

ORDINANCE NO. 28788

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 2.08.1010, 2.08.1020, 2.08.1030, 2.08.1050, 2.08.1065 AND 2.08. 1070 OF PART 10 OF CHAPTER 2.08 OF TITLE 2 OF THE SAN JOSE MUNICIPAL CODE TO REVISE THE STRUCTURE OF THE BOARD OF ADMINISTRATION FOR THE FEDERATED CITY EMPLOYEES RETIREMENT SYSTEM, ADOPT MINIMUM QUALIFICATION CRITERIA FOR PUBLIC MEMBERS OF SAID BOARD, AND REVISE PROVISIONS FOR COMPENSATION OF BOARD MEMBERS

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

SECTION 1. Section 2.08.1010 of Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

2.08.1010 Members

A. The Board shall consist of seven (7) members as follows:

1. Four (4) members of the Board shall be members of the public appointed by the City Council.
2. Until at least three (3) public members have been appointed, one (1) of the members shall be the member of the Civil Service Commission appointed by the City Council prior to the effective date of the ordinance increasing the number of public board members to four (4).
3. Two (2) of the members shall be City employees, each from a different City department except as provided in subsection B. of this Section, who are members of the Federated City Employees Retirement System.

4. Until at least two (2) public members have been appointed, two (2) members of the City Council as designated by the Council, or the Mayor, if authorized by the Council, shall be members of the Board.
 5. One (1) of the members shall be a person who has retired under the provisions of the Federated City Employees Retirement System.
- B. Notwithstanding the provisions of subsection A.3. of this Section, if one of the City employee members of the Board, subsequent to his or her appointment to the Board, is transferred, for any reason including promotion or demotion, to an employment position in the same City department as the other City employee member, such transfer shall not disqualify either City employee from membership on the Board, not shall such transfer disqualify either incumbent City employee from reappointment to the Board.

SECTION 2. Section 2.08.1020 of Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to be entitled and read as follows:

2.08.1020 Qualifications – Public Members

- A. Each public member of the Board shall reside or have a primary place of employment or business within a fifty (50) mile radius of San José City Hall.
- B. Each public member of the Board shall possess a baccalaureate degree from an accredited college or university in finance, actuarial science, law, economics, business or other relevant field of study. An advanced degree in a relevant field of study or professional certification is desirable but not required.
- C. Each public member of the Board shall possess a high level of knowledge and expertise, and at least twelve (12) years experience, relevant to the

administration of a public retirement plan. Knowledge and expertise relevant to the administration of a public pension system may include but is not limited to experience in: a senior executive position in pension administration; pension actuarial practice; institutional investment management; auditing; accounting; legal; health and welfare and/or employee benefits management; investment management; banking; asset/liability management for an insurance company; college or university professor with a focus on fiduciary or trust fund law or a quantitative background in financial theory or actuarial math. Twelve (12) years combined experience in related field may meet this requirement.

- D. The following individuals shall be ineligible for appointment as public members of the Board: current and former City employees; current or former elected or appointed City officials; retired members of, or persons participating in or receiving benefits from the Police and Fire Department Retirement Plan or the Federated City Employees Retirement System; a representative from any union representing City employees; or any immediate family member of a City employee or persons participating in or receiving benefits from the Police and Fire Department Retirement Plan or the Federated City Employees Retirement System.
- E. No person having a conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest, shall be appointed as a public member of the Board. For the purpose of evaluating conflicts of interest, potential conflicts of interest and the appearance of conflict of interest of Board members, all applicants for public member Board positions shall be required to provide disclosure information, in such form and substance as may be required by the Council, to allow Council to evaluate conflicts of interest, significant potential for conflicts of interest, or appearance of conflicts of interest, including but not limited to disclosure of information related to investments, ownership of real property, employment and business positions, income sources and loans of the

prospective public member applicant and members of the applicant's immediate family. Disclosure of such conflict of interest, significant potential for conflict of interest, or appearance of conflict of interest, information as may be required by Council shall be provided by the applicant at the time of submission of an application for a public member position on the Board, and annually thereafter, concurrently with such conflict of interest disclosure as Board members may otherwise be required by law to file.

- F. For the purpose of this Section 2.08.1020, immediate family member means a person having any of the following relationships to a City employee or person participating in or receiving benefits from the Police and Fire Department Retirement Plan or the Federated City Employees Retirement System:
1. By Blood: Parent, child, grandparent, grandchild, brother, sister, nieces, nephews, uncles, aunts, great grandchildren, great grandparents.
 2. By Marriage: Husband, wife, stepparent, stepchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, half-sister, half-brother.
 3. By Law: Guardianship relationships and adoptive parent/child relationships.
 4. Domestic Partner: Individuals registered with the Human Resources Department and/or the State of California.

SECTION 3. Section 2.08.1030 of Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

2.08.1030 Terms of Office – Civil Service Commissioner

The member of the Civil Service Commission who was a member of the preexisting Board immediately prior to the effective date of the ordinance creating four (4) public member positions shall continue to serve as a member of the Board established by this Part until four (4) public members of the Board have been appointed by Council, or his or her seat becomes vacant under the provisions of Part 1 of this Chapter.

SECTION 4. Section 2.08.1050 of Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to be read as follows:

2.08.1050 Terms of Office - Public Members

- A. The member of the public who was appointed for a term expiring at the end of November, 2010 shall continue to serve as such member until the end of November, 2010; and such public member shall not be disqualified from reappointment at the expiration of his or her current term.
- B. Each member of the public appointed to the Board, after the effective date of the ordinance providing for four (4) public Board members, shall be appointed for a term expiring four (4) years after the date of expiration of the preceding member's term, to serve until the expiration of his or her term or until his or her seat becomes vacant under the provisions of Part 1 of this Chapter.
- C. Public members of the Board shall be eligible for reappointment to successive four (4) year terms.
- D. Whenever a vacancy occurs in the seat held by a member of the public, the Council, or the Mayor, if authorized by the Council, shall appoint a successor in conformance with the provisions of Section 2.08.1070 of this Code.

SECTION 5. Section 2.08.1065 of Part 10 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

2.08.1065 Compensation

- A. The members of the Board who are required to be members of the public not connected with City government shall each be paid, as compensation or services, the sum of one hundred fifty dollars (\$150.00) per month.
- B. Such compensation shall be in addition to such reimbursement, if any, as such members may become entitled to for expenses incurred by the members in the performance of the duties and functions of office.
- C. No compensation shall be paid for any month in which the member was absent from the regular meeting of the Board and the absence was unexcused under the provisions of this Chapter 2.08.
- D. The compensation paid to members shall be paid from the Federated City Employees Retirement Fund as an administrative expense of the Federated City Employees Retirement System.

SECTION 6. Section 2.08.1070 of Part 2 of Chapter 2.08 of Title 2 of the San José Municipal Code is amended to read as follows:

2.08.1070 Recommendations for Filling Certain Vacancies

- A. Whenever a vacancy exists in a seat on the Board held by a City employee, the City employees who are members of the Federated City Employees Retirement System shall recommend, at an election to be conducted among them by the City

Clerk, one of such employees as a successor for such seat; provided, however, upon any vacancy or vacancies in such office during the unexpired regular term, the City Council shall, in accordance with rules prepared by the City Clerk and approved by the City Council, appoint to such vacant seat for the remainder of the unexpired term, a City employee who is also a member of said System.

- B. The City Council shall appoint all public members of the Board.
- C. Whenever a vacancy exists in the seat on the Board held by a public member, the Council shall appoint a qualified person to such vacant seat for the remainder of the unexpired term.
- D. Whenever a vacancy exists in a seat on the Board held by a retired member of the System because of the expiration of a retired member's term of office, the following procedures shall apply:
 - 1. The retired members of the System shall recommend, at an election to be conducted among them by the City Clerk, three (3) (or less if there are fewer than three candidates) of such retired members to be considered for appointment as a successor for such seat.
 - 2. A panel shall interview the three (3) (or less if there are fewer than three candidates) retired members receiving the highest number of votes. The purpose of the interview shall be to ensure that the candidates are viable in that they will be able to attend meetings of the Board and fulfill the time commitment of member of the Board.

3. The panel shall consist of:
 - a. A representative from the employee organizations affiliated with the American Federation of State, County and Municipal Employees, AFSCME Local 101;
 - b. A representative from the employee organizations other than the organizations affiliated with AFSCME, Local 101; and
 - c. A representative from the City Manager's Office.
 4. The panel shall recommend to the City Council one of the interviewed retired members for appointment to the Board. The panel's recommendation shall be determined by a majority of the members of the panel; provided that a dissenting member of the panel may submit a minority report. If there is no majority for the recommendation of a retired member, each member of the panel may submit a written report to the City Council.
- E. Whenever a vacancy occurs in a seat on the Board held by a retired member of the Plan prior to the expiration of a retired member's term of office, the following procedures shall apply:
1. The City of San José Retired Employees Association shall recommend to the Board up to three (3) candidates for appointment for the remainder of the unexpired term.

2. The Board shall interview the recommended candidates and recommend one (1) or more of them for appointment by the City Council for the remainder of the unexpired term.
- F. The appointment of employee and retiree members shall be routine business on the Council agenda.
1. Council shall only reject the employee recommended by a majority of those voting in an election among employees upon a finding of cause for rejection.
 2. Council shall only reject the retiree recommended by an interview panel upon a finding of cause for rejection.
 3. Cause for rejection may include, but is not be limited to, Council finding that the recommended candidate will not be able to attend meetings of the Board and fulfill the time commitment of a member of the Board, or to act in accordance with fiduciary duties or carry out the requirements of governing legislation, including the requirements of Chapter 3.36 of Title 3 of this Code.

PASSED FOR PUBLICATION of title this 10th day of August, 2010, by the following vote:

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

NOES: LICCARDO.

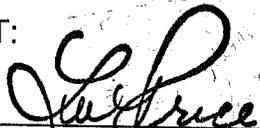
ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk