

ORDINANCE NO. 176349

An Ordinance amending Chapter 5, Article 5.5, of the Los Angeles Administrative Code to streamline the process for the election of retired elected members of the Board of Fire and Police Pension Commissioners and reduce election costs.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Chapter 5, Article 5.5, of the Los Angeles Administrative Code is amended to read in its entirety as follows:

CHAPTER 5, ARTICLE 5.5

RETIRED ELECTED MEMBERS OF THE BOARD

Section

- 23.103.12 Term of Office.
- 23.103.13 Definitions.
- 23.103.14 Elections: General.
- 23.103.15 Nomination of Candidates.
- 23.103.16 Notice of Election.
- 23.103.17 Observers.
- 23.103.18 Voting Procedure.
- 23.103.19 Verification of Identification Envelopes.
- 23.103.20 Ballot Tally.
- 23.103.21 Certification and Report of Results.
- 23.103.22 Unexpired Term.
- 23.103.23 Recall Procedure.
- 23.103.24 Rules and Regulations.
- 23.103.25 Protests.

Sec. 23.103.12. Term of Office. The terms of the two retired elected members of the Board of Fire and Police Pension Commissioners shall be five years beginning on the first day in July of the year of their respective elections. One retired member will be

elected by eligible retired members of the Fire Department, and one by eligible retired members of the Police Department.

Sec. 23.103.13. Definitions. For purposes of this Article the following words and phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated by the context.

“Board” shall mean the Board of Fire and Police Pension Commissioners.

“Department” shall mean the Department of Fire and Police Pensions.

“Retired Member of Fire Department” shall mean a person who meets the definition contained in Charter Section 1202(f).

“Retired Member of Police Department” shall mean a person who meets the definition contained in Charter Section 1202(f).

Sec. 23.103.14. Elections: General. The City Clerk shall conduct all elections. The Board shall reimburse the City Clerk for all necessary expenses incurred by the City Clerk in the administration of any election of retired members of the Fire and Police Departments to serve on the Board. The election shall be held by the 4th Tuesday in May of any year in which the term of office of a retired elected member of the Board expires. The first election for the Fire and Police Pension Board retired elected members shall be held by May 23, 2000.

Eligible voters shall be only those who are retired members of the Department from which the candidate retired. The General Manager of the Department will provide the City Clerk with a list of all eligible retired members as of 30 days prior to the election. The list shall contain the name, address and other identifying information of each eligible retired member of the Plan, as of the date specified in the Calendar for Election.

The City Clerk will mail to all such members notification that candidates are being sought to run for the position of retired member of the Board. A supplemental list of voters who lost membership after the first list was prepared will be provided to the City Clerk as of the date of the election by the General Manager of the Department. Such lists shall be in electronic format specified by the City Clerk. The General Manager of the Department shall certify the lists and formally transmit the same to the City Clerk.

Sec. 23.103.15. Nomination of Candidates. Retired members interested in becoming a candidate must submit a Notice of Intent to run for office in writing to the City Clerk by the due date contained in the notification in order to have their names placed on the ballot. Along with the submission of the Notice of Intent, interested candidates have the option to include an occupational ballot designation and a typewritten statement of qualifications for office for the provision of information to the electorate. The occupational ballot designation shall be printed immediately under that

candidate's name and shall consist of a three word designation of either (A) the current principal profession, vocation or occupation of the candidate, or (B) the principal profession, vocation or occupation of the candidate during the calendar year immediately preceding the filing of the candidate's Notice of Intent to become a candidate. A candidate who is running for the same elective office which that person currently holds shall also have "(Incumbent)" printed on the ballot, immediately after that person's name. The statement of qualifications for office may include information on education, work experience, years of service, date of retirement, and other relevant qualifications and shall not exceed 250 words in length.

Interested candidates may submit their candidate packet composed of the Notice of Intent to run for office, the optional occupational ballot designation and the optional statement of qualifications to the City Clerk by United States mail. Alternatively, interested candidates may personally deliver their candidate packet to the City Clerk during regular hours in the seven business days preceding the specified due date. In either case, the candidate packet must be received by the City Clerk no later than 5:00 p.m. of the specified due date. Should any candidate fail to submit an occupational ballot designation or a statement of qualifications by the specified due date, the appropriate sections for the occupational ballot designation and qualification statement will be blank. The Department will provide a disclaimer stating that neither the Department nor the City Clerk has verified the accuracy of the information contained in the candidates' qualification statements. Qualification statements that are submitted by the due date will be printed by the City Clerk and mailed with the ballot at no expense to the candidate.

