



OFFICE OF THE CITY ATTORNEY

ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 7 - 0 0 2 0

JAN 23 2007

REPORT RE:

**DRAFT ORDINANCE AMENDING CHAPTER 22 OF DIVISION 4 OF
THE LOS ANGELES ADMINISTRATIVE CODE TO ESTABLISH
TERMS AND CONDITIONS OF EMPLOYMENT FOR RETIRED
POLICE OFFICERS RECALLED TO DUTY FOR MORE THAN 90 DAYS
AND AMENDING SECTION 4.177 OF THE LOS ANGELES
ADMINISTRATIVE CODE TO MAKE TECHNICAL CORRECTIONS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This office has prepared and now transmits for your consideration the attached draft ordinance, approved as to form and legality. Tiers 2 and 5 both contain provisions authorizing retired police officers to be recalled to active duty for periods not to exceed 12 consecutive months. The Charter and Los Angeles Administrative Code (LAAC) provisions that govern the recall of these retired officers provides that the salary, benefits and other terms and conditions of employment for retired police officers recalled for more than 90 days are to be established by ordinance.

The City Administrative Officer (CAO), on behalf of the Executive Employee Relations Committee (EERC), requested our office to prepare this ordinance in order to establish the terms and conditions of employment for these recalled officers as agreed upon in negotiations conducted by the CAO in compliance with instructions from the EERC. Pursuant to Council Rule 38, the CAO, the Fire and Police Pension Plan and the Police Department have been provided with copies of this ordinance and their comments have been incorporated.

Section 1 of the ordinance adds Section 4.2202 to Chapter 22 of Division 4 of the LAAC to establish the salary, benefits and other terms and conditions of



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employment for retired police officers recalled to active duty for more than 90 days, but not to exceed 12 consecutive months. During the recall period, these recalled officers will continue to be paid their pensions, but will not accrue rights to any additional pension benefits.

Sections 2 and 3 contain technical amendments to LAAC Section 4.177 to codify the existing manner in which Tiers 4 and 5 members are paid IOD. These amendments do not impact the rights of recalled police officers. Recalled officers are not entitled to IOD payments under Section 4.177 because they are paid their pensions during the recall period.

This ordinance may be adopted in the manner set forth in Charter Section 250 and will become effective 31 days from its publication.

If you have any questions, please contact Deputy City Attorney Mary Jo Curwen from the Retirement Benefits Division at (213) 978-4400. Either she or another member of our staff will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By *Claudia culling*
CLAUDIA CULLING
Special Counsel - Municipal

CC:MJC:lee
Attachment

cc: The Honorable Antonio Villaraigosa, Mayor
City Administrative Officer
Frank T. Martinez, City Clerk
Gerry F. Miller, Chief Legislative Officer
Police Department
Fire and Police Pension Plan
Board of Fire and Police Pension Commissioners

ORDINANCE NO. _____

An ordinance amending Chapter 22 of Division 4 of the Los Angeles Administrative Code to establish the salary, benefits and other terms and conditions of employment for retired police officers recalled to active duty for more than 90 days and amending Section 4.177 of the Los Angeles Administrative Code to make technical corrections.

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

Section 1. Chapter 22 of Division 4 of the Los Angeles Administrative Code is amended by adding Section 4.2202 to read:

Sec. 4.2202. Provisions Governing the Recall to Active Duty of Police for Periods Exceeding 90 Days.

This section establishes the salary, benefits and other terms and conditions of employment for a retired member of the Police Department recalled for a period in excess of 90 days, but not to exceed more than 12 consecutive months, pursuant to either Subsection (e) of Section 4.2026 of this Code or Subsection (b) of Charter Section 1410.

(a) Status of Recalled Member. A retired member recalled to active duty shall be known as a "recalled member" and:

- (1) His or her recall to active duty shall be a privilege only and the Chief may terminate his or her service at any time;
- (2) Shall be paid his or her pension during the period of recall to active duty and thus shall not be eligible for the benefits provided in Section 4.177 of this Code;
- (3) Shall be paid the salary in effect on the date of recall for his or her rank and pay grade at retirement, longevity pay provided for his or her aggregate years of service prior to the effective date of retirement, and P.O.S.T. compensation;
- (4) Shall not receive any other incentives or bonuses, step increases, general salary increases, or promotions during the period of recall.
- (5) Shall be compensated in cash for daily overtime at the rate of time and one-half for hours worked in excess of his/her scheduled work shift if employed in a classification eligible for overtime pursuant to MOU 24 or 25;

- (6) May be assigned to any position within the Department that is allocated to the rank and pay grade held by the recalled member;
- (7) Shall not be entitled to any benefits provided to employees under Division 4 of this Code or the Memorandum of Understanding between the City and the Los Angeles Police Protective League or the Los Angeles Police Command Officers Association except as provided here;
- (8) Shall have no payroll deduction made for pension contributions pursuant to Section 4.2014 of this Code or Charter Section 1420; and
- (9) The recalled member and his or her surviving spouse or domestic partner, minor child or children, dependent child or children, and dependent parent or parents shall never be entitled to any pension benefits provided by either Tier 2 or Tier 5 by reason of his or her service as a recalled member.

(b) Tiers 2 and 5 Construed with Recalled Member Rules. The provisions of Tier 2 or Tier 5, as applicable, shall be construed and applied, as to a recalled member retired from Tier 2 or Tier 5, his or her surviving spouse or domestic partner, minor child or children, dependent child or children, and dependent parent or parents, in accordance with the respective applicable provisions of Subsection (a) of this section.

Sec. 2. The first sentence under Subsection (a) of Section 4.177 of the Los Angeles Administrative Code is amended to read:

Any member of the Fire Department or Police Department who is temporarily disabled by reason of illness or injury proximately caused by, arising out of, and in the course and scope of his employment, shall receive as temporary disability compensation (Division IV of the Labor Code of the State of California) an amount equal to his base salary less the sum that would be deducted therefrom pursuant to Section 4.2014 of this Code or Charter Sections 1324, 1420, 1514, or 1614, as applicable, if he were actively performing his duties.

Sec. 3. The first sentence under Subsection (b) of Section 4.177 of the Los Angeles Administrative Code is amended to read:

Any member of the Fire Department or Police Department who is disabled by reason of illness or injury proximately caused by, arising out of, and in the course and scope of his employment, and a physician designated by the Personnel Department has certified that the member is permanently disabled and that the member is not fit by reason of the disability for any type of available duty, he shall receive as disability compensation (Division IV of the Labor Code of the State of California) an amount equal to his base salary less the sum, which would be deducted therefrom pursuant to Section 4.2014 of this Code or Charter Sections 1324, 1420, 1514 or 1614, as applicable, if he were actively performing his duties.

Sec. 4. The City Clerk and the City Administrative Officer are authorized to correct any clerical errors or, if approved by the City Attorney, any technical errors in this ordinance.

Sec. 5. The provisions of this ordinance shall be operative on the effective date of the ordinance.

Sec. 6. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily 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 at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to Los Angeles City Hall East; 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 _____.

FRANK T. MARTINEZ, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By Mary Jo Curwen
MARY JO CURWEN
Deputy City Attorney

Date 1/22/07

Council File No. _____