

Article 4: City Employees' Retirement System

Division 9: Powers and Duties of the Board

*(“Guaranty” incorp. 1–22–1952 by O–5046 N.S.,
contained in O–10792 O.S. adopted 11–29–1926;
repealed 10–25–1926 by O–8874 N.S.)*

*(“Powers and Duties of Board” added 10–25–1962 by O–8744 N.S.)
(Retitled to “Powers and Duties of the Board on 4–2–2002 by O–19043 N.S.)*

§24.0901 Rules, Actuarial Valuations, Determined Interest Assumption Rate, Employ Actuary, Investment Counsel

The Board may make Rules it deems proper to administer the Retirement System consistent with its fiduciary duties under Article 16, Section 17 of the California Constitution. The Board will identify the Rules that are incorporated into this Article as part of the Plan document and are effective beginning July 1, 1989, and as may be amended or adopted from time to time by the Board, in accordance with their terms. Subject to this ordinance, and the Board's Rules, the Board may modify benefits for service and disability, determine who are Members, and is the sole judge of the conditions under which persons may receive benefit from the system. The Board may also secure and pay reasonable compensation for the medical services and advice it deems necessary to discharge its duties.

The Board may employ an actuary as needed. Each year, on a fiscal year established for this purpose, the Board will employ an Actuary to make a valuation of the System's assets and liabilities. At least once every five years, the Board will employ an Actuary to conduct a thorough investigation of the mortality, service and compensation experience of Members and other persons receiving benefits, along with an actuarial valuation of the System's assets and liabilities. From time to time, the Board will also determine by Rule the assumed rate of interest earnings for the Retirement Fund. The Rule adopted for this purpose will be used to determine interest rates for Member contribution accounts and is incorporated into this Article as part of the Plan document. The Board may also employ independent investment counselors as needed to provide professional services to support the Board's investment responsibilities..

*(“Board of Administration — Rules and Regulations, Actuarial Valuations
Determined Interest Assumption Rate, Employ Actuary, Investment Counsel”
repealed; “Rules, Actuarial Valuations, Determined Interest Assumption Rate,
Employ Actuary, Investment Counsel”added 4–2–2002 by O–19043 N.S.)
(Amended 4–28–2008 by O–19740 N.S.; effective 5–28–2008.)*

§24.0902 Adoption of Mortality, Service, Interest Rates and Other Tables

Based upon its investigations, valuations, and determinations of the Actuary, the Board will adopt by Rule the mortality, service and other tables and interest rates it deems proper, and will revise by Rule the Members' contribution rates as it deems necessary, to provide the benefits of the Plan. The Board's decisions on matters covered by this section are conclusive, if arrived at in good faith, and the Rules adopted under this section are incorporated into this Article as part of the Plan document and are effective beginning July 1, 1989, in accordance with their terms.

(*"Election of Safety Members to The Board"* repealed; *"Adoption of Mortality, Service, Interest Rates and Other Tables"* added 4-2-2002 by O-19043 N.S.)
(Amended 4-28-2008 by O-19740 N.S.; effective 5-28-2008.)

§24.0903 Transfers to be Made by the Board of Administration

Based upon its investigations, valuations, determinations and the recommendation of the Actuary, the Board will transfer the proper amount from the employee and employer contribution accounts to the reserve for retiree benefits.

(*"Adoption of Mortality, Service, Interest Rates and Other Tables"* repealed;
"Transfers to be Made by the Board of Administration" added 4-2-2002 by O-19043 N.S.)

§24.0904 Crediting of Interest

The Board credits interest to the contribution accounts of Members and the City at a rate determined by the Board, compounded at each June 30th.

(*"Transfers to be Made by the Board of Administration"* repealed; *"Crediting of Interest"* added 4-2-2002 by O-19043 N.S.)

§24.0905 Forfeiture of Inactive Retirement Accounts

- (a) The Board may declare a forfeiture of an inactive Member's Accumulated Contributions if the Board is unable to locate the Member, after making a reasonable effort, and:
- (1) the Member is eligible for benefits and has not requested or accepted payment of those benefits within one year after becoming eligible to receive them; or
 - (2) the Member has left City employment, is not eligible for benefits and has not requested a return of his or her Accumulated Contributions within two years of leaving City employment.
- (b) Forfeitures under this section will be credited to the Retirement Fund.

(“Crediting of Interest” repealed; “Forfeiture of Inactive Retirement Accounts” added 4-2-2002 by O-19043 N.S.)

§24.0906 Preparation of the Annual Budget

Each year, the Board will prepare an annual budget of administrative costs for the System, upon the recommendation of the Board's Business and Procedures Committee. The Board will submit the annual budget to the City Council for inclusion in the annual budget ordinance. Once the City Council adopts the budget ordinance, the Board will appropriate, from the Undistributed Earnings Reserve, a sum sufficient to meet the budgeted expenses of operating the System for the fiscal year concerned. The portion of the expenses attributable to the employees of any public agency participating in the System will be paid by that agency, under the terms of that agency's participation agreement, and will be remitted to the Undistributed Earnings Reserve.

(“Board of Administration — Preparation of Annual Budget” repealed; “Preparation of the Annual Budget” added 4-2-2002 by O-19043 N.S.)

§24.0907 Meetings; Quorum

Seven of the members elected or appointed to the Board under Section 144 of the Charter constitutes a quorum to do business or conduct a hearing, but a lesser number may take action to adjourn a meeting or hearing. The affirmative vote of seven Board members is necessary to pass any vote and take final action on any decision before the Board, except that a vote to adjourn may be adopted by a majority of the Board members present.

(“Meetings; Quorum” repealed; “Meetings; Quorum” added 4-2-2002 by O-19043 N.S.)

§24.0908 *Board Hearings*

The *Board* may, in its discretion, hold an administrative hearing to determine any question presented to it involving the administration of benefits under the *System*. The *Board* may issue subpoenas to compel the attendance of witnesses and the production of documents. When holding a hearing, the *Board* may administer oaths and require testimony to be presented under oath. The *Board* may determine the time and place of a hearing and may continue the hearing as necessary.

(“*Board Hearings*” repealed; “*Board Hearings*” added 4-2-2002 by O-19043 N.S.)
(Amended 9-28-2011 by O-20085 N.S.; effective 10-28-2011.)

§24.0909 *Confidentiality of Member Records*

Information submitted to the Board by any Member or Beneficiary is confidential. It must not be divulged by any Board or Retirement System staff member to any person other than the Member or Beneficiary to whom the information relates, his or her personal representative or the City of San Diego. The Board may use this information only for the purpose of administering the System. It is a misdemeanor for any Board or System staff member to divulge this information to any person not authorized by this section to receive it.

(“*Confidentiality of Member Records*” repealed; “*Confidentiality of Member Records*” added 4-2-2002 by O-19043 N.S.)

§24.0910 *Legal Advisor to Board of Administration*

Unless otherwise provided by Memorandum of Understanding between the City Attorney and the Board of Administration, the City Attorney will designate one or more Assistant or Deputy City Attorneys to advise and represent the Board in the administration of the System.

(“*Legal Advisor to Board of Administration*” repealed; “*Legal Advisor to Board of Administration*” added 4-2-2002 by O-19043 N.S.)

§ 24.0911 Annual Report

- (a) The Retirement Board shall prepare an Annual Report at the end of each fiscal year to provide information to all Members concerning the System. Copies of the Annual Report shall be distributed to all Members. The Retirement Administrator shall keep a copy of the Annual Report in his or her office.
- (b) The President of the Retirement Board shall provide the Annual Report to the City Manager and the City Council, shall inform the City Manager and the City Council semi-annually of the funding status of the pension system, the impact of any demographic or actuarial issues, and any other changes affecting the benefits or funding of the Retirement System that have occurred since the date of the previous semi-annual report pursuant to this section.
- (c) The President of the Retirement Board and the Retirement Administrator shall promptly inform the City Manager and the City Council of all material facts or significant developments relating to all matters under the jurisdiction of the Board, except as may be otherwise controlled by the laws and regulations of the United States or the State of California.
- (d) The President of the Retirement Board, the Retirement Administrator, and all officers and employees of the Retirement System shall comply promptly with all lawful requests for information by the City Council, the City Manager, the City Attorney, or their designees.

(“Annual Report” added 4-2-2002 by O-19043 N.S.)

(Amended 10-11-2004 by O-19320 N.S.)

§24.0912 Board’s Authority to Contract with Public Agencies

The Board may contract with any Public Agency to administer the Public Agency’s retirement plan, pursuant to Division 18 of this Article, after the City Council makes a finding that the Public Agency is eligible to participate in the Retirement Fund and approves the agreement between the Public Agency and the Board. The Board may adopt the rules that it deems necessary or proper to administer these plans.

(“Board’s Authority to Contract with Public Agencies” added 1-7-2003 by O-19140 N.S.)

§ 24.0913 Settlement of Litigation

In the absence of City Council approval, the *Board* shall have no authority to settle any claim or litigation involving the payment of funds that are chargeable to the City directly or indirectly through inclusion in the City's Annually Required Contribution or the *System*'s Unfunded Actuarially Accrued Liability. All provisions in any prior agreements to the contrary, if any, are hereby superseded and no longer effective. All provisions in any future agreements to the contrary shall have no effect.

(Added 9-28-2011 by O-20085 N.S.; effective 10-28-2011.)

§ 24.0914 Power and Authority of the *Board*

Except as otherwise specifically provided in Chapter 2, Article 4 of this Code and the City Charter, the *Board* shall have no less and no greater authority and power than that provided to it by the California Constitution.

(Added 9-28-2011 by O-20085 N.S.; effective 10-28-2011.)