

SEC. 24.1304 Purchase of Service Credit for Part-Time or Hourly Service Prior to Membership

When City service not eligible for membership was tendered on a part-time or hourly basis equivalent to at least one-half time of two consecutive years or more duration, the Member may, after becoming vested, purchase service credit for the proportion of the time he or she was actually engaged in the performance of the duties of such position as it relates to the time required to perform the same duties in a full-time position. Any such determination will be the responsibility of the Board.

Section 10. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.0310 to 24.1305 to read as follows:

SEC. 24.1305 Purchase of Service Credit Upon Reinstatement

If any Member has terminated City service without fault, or because of reasons beyond his or her control, the Member shall have the right at any time, if re-employed by the City, to be reinstated in the Retirement System upon such terms and conditions as shall be prescribed by the Board. Such Member shall be eligible to purchase service credit for the period between the date of termination and the date of reinstatement. If, however, such Member upon re-employment does not elect to purchase service credit as authorized by this section, the Member's rate of contribution following his or her reinstatement shall be based upon the Member's age at reinstatement. Credit for service under this section shall be granted only for the period during which contributions have been made.

Section 11. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by adding Section 24.1306 to read as follows:

SEC. 24.1306 Repayment of Previously Refunded Member Contributions

Upon reemployment with the City, a Member may repay the amount previously refunded plus interest at the actuarial interest rate under terms and conditions prescribed by the Board.

Section 12. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.0313 to 24.1307 to read as follows:

SEC. 24.1307 Purchase of Approved Leaves of Absence

Notwithstanding the provisions of Section 24.0103 t. and this Division, any Member granted an approved leave of absence without pay shall have the right, upon his or her return to City service, and upon request by said Member to obtain service credit for a period of up to one year of such absence by paying into the Retirement System an amount determined by the Board to be the equivalent of the employee cost of that service.

Any Member granted an approved leave of absence for periods of time in excess of one year shall have the right, upon return to City service, and upon request by said Member to obtain service credit for such excess leave of absence by paying into the Retirement System an amount determined by the Board to be the equivalent of the employee and employer cost of that service.

Section 13. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.1006 to 24.1308 to read as follows:

SEC. 24.1308 Purchase of Service Credit for Officer or Employee not Previously Included within Field of Membership

If any officer or employee in a position not previously included within the field of membership of the Retirement System is brought within the field of membership, or if any officer or employee chooses to come within the field of membership, such officer or employee shall have the right to purchase service credit for that period of service not previously included within the field of membership of the Retirement System as provided in this Division.

Section 14. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.1007 to 24.1309 to read as follows:

SEC. 24.1309 Purchase of Military Service for Service Credit

The Board is hereby authorized and vested with power to enact rules and regulations which shall govern the status of Members of the Retirement System who either voluntarily or involuntarily enter into the service of the United States Military forces, which rules and regulations shall safeguard the interest of

such Members to the extent that they shall not be deprived in any way of any benefit secured by General law of the State because of such absence. These rules and regulations shall provide that the Member shall be eligible to purchase service credit for such absence on Military service.

Section 15. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 24.1310 and 24.1311 to read as follows:

SEC. 24.1310 Purchase of Service Credit Payment Options

To purchase service credit, a Member must elect to pay and thereafter pay, in accordance with such election and prior to retirement, into the retirement fund an amount, including interest, determined by the Board. No Member shall receive service credit under this Division for any service for which payment has not been completed pursuant to this Division before the effective date of the Member's retirement.

Subject to any limitations imposed by the Internal Revenue Code, such payment may be made by a lump sum, installment payments, a direct transfer to the Retirement System from any tax qualified defined contribution plan maintained by The City of San Diego or in such manner and at such time as the Board may by rule prescribe. Any sums paid by a Member pursuant to this section shall be considered to be and administered as Member contributions.

SEC. 24.1311 Disposition of Installment Contract in the Event of Member's Death or Disability

If a Member enters into an installment agreement to purchase service credit under this Division and dies or is determined to be disabled by the Board before completing the terms of the installment agreement, the Board is authorized to pay to the beneficiary of the deceased Member or to the disabled Member, the death benefit or disability allowance herein provided for, after having first deducted or caused to be deducted from the amount of death benefit or disability allowance a sum equal to that amount which the deceased Member or the disabled Member had failed to pay into the Retirement System at the date of death or injury or sickness causing disability.

Section 16. That Chapter II, Article 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Section 24.1004 to 24.1312 to read as follows:

SEC. 24.1312 Most Recent Service to be Purchased First
A Member who elects to receive credit for only a

part of City service shall elect that City service latest in time, and may not receive credit for any portion of such City service prior in time to any City service for which he or she does not elect to receive credit.

Section 17. Upon enactment, and subject to the approval of the amendment to the definition of preexisting condition described in SDMC section 24.0501 by a majority of the active members of the Retirement System pursuant to Section 143.1 of the Charter for the City of San Diego, Section 4 of this ordinance shall be retroactive to October 11, 1985.

Section 18. Upon enactment, Section 5 of this ordinance shall be retroactive to June 25, 1992.

Section 19. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By

Loraine L. Etherington

Deputy City Attorney

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Or.Dept:Retire.

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