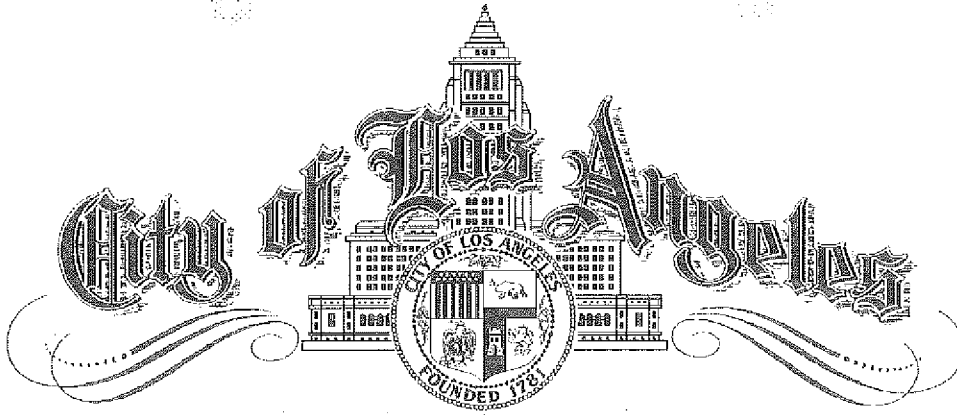


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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 1 2 - 0 3 0 2
SEP 19 2012

REPORT RE:

**REVISED DRAFT ORDINANCE AMENDING CHAPTERS 10 AND 11
OF DIVISION 4 OF THE LOS ANGELES ADMINISTRATIVE CODE
TO ADD A SECOND TIER TO THE LOS ANGELES CITY EMPLOYEES'
RETIREMENT SYSTEM FOR NEW MEMBERS AND
TO MAKE OTHER 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 previously prepared and transmitted for your consideration a draft ordinance, approved as to form and legality, that would revise provisions of the Los Angeles Administrative Code to provide a second tier of benefits for employees who become members of the Los Angeles City Employees' Retirement System (LACERS) on or after July 1, 2013, and would also make a number of related technical changes. That ordinance was prepared at the request of, and pursuant to instructions from, the Executive Employee Relations Committee. (City Attorney Report No. 12 -0290 dated September 14, 2012.) Subsequent to the transmittal of that draft ordinance, the City Administrative Officer requested that the draft ordinance be revised to limit the definition of "compensation earnable" and "final compensation" to read as follows: "base salary and shall not include any bonuses or premium pay" deleting the wording "unless specified as pension based within an applicable Memorandum of Understanding or, for non-represented employees, within this Code." That change has been made at two places in the revised ordinance transmitted herewith, approved as to form and legality.

A copy of the draft ordinance was sent, pursuant to council Rule 38, to the Los Angeles City Employees' Retirement System with a request that they provide their

comments, if any, to your Honorable Body and your committees when this matter is considered.

This ordinance may be adopted by the City Council pursuant to the provisions of Charter Section 1168, which requires approval by **not less than two-thirds** of the membership of the Council, subject to the veto of the Mayor and override by the Council by three-fourths of the Council. The final adoption of this ordinance cannot occur until after a public hearing has been held and until at least thirty days after its first presentation to the Council. Since this ordinance modifies retirement benefits, Government Code Section 7507 requires that a report from an actuary, who is an associate or fellow of the Society of Actuaries, must be obtained and made public at a public meeting at least two weeks prior to the adoption of these changes. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Mary Jo Curwen or Assistant City Attorney Alan Manning from the Retirement Benefits Division at (213) 978-4400. A member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:MJC:ac
Transmittal

cc: Antonio R. Villaraigosa, Mayor
Miguel A. Santana, City Administrative Officer
Gerry F. Miller, Chief Legislative Analyst
Los Angeles City Employees' Retirement System
Board of Administration of LACERS

ORDINANCE NO. _____

An ordinance amending Chapters 10 and 11 of Division 4 of the Los Angeles Administrative Code to provide a second tier with different benefits and conditions of entitlement for new hires who become members of the Los Angeles City Employees' Retirement System on or after July 1, 2013, and to make other technical corrections.

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

Section 1. A new Section 4.1002.1 is added to Chapter 10 of Division 4 of the Los Angeles Administrative Code to read as follows:

Section 4.1002.1. Establishment of Tier 2.

All employees who become members of the Retirement System on or after July 1, 2013, shall become members of Tier 2, except as provided otherwise in Subsection (a) below. The benefits and conditions of entitlement for members belonging to Tier 2 shall differ, as provided in this Section and in Chapter 11 of Division 4, from the benefits and conditions of entitlement for employees whose membership in LACERS began prior to July 1, 2013, (who shall be referred to as members of Tier 1 for purposes of this Chapter and Chapter 11 of Division 4 of this Code). There shall be no exception to Tier 2 membership based upon Section 4.1065, and Tier 2 members entitled to reciprocity under Section 4.1065 shall contribute at the rate provided in Tier 2, which is not related to age at entry. All citations herein are to provisions in this Chapter unless noted otherwise.

(a) Exceptions to Tier 2 Membership.

(1) Former Members with Contributions on Deposit. A former member who returns to membership in the Retirement System on or after July 1, 2013, shall return to membership in Tier 1 if he or she has pre-July 1, 2013, contributions that remain on deposit with the Retirement Fund on the date he or she re-enters City service. All former members who return to membership on or after July 1, 2013, without having pre-July 1, 2013, contributions on deposit shall become Tier 2 members. In the event a former member's pre-July 1, 2013, contributions have been forfeited to the Retirement Fund, he or she shall return to membership in Tier 1 provided that he or she is relieved from such forfeiture and said funds are returned to his or her individual account. Former members may not qualify for the exception provided in this paragraph by making back contributions or re-deposits of contributions after re-entry into City service.

(2) Tier 1 Disability Retirees Returned to Employment. A Tier 1 disability retiree who is returned to City employment on or after July 1, 2013, as provided in Subsections 4.1055(b) or (d), shall return to membership in Tier 1.

(3) **Reciprocal Retirement Benefit Arrangement.** If an employee of the City's Department of Water and Power (DWP) participates in the reciprocal retirement benefit arrangement established in Section 4.1060, he or she shall become a member of Tier 1 upon becoming a member of the Retirement System, rather than Tier 2, provided that his or her employment with the DWP commenced prior to July 1, 2013, and there is no break in service of more than seven calendar days, as provided in Section 4.1060(2). This exception shall not apply if the member elects not to participate in the reciprocal retirement benefits arrangement, as provided in Subsection 4.1060(5).

(4) **Limited Term Retirement Plan.** An elected official who was a member of the Limited Term Retirement Plan (LTRP) on June 30, 2013, and subsequently becomes a member of the Retirement System shall become a member of Tier 1, rather than Tier 2, provided that his or her service as an elected official was continuous from June 30, 2013, until the date he or she became a member of the Retirement System and all of the funds in his or her individual account with the LTRP are transferred to his or her member account with the Retirement System pursuant to the provisions of Section 4.1051(a)(3)(1).

(b) **Back Contributions and Re-Deposits of Contributions.** Tier 2 members may make back contributions as provided in Section 4.1051(a). If back contributions are paid for a period of employment prior to July 1, 2013, the contribution rate used in the payment calculation shall be the rate that the person would have paid if he or she had been a member of Tier 1 at that time. Tier 2 members may re-deposit previously withdrawn accumulated contributions as provided in Section 4.1051(b). Neither making back contributions nor re-depositing previously withdrawn contributions shall allow a member to establish an earlier membership date for purposes of excluding him or her from membership in Tier 2.

(c) **Tier 2 Contributions.** A member who belongs to Tier 2 shall contribute by salary deduction to the Retirement Fund at an actuarially determined rate sufficient to fund 75% of normal costs and 50% of any unfunded liability for Tier 2. The member contribution is paid solely for the purpose of providing benefits for the member and, unlike Tier 1, does not include a survivor contribution.

The initial contribution rate for the first four years of Tier 2 shall be 10% of the compensation earnable for each member. The Board shall establish the Tier 2 member contribution rate every three years thereafter, with the first such determination to be effective July 1, 2017, for the following three years. The Board shall establish the member contribution rate as a percentage of compensation earnable for each member and the rate established shall be actuarially determined to be sufficient to fund 75% of normal costs and 50% of any unfunded liability for Tier 2. The City contribution shall be determined annually by the Board in a percentage that, when combined with the member contribution, is sufficient to fully meet the actuarial funding requirements.

For purposes of this Section:

- member contributions shall be credited to each member's individual account and no portion of a member's contribution shall be paid into the 401(h) account;
- member contributions are subject to the provisions of Charter Section 1162, including the right to be credited with interest;
- compensation earnable shall consist of base salary and shall not include any bonuses or premium pay;
- normal costs and unfunded liability shall include costs associated with funding the Retirement Fund's 401(h) account for purposes of establishing the member contribution rate except that, if for any reason the determination of the member contribution rate at the time of an adjustment results in a member contribution rate that exceeds the amount necessary to fund 100% of normal costs and unfunded liability excluding all costs associated with funding the 401(h) account, then the member's contribution rate shall be reduced accordingly to assure that no part of a member contribution is used to fund the 401(h) account since, if member contributions were paid into the 401(h) account, these contributions would become non-refundable and could not be paid on a pre-tax basis pursuant to Chapter 15 of this Code;
- the unfunded liability used to determine rate adjustments shall be based upon the average of the last three years' amortization payments toward the unfunded liability for Tier 2 as determined by the Board's actuary;
- the normal costs used to determine rate adjustments shall be based upon the average of the last three years' normal costs for Tier 2 as determined by the Board's actuary.

The provisions of Section 4.1031.2 shall not apply to members of Tier 2 unless a member is making back contributions for a period of City employment prior to July 1, 2013.

