

ORDINANCE NO. 28603

**AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING
CHAPTER 3.28 OF TITLE 3 OF THE SAN JOSÉ
MUNICIPAL CODE TO AMEND SECTIONS 3.28.030.11
AND 3.28.680 AND TO ADD NEW SECTIONS 3.28.030.30
AND 3.28.690 RELATED TO THE EFFECT OF ABSENCE
DUE TO MANDATORY REDUCTION IN PAID WORKING
TIME ON CONTRIBUTIONS TO THE RETIREMENT FUND
AND CALCULATION OF RETIREMENT BENEFITS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. Section 3.28.030.11 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

3.28.030.11 "Final Compensation"

- A. For a member who separated from City service prior to July 1, 2001, "final compensation" means the highest average annual compensation earnable by the member during any period of three (3) consecutive years of Federated City service, including time prior to entering federated City service at the compensation earnable by the member in the position first held by him or her in such service as may be necessary to complete three (3) consecutive years.

- B. For a member who separated from City service on or after July 1, 2001, "final compensation" means the highest average annual compensation earnable by the member during any period of twelve (12) consecutive months of Federated City service, including time prior to entering federated City service at the compensation earnable by the member in the position first held by him or her in such service as may be necessary to complete twelve (12) consecutive months; provided, however, that such final compensation shall not exceed one hundred eight percent (108%) of the second-highest average annual compensation earnable by the member during any twelve (12) consecutive months, excluding all of the months used to determine the highest average annual compensation earnable; and provided further if the member has been subject to

a mandatory reduction in paid working time, the calculation for compensation earnable shall include the compensation that would have been earnable had the member not been subject to a mandatory reduction in paid working time.

- C. For the purposes of this Chapter, periods of service separated by breaks in service may be aggregated to constitute a period of three (3) consecutive years or twelve (12) consecutive months, as applicable, if the periods of service are consecutive except for such breaks. If a break in service did not exceed six (6) months in duration, time included in the break and compensation earnable during such time shall be included in computation of final compensation. If a break in service exceeded six (6) months in duration, the first six (6) months thereof and the compensation earnable during those six (6) months shall be included in computation of final compensation, but time included in the break which is in excess of six (6) months and the compensation earnable during such excess time shall be excluded in computation of final compensation.

SECTION 2. Part 5 of Chapter 3.28 of Title 3 of the San José Municipal Code is amended by adding a Section to be numbered, entitled, and to read as follows:

3.28.030.30 “Mandatory Reduction in Paid Working Time”

“Mandatory reduction in paid working time” shall mean any time period during which a member’s paid working time is mandatorily reduced, as calculated on an annual basis, to less than two thousand eighty (2,080) hours, but not less than one thousand seven hundred thirty nine (1,739) hours, pursuant to an agreement with a recognized employee organization that represents the member.

SECTION 3. Section 3.28.680 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

3.28.680 Computation of Amount of Service

- A. Except as otherwise provided with respect to absence on military service and as otherwise provided in Section 3.28.685 and 3.28.690, time during which a member is absent from Federated City service without compensation shall not be allowed in computing Federated City service.

- B. The Retirement Board shall credit a member with one (1) year of Federated City service for one thousand seven hundred thirty-nine (1,739) or more hours of Federated City service rendered by the member in any calendar year. Credit for more than one (1) year of such service shall not be allowed for service rendered in any calendar year.

- C. If a member renders less than one thousand seven hundred thirty-nine (1,739) hours of federated City service in a calendar year, as in the case of part-time service, the member shall be given credit for that proportion of one (1) year which the hours of Federated City service rendered by the member in such year bear to one thousand seven hundred thirty-nine (1,739) hours.

- D. Notwithstanding subsections B. and C. above, the Retirement Board shall credit a member with one (1) year of Federated service credit for each two thousand eighty (2,080) or more hours of eligible prior service purchased by a member pursuant to Part 22. A member shall be given credit for any purchased eligible prior service that is less than two thousand eighty (2,080) hours in the same proportion of one (1) year which the hours of purchased eligible prior service bears to two thousand eighty (2,080) hours.

SECTION 4. Part 5 of Chapter 3.28 of Title 3 of the San José Municipal Code is amended by adding a Section to be numbered, entitled, and to read as follows:

3.28.690 Absence Without Compensation During Periods of Mandatory Reduction in Paid Working Time

- A. Time during which a member was absent without compensation because the member is subject to a mandatory reduction in paid working time shall constitute "Federated City service" in any case where all of the following requirements are satisfied:
1. The member was on leave of absence without compensation because of the mandatory reduction in paid working time and not for any other reason.
 2. With respect to any member who rendered fewer than one thousand seven hundred thirty-nine (1,739) hours of Federated City service in the calendar year in which the mandatory reduction in paid working time is in effect, the City and member have paid into the retirement fund the contributions that would have been made to the fund by both the City and the member if the member had not been absent without compensation during the mandatory reduction in paid working time.
- B. The City and the member shall make their respective contributions to the retirement fund as if the member had not been absent without compensation during the mandatory reduction in paid working time.

PASSED FOR PUBLICATION of title this 16th day of June, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NGUYEN.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk