



**Mark A. Hovey**  
*Chief Executive Officer*

January 30, 2015

**VIA U.S. MAIL**

Scott Chadwick, Chief Operating Officer  
City of San Diego  
Office of the Chief Operating Officer  
202 C Street, 9<sup>th</sup> Floor  
San Diego, CA 92101

Subject: Charter Revisions

Dear Scott,

In her Memorandum dated December 18, 2014, Council President Lightner requested that Department Directors submit potential updates and modifications to the City Charter for consideration by the Charter Review Committee.

Enclosed are SDCERS' proposed updates and modifications to Article IX of the City Charter. SDCERS believes the majority of proposed modifications are required to achieve consistency with the Board's fiduciary duties as well as consistency between provisions in other Articles of the Charter. SDCERS is also proposing that the City amend the Charter to allow Police Recruits to join SDCERS upon entering the Police Academy. Not only does SDCERS believe that this was the actual intent of the proposers of Proposition B, but that it will also assist the City in its retention of new police officers.

SDCERS would like to meet with you to discuss the proposed revisions and would be happy to appear before the Charter Review Committee if requested. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark A. Hovey", is written over a light blue horizontal line.

Mark A. Hovey  
Chief Executive Officer

MAH/jsm

Enclosure: SDCERS' Proposed Revisions to the City Charter

Page 2  
Mr. Scott Chadwick  
January 30, 2015

cc: Hon. Council President Sherri S. Lightner  
Hon. Mayor Kevin Faulconer  
Hon. Jan Goldsmith, City Attorney  
Paul Cooper, Asst. City Attorney  
Sharon Spivak, Deputy City Attorney  
Roxanne Story Parks, Deputy City Attorney

Page 2  
Ms. Sherri S. Lightner  
February 27, 2015

cc: Chris Cate, Charter Review Committee Member  
Mark Kersey, Charter Review Committee Member  
Marti Emerald, Charter Review Committee Member  
Kevin Faulconer, City of San Diego Mayor  
Jan Goldsmith, City Attorney  
Paul Cooper, Assistant City Attorney  
Sharon Spivak, Deputy City Attorney  
Roxanne Story Parks, Deputy City Attorney



**2015 CITY CHARTER REVIEW**  
**SDCERS' PROPOSED REVISIONS TO THE CITY CHARTER**  
**CITY CHARTER ARTICLE IX**

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**Section 140: Establishment of Separate Retirement Pension Systems; Definitions**

As of the election at which this Section becomes operative, the electorate of the City of San Diego has found and declared that the fiscal best interests of the City are served by reforming the retirement system authorized by this Charter to be established for City employees.

"Defined Benefit Pension Plan" or "Defined Benefit Pension System" is a system or plan to provide a specified allowance to a city retiree or a retiree's spouse after retirement that is based on a set formula based on factors such as age, years of service, and elements of compensation as established in this Article.

The Defined Benefit Pension Plan in place prior to said election, established by the City Council pursuant to Sections 141 through 149 of this Charter, may remain in place until, for any reason, there remain no participants in the Defined Benefit Plan. The City Council may by ordinance utilize any lawful means for terminating the Defined Benefit Plan. Any closure of the Defined Benefit Plan shall be designed and implemented to protect the employees' vested rights in the Defined Benefit Plan, generate cost savings for taxpayers, and ensure compliance with applicable laws and regulations, including tax regulations.

At such time as there remain no participants in the Defined Benefit Pension Plan, the City shall take such actions as are necessary and appropriate to promptly wind down and terminate the Defined Benefit Pension Plan.

Notwithstanding the foregoing, and except as expressly provided in this Article IX, all Officers and employees, with the exception of sworn police officers and police recruits participating in the City's Police Academy, who are initially hired or assume office on or after the effective date of this Section shall participate only in such Defined Contribution Plans as authorized by Sections 150 and 151 of this Charter.

The provisions of Sections 141 through 149 shall apply only to the Defined Benefit Plan, and those City employees eligible to participate in the Defined Benefit Plan. The provisions of Sections 150 and 151 shall apply only to the Defined Contribution Plan, and those City employees eligible to participate in the Defined Contribution Plan, except as expressly stated. Notwithstanding the foregoing, and except as provided in this Article IX, the City Council is hereby authorized and empowered by ordinance to enroll sworn police officers hired after the effective date of this section in either the Defined Benefit Plan or the Defined Contribution Plan. This section shall be implemented in a manner consistent with the requirements of applicable labor relations laws.

*(Addition voted 06-05-2012; effective 07-20-2012.)*

**+Section 141: City Employees' Retirement System**

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of service for which payment has been made, except such employees may be given the option to retire at the age of fifty-five years after twenty years of service for which payment has been made with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of service for which payment has been made may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

The Council may also in said ordinance provide:

- (a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.
- (b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.
- (c) Retirement with benefits of an employee who, after ten years of service for which payment has been made, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.
- (d) For health insurance benefits for retired employees.

Notwithstanding anything to the contrary in this section, the Charter or the Municipal Code, reciprocal service granted under the Uniform Reciprocal Provisions pursuant to the Reciprocity Contract between SDCERS and CalPERS shall be included as service for purposes of establishing eligibility for retirement benefits.

1 (Editor's note: Supplement No. 655)

(Amendment voted 03-13-1945; effective 04-09-1945.)

(Amendment voted 04-19-1949; effective 05-20-1949.)

(Amendment voted 03-13-1951; effective 03-26-1951.)

(Amendment voted 06-08-1954; effective 01-10-1955.)

(Amendment voted 11-06-1990; effective 02-19-1991.)

(Amendment voted 11-08-1994; effective 01-30-1995.)

(Amendment voted 11-05-1996; effective 02-10-1997.)

#### **Section 141.1: Reform of Sworn Police Officer Defined Benefit Pension Plan**

Notwithstanding any other provision of this Charter, or any ordinance or other action taken pursuant hereto, the maximum amount of retirement benefit payable to a sworn police officer or police recruit participating in the City's Police Academy, who is hired after the effective date of this section and who is a participant under the Defined Benefit Pension Plan, shall be an amount equivalent to 80% at age 55 of the average of the participant's highest consecutive 36 months of Base Compensation as defined by Section 70.1. The maximum set by this provision shall decrease by 3% (three percentage points) for each year that such participant retires before age 55.

(Addition voted 06-05-2012; effective 07-20-2012.)

**Section 141.2: Full and Fair Employee Contributions for The Defined Benefit Pension Plan**

For officers and employees who have the legal right to remain in the established Defined Benefit Pension Plan, the City shall contribute annually an amount substantially equal to that required of the employee for a normal retirement allowance, as certified by the Actuary established in Charter Section 142, but shall not contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employee. The City shall not pay, cap the employee contribution rate, or otherwise compensate for any portion of a contribution to the Retirement System by a City Officer or employee.

To the fullest extent permissible by law, in calculating annual contributions for the City and City employees, the Retirement Board shall divide equally between those two parties all costs those costs explicitly and exclusively reserved to the City in this Section and Section 143. Contributions shall also be governed by Section 143 of this Article. In the event of a conflict between this Section and Section 143, this Section shall prevail. This section is not intended to interfere with vested defined rights of any retiree receiving benefits from the Defined Benefit Retirement System or of any employee enrolled in the Defined Benefit Retirement System as of the effective date of this section.

Nothing contained in this Section shall preclude the City from entering into a settlement of *City of San Diego v. San Diego City Employees' Retirement System* Case No. #37-2010-00091207-CU-WM-CTL to define responsibilities of the City and employees for unfunded liabilities of the Retirement System even if the settlement includes terms that might otherwise conflict with the above restrictions, as long as the settlement is approved by the court as a good faith settlement and approved by a two-thirds vote of the City Council.

(Addition voted 06-05-2012; effective 07-20-2012.)

**Section 142.1: Employment of Attorneys (New)**

The Board of Administration hereinafter provided, may appoint attorneys to advise and represent the Board, as may be necessary. Attorneys hired or retained by the Board shall have duties and responsibilities only to the Retirement System and its Board of Administration and shall not have a duty of loyalty or care to the City of San Diego. Except to the extent that the Board retains outside counsel as consultants, such appointments shall be made under the provisions of Article VIII of this Charter.

**Section 143: Contributions [No Change.]**

**Section 143.1: Approval of Retirement System Benefit [No Change]**

**Section 144: Board of Administration**

Effective April 1, 2005, the system shall be managed by a newly constituted Board of Administration which shall consist of 13 members. Seven members shall constitute a quorum of the Board and the concurring vote of seven members shall be required for the Board to take any action. Prior to April 1, 2005, in anticipation of the effective date, and thereafter, members shall be selected to serve as follows:

(a) Seven (7) members shall be appointed by the Mayor and confirmed by the Council. No person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category. Such appointees shall have the professional qualifications of a college degree in finance, economics, law, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have a minimum of fifteen (15) years' experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting. Members of the Board serving in this category shall serve staggered terms of four (4) years each. Inaugural appointments occurring after the effective date of this section shall have four (4) members serving two (2) year terms and three (3) members serving three (3) year terms. The Board shall determine which open seats shall serve four (4) and three (3) years terms to achieve staggered terms of four (4) years for all subsequent appointments. ~~(Inaugural appointments shall have three (3) members serving two year terms)~~ and in Members in this category shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed. Such appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee.

(b) One (1) police safety member of the Retirement System elected by the active police safety members to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.

(c) One (1) fire safety member of the Retirement System elected by the active fire safety members to serve a four (4) year term.

(d) Two (2) general members of the Retirement System elected by active general members of the Retirement System to serve a four (4) year term.

(e) One (1) retired member of the Retirement System elected by the retired members of the Retirement System to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.

(f) One (1) City management employee in the administrative service appointed by the ~~City Manager-Mayor~~ to serve at the pleasure of the ~~City Manager-Mayor~~ selected from the following: ~~City Manager~~ Chief Operating Officer, City Treasurer, Deputy or Assistant ~~City Manager~~ Chief Operating Officer, or person in a similar position who reports to the ~~City Manager-Mayor~~.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; shall have all powers and duties provided in the Declaration of Group Trust for the SDCERS Group Trust effective July 1, 2007 and any amendments thereto or successor trusts hereinafter adopted by Resolution of the City Council; and shall have exclusive control of the administration and

investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as deemed prudent by the Board consistent with its fiduciary duties. ~~are approved by resolution of the Council of the City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.~~

*(Amendment voted 03-13-1951; effective 03-26-1951.)*

*(Amendment voted 11-08-1960; effective 01-09-1961.)*

*(Amendment voted 11-04-1969; effective 01-29-1970.)*

*(Amendment voted 06-04-1974; effective 08-13-1974.)*

*(Amendment voted 11-2-2004; effective 04-01-2005)*

*(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)*

*Prior Language*

#### **Section 145: Retirement Fund**

All moneys contributed by employees of the City or appropriated by the Council or received from any other source under the terms of this Article, shall be placed in a special fund ~~in the City Treasury~~ to be known as the City Employees' Retirement Fund, which said fund is hereby created. Such fund shall be a Trust Fund to be held and used only for the purpose of carrying out the provisions of this Article. No payments shall be made therefrom except upon the order of the Board of Administration. This fund may be placed by the Board under the Funds Commission for investment; but shall not be merged with other funds of the City.

**Sections 146 through 151 [No Change]**