



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Board of Administration for
the Federated City
Employees' Retirement
System

**SUBJECT: Amendment of Ordinance
Implementing
Benefits for Domestic Partners
in the Federated City Employees'
Retirement System**

DATE: 08-20-07

COUNCIL DISTRICT: City-Wide
SNI AREA:

RECOMMENDATION

Approval of an ordinance amending Section 19 of Ordinance No. 27521 to add domestic partners under certain circumstances to the Federated City Employees' Retirement System.

OUTCOME

Approval of the amendment will provide recognition of earned benefits to qualified domestic partners of members of the retirement system that were established prior January 1, 2005 when California Domestic Partner Right and Responsibilities Act of 2003 became effective.

BACKGROUND

The City Council approved Ordinance No. 27521 on September 13, 2005. The Ordinance amended the Federated City Employees' Retirement System to implement the California Domestic Partner Rights and Responsibilities Act of 2003 and gave the same recognition to domestic partnerships as is provided to a married couple. What Section 19 Ordinance 27521 did not do was to recognize domestic partnerships that were established before January 1, 2005.

ANALYSIS

The Board of Administration believes that all persons who can substantiate with appropriate evidence that they were in a domestic partner relationship on the date of their retirement and are still in the same domestic partnership should have the opportunity to have their domestic partnerships recognized and receive the appropriate benefit as that of a married couple. The Board of Administration is recommending that Section 19 of Ordinance 27521 be amended to allow any retired member the ability to provide evidence satisfactory to the Board of Administration that the member had established a domestic partnership prior to their retirement.

Prior to January 1, 2005 there was not a major incentive for a domestic partnership to register a Declaration of Domestic Partnership with the Secretary of State. A domestic partner of a member would not have been able to receive health or survivor benefits. With the passage of the California Domestic Partner Right and Responsibilities Act of 2003 it opened up the ability of members who retired after January 1, 2005 with domestic partners to enjoy the same retirement benefits as married couples. Employee organizations and the Federated Retirement Board of Administration agree that it is appropriate that members with a domestic partner who retired prior to January 1, 2005 also enjoy the same benefits of those who retired after January 1, 2005.

In order for a member of the retirement system with a domestic partner who retired before January 1, 2005 to qualify for the same benefits of a married couple the domestic partnership must satisfy the following:

- Either:
 - Prior to retirement the member files an Affidavit of domestic Partnership with the City of San José to enroll the member's domestic partner in the City's health benefit program; or
 - The retired member provides evidence that is satisfactory to the Board of Administration that the member had established a domestic partnership prior to retirement.
- Subsequent to retirement, the member and the domestic partner, who is the same domestic partner of the member at time of retirement, file a Declaration of Domestic Partnership with the Secretary of State.
- The Declaration of Domestic Partnership is filed with the Director of Retirement Services on or before December 31, 2007.

The proposed ordinance would provide survivors' benefits, health benefits and dental benefits to surviving State-registered domestic partners of these retirees on the same basis as benefits are provided for surviving spouses and domestic partners of other retirees.

EVALUATION AND FOLLOW-UP

Ordinance is for a change to the Retirement Section of the San José Municipal Code. No follow-up action is required.

PUBLIC OUTREACH

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)

- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
(Required: E-mail and Website Posting)

- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.
(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

The recommendation does not meet any of these criteria. However, this memorandum is posted on the City website for the September 11, 2007 Council agenda.

The draft ordinance was heard at the Board's regularly scheduled meeting of August 9, 2007.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, and the Office of Employee Relations. The Office of Employee Relations has forwarded a draft of the amended ordinance to all the bargaining unit representatives that are covered under the System and no concerns were received.

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COST IMPLICATIONS

The Plan Actuary estimated that providing the domestic partner benefits in accordance with state law would increase the City's contribution rate to the Federated City Employees' Retirement System by 0.12 percent of the covered payroll annually and the employees' contribution rate by 0.06 percent. The Retirement Board has already implemented these changes in the contribution rates. No additional changes in contribution rates are needed.

CEQA

Not a project.



EDWARD F. OVERTON

Secretary, Board of Administration