Prior to the election, the City Clerk shall conduct a public drawing of the letters of the alphabet. The order in which the letters are drawn shall constitute the random alphabetical order by which the surnames of the candidates shall be arranged on the ballot. Each ballot shall contain the name of each candidate who has qualified in accordance with this section. There shall be a blank space beneath these names in which the voter may write the name of any retired member of the applicable Department not printed on the ballot and for whom the retired member wishes to vote.

Sec. 23.103.16. Notice of Election. Not more than ninety (90) nor less than sixty (60) calendar days prior to the election, the Board shall notify the City Clerk of the fact of such election. Not more than thirty (30) nor less than twenty (20) calendar days prior to the election, the Board will cause to be prepared a Notice of Election specifying the date thereof, a sample ballot containing the name of each candidate who has qualified for a place on the ballot in accordance with Section 23.103.15, rules concerning eligibility to vote, and such additional information and instructions as the City Clerk may determine. A copy of the notice and sample ballot shall be posted in the Office of the City Clerk.

Sec. 23.103.17. Observers. Candidates whose names appear on the ballot may each designate not more than two (2) observers at the tally center to observe that ballots are properly cast and votes are properly counted. Names of observers shall be

presented to the City Clerk not less than three (3) calendar days prior to the election. Observers so designated shall wear identification badges at all times and shall be subject to such regulations as the City Clerk shall prescribe.

Sec. 23.103.18. Voting Procedure. The City Clerk shall have ballots printed and mailed to each eligible member on the mailing list roster provided by the Department. The mailing shall be completed not less than ten (10) calendar days prior to the date of the election. Those members who become eligible through retirement within thirty (30) days prior to an election, who wish to vote in such election, shall present themselves in the office of the City Clerk not earlier than seven business days prior to, and not later than 5:00 p.m. of the day of the election with a certificate from the Department on a form approved by the City Clerk verifying the fact of their eligibility to vote. The City Clerk will allow such members to vote.

Each ballot packet mailed or provided to voters described above shall consist of the following items:

- a. A mailing envelope;
- b. A return envelope;
- c. The official ballot;
- d. An identification envelope for the official ballot with space for the member to affix the member's name, address, last 4 digits of the social security number, signature and date of signing;
- e. A list of instructions to the voter; and
- f. The candidate's statement of qualifications, if any.

Upon voting the ballot, the voter shall enclose the ballot in the identification envelope. The voter shall affix the voter's name, address, last 4 digits of the voter's social security number, signature and date of signing upon the identification envelope containing the ballot and shall enclose it in the return envelope. The voter shall return the voted ballot to the City Clerk by United States mail or personal deposit. During regular hours in the seven business days preceding the election, but no later than 5:00 p.m. on Election Day, voters may personally deposit their ballot in the election box in the Office of the City Clerk. All ballots shall, in order to be counted, be received by the City Clerk no later than 5:00 p.m. on the date of the election.

If a voter inadvertently spoils a ballot, the voter may return the spoiled ballot to the City Clerk, who shall furnish the voter with another ballot. Not more than two such additional ballots may be issued to the same voter. Spoiled ballots will be clearly marked "**spoiled**".

If a voter claims the voter did not receive a ballot, the voter may receive another ballot from the City Clerk upon filing a signed affidavit claiming non-receipt. The

identification envelope of such duplicate ballot shall be prominently marked "**duplicate ballot**" and the original ballot issued to the voter shall be challenged, if received.

Sec. 23.103.19. Verification of Identification Envelopes. Upon receipt of the identification envelope and its contents, the City Clerk shall verify the name, social security number and address appearing thereon with the roster of eligible voters and shall cause the roster to be marked showing that the member has voted. No identification envelope shall be opened prior to the commencement of the tally. The City Clerk may challenge a returned ballot upon the following grounds:

- a. the identification envelope is not properly completed according to the instructions and does not accurately identify the voter;
- b. the voter did not include the correct last four digits of the SSN;
- c. the voter did not properly sign the ballot;
- d. the voter did not include the correct address;
- e. the voter's name does not appear on the roster;
- f. the ballot was received after the last date and time provided herein;
- g. the voter, based on the supplemental list, was reinstated as an active member, has died or otherwise lost status as an eligible retired member as indicated by the General Manager of the Department; or
- h. the voter has already voted a ballot.

Each identification envelope so challenged shall have written on the envelope the word "**Challenge**," the reason for the challenge, and the signature of the person imposing the challenge. Those challenged envelopes shall not be opened, and the ballots they contain shall not be counted.

Sec. 23.103.20. Ballot Tally. The City Clerk shall count and challenge ballots in accordance with procedures used by the City Clerk to count ballots for other similar elections. An authorized observer or the City Clerk, prior to the time that the identification envelope is opened, may challenge the eligibility of any person to vote in the election. Challenges by observers may be made only upon the following grounds:

- a. the identification envelope was not signed by the person whose name appears on the roster; or
- b. the person's status as an eligible member has changed since the person was so certified.

The City Clerk shall, with substantiating evidence, sustain or overrule the challenge. Without such substantiating evidence being produced within three (3) days of the election, the challenge shall be overruled and the ballot shall be tallied with the other ballots. Identification envelopes whose challenge has been sustained shall not be included in the City Clerk's tally and shall be retained by the City Clerk with all other

election materials for a minimum of ninety (90) calendar days after the election results are certified.

Sec. 23.103.21. Certification and Report of Results. The City Clerk shall, within fourteen (14) calendar days after the date of the election, furnish the Board with the official certified results of the election. The candidate who receives at least 50% plus one of the votes returned to the City Clerk's office shall be elected to the position. In the event that no candidate receives at least 50% plus one of the votes returned, the City Clerk shall conduct a runoff election within thirty (30) days of the date the initial election is certified by the City Clerk. The ballot for the runoff election shall contain the names of the two candidates receiving the highest number of votes in the initial election. The runoff election shall be conducted in the same manner as the primary election. Both candidates' statement of qualifications will be sent with each ballot. The General Manager of the Department will provide the City Clerk with a new certified list of all eligible retired members as of thirty (30) days prior to the runoff election. A supplemental list of voters who lost membership after the runoff list was prepared will be provided to the City Clerk as of the date of the runoff election.

Sec. 23.103.22. Unexpired Term. If for any reason a retired Board member has submitted a letter of resignation or the office becomes vacant by virtue of death, disability or some other reason, the City Clerk shall conduct a special election to fill such unexpired term. However, no election shall be held where the unexpired term of office will be for six (6) months or less from the time the election would be complete. The Board shall designate the date of the election. The day shall be any Tuesday not less than sixty (60) and not more than ninety (90) days after the officeholder has submitted a letter of resignation or notification has been received of the death, disability or other cause for the office to become vacant. Candidates to be voted on at any such special election shall be nominated and elected in the same manner provided above for the regular election for retired Board members. The election notification shall make appropriate reference to the fact that the office for which such election is held is for the balance of the unexpired term.

Sec. 23.103.23. Recall Procedure. A retired member of the Board may be removed from office. The procedure to effect the removal of an incumbent from office shall be known as a Recall and may be accomplished via a recall petition and election. No petition for removal of a retired member shall be so filed until the member has held office for six months.

A recall petition must be signed by ten percent of the number of current retired eligible voters of the Department from which the incumbent was elected. Such petition shall be addressed to the Board and filed with the City Clerk. It shall request that the question of whether the incumbent shall be removed from office by a vote of such members be submitted to the retired members of the appropriate Department. Such petition shall contain a General Statement of the grounds for which such removal is sought, of not more than 300 words in length, and the sufficiency of such statement shall not be subject to review.

Except as otherwise herein provided, the City Clerk shall specify the form and mode of signing, filing, examining, certifying, supplementing and presenting these petitions to the Board. The sponsors of a petition shall be duly responsible for such petitions being completed in every detail and in proper form when filed with the City Clerk. No amendments, changes, alterations or corrections of any kind, clerical or otherwise, shall be permitted to be made in any petition subsequent to it being filed with the City Clerk.

Before circulating the petition for signatures, its proponents shall write a notice of intention to do so. The notice shall be accompanied by a typed statement, not exceeding 300 words in length, of the reasons for the proposed recall. The notice and statement shall be submitted to the City Clerk and shall be posted in the Office of the City Clerk. On the same day that they are submitted to the City Clerk, this notice and statement shall be served upon or sent by registered mail to the retired elected member of the Board sought to be recalled by the proponents of the recall. Proof of this notification shall be submitted by the proponents to the Office of the City Clerk within 5 business days of service.

Within fourteen (14) days after the posting of notice and statement, the retired elected member sought to be recalled, or anyone upon the retired member's behalf, may prepare an Answer to the Statement. The Answer to the Statement shall not exceed 300 words in length, and shall be posted in the Office of the City Clerk. The statement and answer are intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect in any manner the validity of the proceedings taken under this section.

Twenty-one (21) days after the posting of the notice and statement in the Office of the City Clerk, the petition demanding the recall of the retired elected member may be circulated among the qualified voters for the securing of signatures. The petition shall bear a copy of the posted notice of intention and accompanying statement and the answer, if any. If the retired member of the Board or anyone on that member's behalf has not answered, the petition shall so state. Signatures shall be secured and the petition shall be filed with the City Clerk within six weeks from the first day the petition is authorized to be circulated. The City Clerk shall verify and certify the sufficiency of the petition.

Upon the presentation of such recall petition to the Board by the City Clerk, the Board shall thereupon order the holding of a special election. The election will ask whether such retired elected member shall be recalled. Such special election shall be held not less than sixty (60) days nor more than ninety (90) days after the date of certification by the City Clerk of the sufficiency of the recall petition to the Board.

Any incumbent whose removal is sought under the provisions of this section may file with the City Clerk, at least thirty (30) days prior to the recall election, copies of a typed statement of not more than 750 words in length, justifying the incumbent's course in office. The person filing the recall petition, or the person or organization on whose

behalf a recall petition was filed, shall have the right to present to the City Clerk, within the same limit of time, copies of a typed statement in support of the recall of not exceeding 750 words in length. The City Clerk shall enclose one copy of any statement so filed with the ballot mailed to each voter, provided the City Clerk has been furnished, by the author, copies of the typed statement equal to five percent (5%) in excess of the total number of qualified voters.

The ballots used for the purpose of the recall election shall have printed thereon the following question:

Shall (insert the name of the retired Board member sought to be removed) be removed by recall from the office of elected retired member on the Board of Fire and Police Pension Commissioners?

An elected retired member of the Board for whom the recall and removal from office is sought shall continue to perform the duties of office until such time as the Board shall declare the result of the recall election. In the event that a recall election is successful, the provisions of Section 23.103.22, Unexpired Terms, shall apply.

Sec. 23.103.24. Rules and Regulations. The Board is hereby authorized to adopt such rules and regulations, not inconsistent with the provisions of this Article, as may be necessary to implement the provisions thereof.

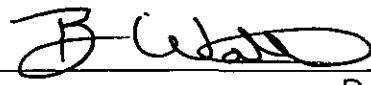
Sec. 23.103.25. Protests. Any interested person may challenge any proceeding, act or omission which may be material to the election, by written notice to the City Clerk not later than 3 business days after the count of the ballots. The City Clerk will review the protests and will submit a report of findings and recommendations to the Board with the certified tally results within 14 days after the election.

Sec. 2. The processes and requirements adopted as part of this ordinance, and as amended from time to time, shall be applied to all elections for retired elected members of the Board of Fire and Police Pension Commissioners held after January 1, 2005.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

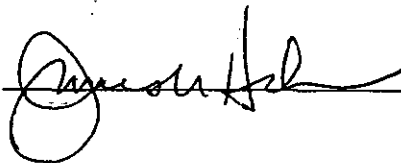
I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles at its meeting of DEC 17 2004.

FRANK T. MARTINEZ, City Clerk

By 
Deputy

DEC 22 2004

Approved _____


Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By 
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

Date December 16, 2004

File No. 04-2115