Notwithstanding the provisions of this section, the City Council shall have the discretionary right to adopt an ordinance to temporarily reduce the member contribution rate for a period not to exceed three years. Members of Tier 2 shall not obtain any vested right to a lower contribution rate on account of any such reduction. Further, the Council explicitly retains the right to amend this Code by ordinance to delete this provision. Any ordinance adopted pursuant to this paragraph shall be adopted in the same manner as provided in Charter Section 1168.

(d) **Final Compensation.** The provisions regarding final compensation contained in Section 4.1010 shall apply to Tier 2 members except that:

(1) Compensation which is to be included in final compensation for all Tier 2 purposes shall be limited to base salary and shall not include any bonuses or premium pay.

(2) Final compensation for all Tier 2 purposes shall be calculated as an average of the monthly compensation paid during the member's last 36 months of service or any other 36 consecutive months of service which the member shall designate. Any references in this Chapter to a 12-month period related to final compensation shall be deemed to refer to 36 months for Tier 2 members. Since employees are paid on a bi-weekly basis, rather than a monthly basis, the Board shall adopt appropriate rules to convert a member's bi-weekly compensation into an amount that represents the member's equivalent compensation for the 36 month period that is to be used to determine final compensation pursuant to this provision. If for any reason final compensation must be computed for any member who has completed less than 36 months of continuous service, the salary for the missing months shall be at the rate for the first month of service to arrive at the compensation earnable; this exception shall not apply if a member has any period of continuous service of 36 months or more for which he or she will receive service credit.

(e) **Service Retirement for Employees.**

(1) **Normal Retirement.** A Tier 2 member with ten or more years of continuous City service shall be eligible to retire after reaching age 65 with a retirement factor of 2%. A Tier 2 member shall be eligible to retire at age 70 or older, regardless of length of City service, with a retirement factor of 2%.

(2) **Early Retirement.** A Tier 2 member with ten or more years of continuous City service shall be eligible to retire after reaching age 55 with the following retirement factor based upon his or her age:

Age	Retirement Factor
55.00	0.7700%
55.25	0.7880%
55.50	0.8050%
55.75	0.8230%
56.00	0.8400%
56.25	0.8600%
56.50	0.8800%
56.75	0.9000%
57.00	0.9200%
57.25	0.9430%
57.50	0.9650%
57.75	0.9880%

58.00	1.0100%
58.25	1.0350%
58.50	1.0600%
58.75	1.0850%
59.00	1.1100%
59.25	1.1380%
59.50	1.1650%
59.75	1.1930%
60.00	1.2200%
60.25	1.2500%
60.50	1.2800%
60.75	1.3100%
61.00	1.3400%
61.25	1.3750%
61.50	1.4100%
61.75	1.4450%
62.00	1.4800%
62.25	1.5180%
62.50	1.5550%
62.75	1.5930%
63.00	1.6300%
63.25	1.6750%
63.50	1.7200%
63.75	1.7650%
64.00	1.8100%
64.25	1.8580%
64.50	1.9050%
64.75	1.9530%

(3) A Tier 2 member who is eligible for normal or early retirement may file a service retirement application with the Board of Administration specifying a retirement date. The application shall be filed not less than thirty or more than sixty days prior to the requested retirement date.

In the event a member has been notified by the City that he or she will be laid off, the application may be filed less than thirty days in advance and shall be accepted provided it is filed with the Board while the member is still employed, specifies a retirement date prior to the member's termination, and shall not be effective earlier than the date on which it is filed.

The thirty day advance filing requirement shall not apply if the City has adopted a Resolution of Fiscal Emergency that is in effect and the Mayor has notified the System in writing that the City's fiscal condition warrants a waiver of

the advance filing requirement for a 90 day period from the date of such notification, provided that the application shall not be effective earlier than the date on which it is filed. So long as the Resolution of Fiscal Emergency remains in effect, the Mayor may extend a waiver of the advance filing requirement in successive periods of 90 days each by written notification from the Mayor to the System.

(f) Service Retirement for Terminated Employees (Deferred Retirement).

A Tier 2 member who terminates City employment other than by retirement may leave his or her contributions in the Retirement Fund. Such former member's individual account shall be credited with regular interest in the same manner as applies to a member's individual account. In order to become eligible for a deferred service retirement from Tier 2, a former member whose contributions remain in the Retirement Fund must have:

- (1) Five years of continuous City service, be age 55 or older, and ten years must have elapsed since he or she first became a member; or
- (2) Five years of continuous City service and be age 70 or older; or
- (3) Been a part-time employee, be age 55 or older, and ten years must have elapsed since he or she first became a member; or
- (4) Been a part-time employee and be age 70 or older.

A former member of Tier 2 who is eligible for a deferred service retirement must notify the Retirement System in writing when he or she wants to retire and shall then be retired with the retirement factor attributable to his or her age as provided in Subsection (e)(2)(A)-(J), if age 55 through 64, or with a retirement factor of 2% if age 65 or older, provided that the date of his or her retirement may not be earlier than the date that the written notification is received by the System.

(g) Service Retirement Allowance. Members of Tier 2 shall not qualify for a Beta Formula retirement, but shall receive a Tier 2 Formula retirement when retired on a service retirement allowance. The service retirement allowance for a person who is eligible to retire under either Subsection (e) or (f) herein shall be determined pursuant to the following Tier 2 Formula:

retirement factor (multiplied by) City service credit (multiplied by) final compensation (equals) service retirement allowance.

Each service retirement allowance shall be allocated between the following two components:

(1) An annuity which shall be the actuarial equivalent of the retiree's accumulated contributions at the time of retirement (excluding any additional contributions paid to provide a larger annuity at the time of retirement), calculated in accordance with approved actuarial methods as of the date of retirement; and

(2) A pension, in the amount of the remaining balance, payable to the retiree on account of his or her service.

However, if the Tier 2 member who is retiring had previously been on disability retirement, his or her retirement allowance shall be reduced by an amount equal to the annuity which the total of the disability annuity payments made to him or her would have provided had they still been part of his or her accumulated contributions at the time of his or her service retirement unless, upon returning to service from disability retirement, a member elected, as provided by Board rule, to make additional contributions in order to restore part or all of his or her annuity.

In no event shall any Tier 2 retirement allowance exceed 75% of final compensation, except where the allowance is based solely upon the annuity component funded by the retiree's accumulated contributions and thus does not include a pension component. Further, all Internal Revenue Code limitations set forth in Section 4.1010 shall be applicable to benefits payable under Tier 2. In addition, Tier 2 members shall not be entitled to the payment of benefits to the extent such benefits are reduced by the limitations on benefits imposed by Section 415 of the Internal Revenue Code. Notwithstanding the provisions of Section 4.1800 of this Code, Tier 2 members shall not be eligible to participate in the Excess Benefit Plan established in Section 4.1800.

The 75% of final compensation limitation upon the retirement allowance set forth above, which is subject to one exception as noted, shall apply to the member's retirement allowance prior to any adjustments that may be required as a result of the purchase of an additional annuity, the provision for a continuance to a survivor, or any other election authorized in this Chapter.

(h) **Disability Retirement.** A Tier 2 member shall be eligible for disability retirement benefits as provided in Section 4.1055. A Tier 2 member who is retired due to disability and is subsequently returned to city employment, as provided in Subsection (b) or (c) of Section 4.1055, shall return to membership in Tier 2.

(i) **Cost of Living Adjustments.** A Tier 2 member who is retired for disability or service shall be eligible for annual cost of living adjustments after his or her retirement date. A survivor of a Tier 2 retiree shall be eligible for annual cost of living adjustments after the date of the retiree's death if he or she is receiving a monthly benefit from the System. A survivor of a Tier 2 member who died prior to retirement shall be eligible for annual cost of living adjustments after the date of the member's death if he or she is receiving a monthly benefit from the System other than those provided in Section 4.1062(a)(2) or Section 4.1063. Cost of living adjustments for Tier 2 benefits shall be determined in the same manner as provided in Section 4.1040 except

that annual adjustments shall not exceed 2% and cost of living adjustments in excess of 2% shall not be carried over to another year.

The Board shall adopt rules to allow a member of Tier 2 to purchase additional COLA coverage, not to exceed an additional 1% per year, provided that the member shall pay the full actuarial cost for this additional benefit. If a retiree has purchased an additional annuity, the additional COLA coverage shall not apply to the additional annuity unless the member has paid the full actuarial cost to extend the additional COLA coverage to include the additional annuity benefit.

(j) Death Benefits.

Members of Tier 2 do not pay a survivor contribution for the purpose of providing benefits to a surviving spouse or domestic partner. The provisions in Chapter 10 providing for the payment of benefits upon the death of a member, former member, or retiree shall not apply to Tier 2 except as provided otherwise in this section.

The only benefits payable from the Retirement Fund upon the death of a Tier 2 retiree shall be the benefits provided in Subsections (b) and (c) of Section 4.1062 unless the retiree elected at the time of retirement to take a reduced allowance in order to provide for a continuance pursuant to the provisions of either Section 4.1044.5 or Section 4.1053. With regard to the benefit provided in Section 4.1062(c), since the purpose of this benefit is to provide a funeral allowance for the deceased retiree, the payment of this benefit from Tier 2 shall be made to only one person whom the retiree may designate to receive this payment for its intended purposes, provided that the Retirement System shall have no responsibility to assure that this payment is used for that purpose. If the decedent has no beneficiary designated to receive the funeral allowance, the funeral allowance for a Tier 2 retiree shall be paid to the surviving spouse of such decedent or, if none, to the executor or administrator of the estate of the decedent or to any other person or legal entity legally authorized to receive money due said decedent.

The only benefits payable from the Retirement Fund upon the death of a Tier 2 member prior to retirement shall be the benefits provided in Subsection (a) of Section 4.1062 unless the Tier 2 member was a participant in the Family Death Benefit Insurance Plan (FDBIP) at the time of his or her death. FDBIP benefits shall be paid as authorized in Section 4.1063 in addition to any benefits that are payable pursuant to Section 4.1062(a)(1) and (2), but if any person elects to receive an optional retirement allowance as provided in Section 4.1062(a)(3), then no FDBIP benefits shall be paid.

The only benefits payable from the Retirement Fund upon the death of a former member of Tier 2 whose contributions remain on deposit in the Fund at the time of his or her death shall be a refund of his or her accumulated contributions. The accumulated contributions shall be paid in the manner specified in Section 4.1062(a)(1). For purposes of this section, former member shall be defined as provided in Section 4.1051.1(c). A former member who has established reciprocity with another retirement

system shall be limited to the rights provided in this paragraph if he or she dies prior to retirement.

(k) **Purchase of Service.**

Members of Tier 2 may buy back credit for periods of uncompensated leave from City service under Section 4.1052.1.

Members of Tier 2 may purchase service credit under Section 4.1052.2 with the following limitations and modifications:

(1) Purchase of service credit shall be limited to a total of four years.

(2) The cost to purchase service credit shall not be determined under the provisions set forth in Section 4.1052.2, but shall be determined as follows:

The member's contribution rate shall be combined with the "City Contribution Rate" (as defined below) to establish the total percent of the member's compensation, at the time of purchase, that is to be paid for the total length of the period of service credit (not to exceed four years) that the member agrees to purchase. Compensation as used in this Subsection shall refer to the member's compensation earnable, as defined in Subsection (c) herein, at the time of purchase.

As an example, assuming the member's compensation at the time of purchase is \$100,000 per year, the member's contribution rate is 10%, the City Contribution Rate is 20%, and the period of service credit to be purchased is two years, the cost would be determined as follows:

The 10% member contribution rate plus the 20% City Contribution Rate results in a total contribution rate of 30%. Thus, to purchase two years of service credit would cost the member a total of \$60,000 (30% of the member's \$100,000 compensation for each year of service purchased).

The "City Contribution Rate" shall be the average annual percent of payroll contributed by the City to the Retirement Fund (excluding contributions allocated to fund the 401(h) account) for Tier 2 based upon the City's payments for the seven years prior to the time of purchase. For the first seven years commencing January 1, 2013, this rate shall be computed upon the City's average annual percentage of payroll contributions to Tier 2, with the rate for any missing year(s) based upon the average of the annual rate(s) for the prior year(s).

(3) A written purchase agreement shall be entered into with the member. Payment may be made either as a lump sum or by payroll deduction on a post-tax basis. Should the member elect to purchase service credit through payroll deduction, annual interest at a rate determined by the Board and set at

the commencement of the agreement shall be charged. The Board may establish a minimum biweekly payroll deduction and rules regarding the rollover of funds to pay for purchases.

(4) Purchased service credit shall only count for purposes of calculating the member's service retirement allowance. Purchased service credit shall not count toward establishing the minimum ten years of continuous service required to qualify for retirement under Subsection (e), the minimum five years of continuous service required to qualify for retirement under Subsection (f), or the minimum ten years of continuous service required to qualify for disability retirement. Further, purchased service credit shall not count as service or service credit for purpose of qualifying for any benefits provided in Chapter 11 of Division 4 of this Code.

(5) In the event that the member dies prior to retirement, the funds paid for this purchase shall be considered to be a part of the member's accumulated contributions and shall be refunded accordingly, with interest thereon computed at the rate applicable to regular member contributions.

(6) Because purchased service credit does not count towards disability benefits, at the time of his or her disability retirement the member may elect either to receive a refund of the funds paid for this purchase, including interest thereon, or to apply these funds to purchase a larger annuity.

(7) In the event part or all of the purchased service credit at the time of retirement would cause the member's service retirement allowance to exceed 75% of final compensation, the purchase cost attributable to any excess service credit that may not be used in the retirement formula, including interest thereon, shall be refunded or may be applied by the member to purchase a larger annuity if doing so does not cause the retirement allowance to exceed any federal limitations that may apply.

(8) The Board shall have the full authority granted in Subsection 4.1052.2(j) to administer the provisions of Section 4.1052.2 as amended herein.

Sec. 2. The references to "Sections 4.1020 or 4.1055 of this chapter" in both Subsections (a) and (b) of Section 4.1053 in Chapter 10 of Division 4 are replaced with a reference to "Sections 4.1020, 4.1002.1(g) or 4.1055 of this Chapter."

Sec. 3. Subsection (a) of Section 4.1055 in Chapter 10 of Division 4 of the Los Angeles Administrative Code is amended to read as follows:

(a) **Applications for Disability Retirement.** A written application for disability retirement may be made at any time within, but not exceeding, one year after the discontinuance of the service of an employee or the termination of any duly authorized sick leave with pay, provided such incapacity has been continuous from the

discontinuance of such service. Eligibility requirements differ, depending upon the member's tier, as follows:

(1) **Members of Tier 1.**

Any member who has five or more years of continuous service and who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing his or her duties, may be retired upon written application of such member, or of any person acting in his or her behalf, or of the head of the department in which such member is employed.

Any member retired on account of disability shall receive a disability retirement allowance which shall consist of:

An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement calculated in accordance with approved actuarial methods as of the date of retirement; and

A pension which shall be in such an amount that the same, when added to that portion of his or her annuity not derived from additional contributions paid to provide a larger annuity at the time of retirement, shall be a sum which shall be equal to one-seventieth (1/70) of his or her final compensation, as defined in Section 4.1010, calculated as of the date of retirement, multiplied by the years of service of such member.

If the sum resulting from this calculation should be an amount which represents less than one-third of the member's final compensation, in that case the disability retirement allowance shall be one-third of his or her final compensation.

(2) **Members of Tier 2.**

Any member who has ten or more years of continuous service and who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing his or her duties, may be retired upon written application of such member, or of any person acting in his or her behalf, or of the head of the department in which such member is employed.

Any member retired on account of disability shall receive a disability retirement allowance which shall consist of:

An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement calculated in accordance with approved actuarial methods as of the date of retirement; and

A pension which shall be in such an amount that the same, when added to that portion of his or her annuity not derived from additional contributions paid to provide a larger annuity at the time of retirement, shall be a sum which shall be equal to one-ninetieth (1/90) of his or her final compensation, as defined in Section 4.1002.1(d), calculated as of the date of retirement, multiplied by the City service credit of such member.

Sec. 4. Subsection (e) of Section 4.1055 of Chapter 10 of Division 4 is amended to read as follows:

(e) Any beneficiary who re-enters the service of the City, as provided in Subsection (b) or (d) herein, and again becomes a member of the Retirement System, shall immediately upon such re-entry become a member of the tier of the Retirement System from which he or she was retired and shall make contributions accordingly. The balance, if any, of his or her accumulated contributions, after deducting the annuity payments made to him or her on account of a disability retirement allowance, shall be credited to the individual account of such member with the Retirement System, regardless of whether he or she becomes a member of the Retirement System or of another City retirement system upon re-employment. He or she shall receive credit for services rendered prior to the date of his or her retirement in the same manner as though he or she had never been retired for disability, but the payment of a disability pension shall not constitute compensation from the City entitling him or her to service for the period it was paid. If otherwise eligible, a member may purchase eligible service with another governmental entity for employment during periods in which he or she received a disability allowance. Members of Tier 2 may elect to make contributions, on a post-tax basis, in order to replace some or all of the contributions used to fund the annuity portion of his or her disability pension so as to reduce or eliminate the reduction that would otherwise occur to his or her service retirement allowance pursuant to the provisions of Section 4.1002.1(g). The Board shall adopt rules to allow Tier 2 members to make contributions for this purpose.

Sec. 5. The reference to "Section 4.1020 of this chapter" in Section 4.1062(a)(3) of Chapter 10 of Division 4 is replaced with a reference to "Section 4.1020 or 4.1002.1(e) of this Chapter."

Sec. 6. Section 4.1062(a)(3), Chapter 10, Division 4 of the Los Angeles Administrative Code is amended by replacing the last sentence with the following sentence:

If a spouse or domestic partner of a Tier 1 member makes the election authorized herein, the provisions of Section 4.1044(h) of this Chapter shall apply.

Sec. 7. Section 4.1103.1 of Article 3, Chapter 11 of Division 4 of the Los Angeles Administrative Code is amended to read as follows:

Sec. 4.1103.1. Maximum Medical Plan Premium Subsidy.

(a) **For Tier 1 Retirees.** The maximum monthly medical plan premium subsidy is \$1,190 for retired employees who are retired from Tier 1. Beginning July 1, 2011, the Board, in its discretion, may change by resolution the maximum monthly amount of the medical plan premium subsidy provided to Tier 1 members retired on or before June 30, 2011, so long as any increase:

(1) Does not exceed the dollar increase in the Kaiser two-party non-Medicare Part A and B premium; and

(2) The average percentage increase for the first year of the increase and the preceding two years does not exceed the average assumed actuarial medical trend rates for the same period.

Any change made by the Board that exceeds the limits set forth in (a)(1) or (a)(2) herein must be submitted for Council review accompanied by an actuarial report. Any increases that are not acted upon by the Council within 30 days after receipt of the report to Council for consideration of the increase are deemed approved. Should the Council reject the subsidy set by the Board, the Council shall determine the amount, if any, by which the subsidy shall be increased and shall adopt such change by resolution.

No increases in the maximum monthly medical plan premium subsidy shall be provided to Tier 1 members retired on or after July 1, 2011. Notwithstanding all of the foregoing, increases in the monthly medical premium subsidy provided to retired Tier 1 members subject to Section 4.1103.4 shall be governed by the provisions of that Section, regardless of the date of retirement.

(b) **For Tier 2 Retirees.** The maximum monthly medical plan premium subsidy is \$596 for retired employees who are retired from Tier 2. The Board shall, by resolution, adjust the maximum monthly amount of the medical plan premium subsidy provided to these retirees to maintain a monthly amount equal to the single-party premium for the lowest cost standard plan, as defined by the Board, available to participants without Medicare Parts A and B.

Sec. 8. Section 4.1103.2 of Article 3 of Chapter 11 of Division 4 of the Los Angeles Administrative Code is amended to read as follows:

Sec. 4.1103.2. Eligibility for a Retired Employee Medical Plan Premium Subsidy.

Upon written application by an eligible retired employee and verification that the applicant is and remains enrolled, to the extent of the retiree's entitlement, in Part B or Part A and Part B of Medicare, the following medical plan premium subsidy shall be paid:

(a) Those retired employees who are receiving a service retirement allowance or a disability retirement allowance, who do not qualify for benefits under Part A of Medicare, who have at least ten years of Health Service Credit and who are age fifty-five years or older, shall have paid to their approved medical plan carrier on their behalf the following amount:

Basic Monthly Subsidy: For ten years of Health Service Credit, 40% of the maximum monthly medical plan premium subsidy amount established pursuant to the provisions of Section 4.1103.1 or Section 4.1103.4, as applicable.

Additional Monthly Subsidy. For more than ten years of Health Service Credit:

- For Tier 1 retirees, add 4% of the maximum monthly medical plan premium subsidy to the Basic Monthly Subsidy for each whole year of Health Service Credit in excess of ten years.

- For Tier 2 retirees, add 3% of the maximum monthly medical plan premium subsidy to the Basic Monthly Subsidy for each whole year of Health Service Credit in excess of ten years.

Maximum Monthly Subsidy. No retired employee shall have paid to his or her medical plan carrier an amount exceeding the maximum monthly amount established pursuant to Section 4.1103.1 or Section 4.1103.4, as applicable, or receive an amount in excess of the premium of the plan in which they are enrolled.

Dependent Monthly Subsidy.

-For Tier 1 retirees, the monthly medical plan premium subsidy shall be applied first to the retiree's medical plan coverage with any balance applied toward the coverage of the retiree's dependent(s).

-For Tier 2 retirees, none of the subsidy may be applied toward coverage for dependents of Tier 2 retirees.

(b) For both Tier 1 and Tier 2 Retirees: Those retired employees with at least ten years of Health Service Credit who are receiving an allowance pursuant to Chapter 10 of the Los Angeles Administrative Code and who qualify for benefits under Part A

and Part B of Medicare, shall have paid to the medical plan carrier providing them with a plan supplemental to Medicare coverage the following amount: For ten years but less than fifteen years of Health Service Credit, 75% of the single-party monthly premium of the approved medical plan supplemental to Medicare coverage in which the retired employee is enrolled. For fifteen years or more but less than twenty years of Health Service Credit, 90% of the single-party monthly premium of the approved medical plan supplemental to Medicare coverage in which the retired employee is enrolled. For twenty or more years of Health Service Credit, 100% of the single-party monthly premium of the approved medical plan supplemental to Medicare coverage in which the retired employee is enrolled.

For Tier 1 retirees, the amount of the medical plan premium subsidy which is applied toward the coverage of dependents of a retiree enrolled in both Part A and Part B of Medicare shall not exceed that amount which may be applied toward the coverage of the dependent(s) of a Tier 1 retiree not enrolled in both Medicare Part A and Part B of Medicare and covered by the same medical plan and with the same years of Health Service Credit.

For Tier 2 retirees, none of the subsidy may be applied toward coverage for dependents of Tier 2 retirees.

Effective July 1, 2011, no increases in the amounts paid to the medical plan carriers under this Subsection (b) shall be provided on behalf of Tier 1 members retired on or after July 1, 2011, or their dependents. Notwithstanding all of the foregoing, increases in the amounts paid to medical plan carriers provided on behalf of retired Tier 1 members subject to Section 4.1103.4 shall be governed by the provisions of this Subsection (b) regardless of the date of retirement.

(c) The Board may require retirees to enroll in and assign to LACERS any coverage that is provided by Medicare in order to qualify to receive the subsidy provided in this Section.

(d) In no event shall the subsidy provided in this Section, when added to any other medical plan subsidy provided by the Department of Water and Power or the Fire and Police Pension Plan, exceed the maximum amount established in Section 4.1103.1 or in Section 4.1103.4, as applicable.

Sec 9. Subsection (a) of Section 4.1105.2 of Article 5 of Chapter 11 of Division 4 of the Los Angeles Administrative Code is amended to read as follows:

(a) Those retired employees who are receiving a service retirement allowance or a disability retirement allowance, and who have at least ten years of Health Service Credit as members of the Los Angeles City Employees' Retirement System and who are age fifty-five years or older, shall have paid to their approved dental plan carrier on their behalf the following amount:

Basic Monthly Subsidy: For ten years of Health Service Credit, 40% of the maximum monthly dental plan premium subsidy amount established pursuant to the provisions of Section 4.1105.1.

Additional Monthly Subsidy. For more than ten years of Health Service Credit:

- For Tier 1 retirees, add 4% of the maximum monthly dental plan premium subsidy to the Basic Monthly Subsidy for each whole year of Health Service Credit in excess of ten years.

- For Tier 2 retirees, add 3% of the maximum monthly dental plan premium subsidy to the Basic Monthly Subsidy for each whole year of Health Service Credit in excess of ten years.

Maximum Monthly Subsidy. No retired employee shall have paid to his or her dental plan carrier an amount exceeding the maximum monthly amount established pursuant to Section 4.1105.1 or receive an amount in excess of the premium of the plan in which they are enrolled.

Dependent Monthly Subsidy. There is no dental plan premium subsidy for dependents.

Sec. 10. Subsections (a), (b), and (c) of Section 4.1106 of Article 6 of Chapter 11 of Division 4 of the Los Angeles Administrative Code are amended to read as follows:

(a) Upon written application and verification, as required by the Board, those retired employees who are receiving an allowance pursuant to Chapter 10 of Division 4 of this Code and who have at least ten years of Health Service Credit, are age fifty-five years or older, and reside more than three months of the year:

(1) outside the state of California; or

(2) in the state of California, but not within a LACERS administered HMO medical plan zip code service area,

and are enrolled in a federally qualified HMO or a state regulated health insurance plan, shall be eligible for the medical plan premium reimbursement, as follows:

1. **NOT ENROLLED IN MEDICARE PART A AND PART B**

A. **Basic Monthly Reimbursement:** For ten years of Health Service Credit, 40% of the maximum monthly medical plan premium reimbursement amount established pursuant to the provisions of Subsection (b) herein.

B. Additional Monthly Reimbursement: For more than ten years of Health Service Credit:

- For Tier 1 retirees, add 4% of the maximum monthly medical plan premium reimbursement amount to the Basic Monthly Reimbursement for each whole year of Health Service Credit in excess of ten years.

- For Tier 2 retirees, add 3% of the maximum monthly medical plan premium reimbursement amount to the Basic Monthly Reimbursement for each whole year of Health Service Credit in excess of ten years.

Maximum Monthly Subsidy. The amount paid shall not exceed the maximum monthly medical plan premium reimbursement established pursuant to the provisions of Subsection (b) herein or the amount of the plan premium being reimbursed.

Dependent Reimbursement. For Tier 1 retirees, the monthly medical plan premium reimbursement shall be applied first to the retiree's medical plan coverage with any balance applied toward the coverage of the retiree's dependent(s) under the same medical plan. Premium reimbursement may not be applied toward coverage for dependents of Tier 2 retirees.

2. ENROLLED IN MEDICARE PART A AND PART B

For ten years or more, but less than 15 years of Health Service Credit, 75% of the monthly medical plan premium reimbursement amount established pursuant to the provisions of Subsection (c) herein. For 15 years or more but less than 20 years of Health Service Credit, 90% of the monthly medical plan premium reimbursement amount established pursuant to the provisions of Subsection (c) herein. For 20 or more years of Health Service Credit, 100% of the monthly medical plan premium reimbursement amount established pursuant to the provisions of Subsection (c) herein.

The Board shall establish the reimbursement policy for dependents of Tier 1 members, but there shall be no reimbursement for dependents of Tier 2 members.

(b) The Board shall set the maximum medical plan premium reimbursement for non-Medicare eligible retirees in the same manner as in Section 4.1103.1 or Section 4.1103.4, as applicable, of this Chapter.

(c) Effective January 1, 2011, the maximum monthly medical plan premium reimbursement for retirees enrolled in Parts A and B of Medicare shall be \$480.41. The Board, in its discretion, may by resolution increase the monthly amount of medical plan

premium reimbursement of retirees enrolled in Parts A and B of Medicare, provided that the amount of the maximum monthly medical plan premium reimbursement shall not exceed 100% of the single-party monthly premium of the highest cost approved medical plan supplemental to Medicare coverage provided by LACERS.

Effective July 1, 2011, no increases in the maximum reimbursement amount paid to retired members of Tier 1 under this Subsection (c) shall be provided to members of Tier 1 who retired on or after July 1, 2011. Notwithstanding all of the foregoing, increases in the reimbursement amount provided to retired Tier 1 members subject to Section 4.1103.4 shall be governed by the provisions of this Subsection (c) regardless of the date of the member's retirement.

Sec. 11. Section 4.1107 of Article 7 of Chapter 11 of Division 4 of the Los Angeles Administrative Code is amended by adding an introductory paragraph before Subsection (a) to read as follows:

The survivor medical plan premium subsidy authorized in this Section shall only be provided to the survivors of Tier 1 members or retirees, on the terms set forth herein, and shall not be provided to the survivors of Tier 2 members or retirees.

Sec. 12. Pursuant to Charter Section 252(i), this ordinance shall take effect upon publication.

Sec. 13. 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, by a vote of not less than two-thirds of all its members, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Mary Jo Curwen (MJE)
MARY JO CURWEN
Deputy City Attorney

Date Sept 19, 2012

Council File No. 10-1250