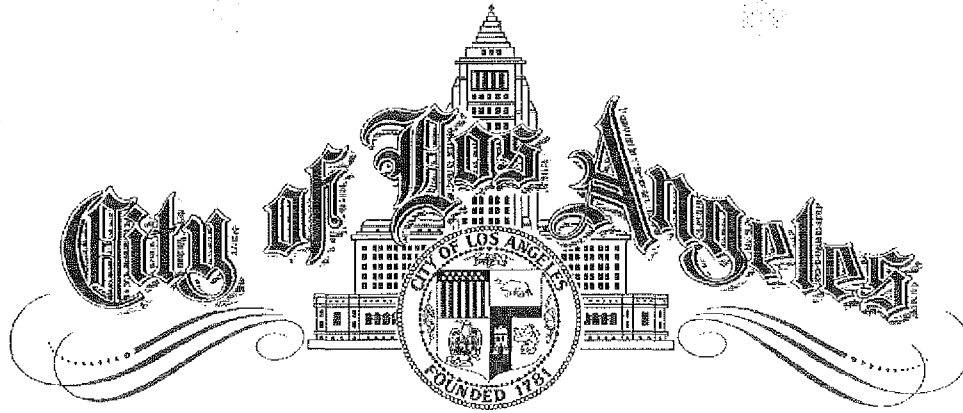


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**CARMEN A. TRUTANICH**  
City Attorney

**REPORT NO. R 1 2 - 0 2 8 0**

**AUG 2 0 2012**

**REPORT RE:**

**DRAFT ORDINANCE ADDING SUBSECTION (c) TO SECTION 4.1002 OF  
CHAPTER 10 OF DIVISION 4 OF THE LOS ANGELES ADMINISTRATIVE CODE  
TO ALLOW SWORN PERSONNEL WHO ARE TRANSFERRED FROM THE  
DEPARTMENT OF GENERAL SERVICES TO THE LOS ANGELES POLICE  
DEPARTMENT TO REMAIN IN THE LOS ANGELES CITY EMPLOYEES'  
RETIREMENT SYSTEM**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Council File No. 11-1392

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft ordinance to allow sworn personnel who are transferred from the Department of General Services Office of Public Safety (OPS) to the Los Angeles Police Department (LAPD) to remain in the Los Angeles City Employees' Retirement System (LACERS).

Background and Summary of Ordinance Provisions

Your Honorable Body approved in concept the consolidation of the OPS into the LAPD and requested that this Office draft ordinances necessary to effectuate the consolidation. As requested, the attached draft ordinance would establish continued LACERS benefits for sworn OPS peace officer personnel (OPS officers) who are

transferred to the LAPD, and the transfer of OPS officers to the LAPD will be authorized in a separate ordinance.

#### Background and Summary of Ordinance Provisions

Sworn LAPD employees are members of the Fire and Police Pension Plan (FPPP), while OPS officers are members of LACERS. If the City Council chooses to transfer OPS officers to the LAPD pursuant to a merger of the OPS and the LAPD, the Council would also have the authority pursuant to Charter Section 1216 to allow OPS officers to remain in LACERS after their transfer. In order to allow OPS officers to remain in LACERS after their transfer to the LAPD, this ordinance must be enacted prior to their transfer.

In addition to allowing transferred OPS officers to remain members of LACERS for so long as they work in any capacity for the LAPD, the draft ordinance establishes a two year period during which any transferred OPS officer would have the right, upon changing classification to a regular LAPD police position (a position that was not transferred from OPS), to choose between remaining in LACERS or opting out of LACERS and becoming an FPPP member. Exercise of this LACERS opt out right might require a period of member participation in the Pension Savings Plan (PSP) prior to qualifying for FPPP membership, although time as a PSP participant may be purchased for FPPP service credit.

#### Urgency of Ordinance and Procedural Requirements

The adoption of this ordinance is time urgent because the City has requested an amendment to Penal Code Section 830.31(c)(1) in order to allow OPS officers to maintain their limited peace officer status upon transfer of their positions to the LAPD. Depending upon the final language adopted, this legislation may result in these employees losing their peace officer status if they remain employed by the Department of General Services on or after the date the bill making the change is signed by the Governor. Since we understand that September 30 is the last date for the Governor to approve this bill on an emergency basis (which would make it effective immediately, rather than on January 1, 2013), it is critical that this ordinance be expedited to become effective as soon as possible and in no event later than September 29, 2012.

This ordinance may be adopted by the City Council pursuant to the provisions of Charter Sections 1618(b) and 1168, both of which require approval by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and the override by the Council by three-fourths of the membership of the Council. The final adoption of this ordinance cannot occur until after a public hearing has been held and until at least 30 days after its first presentation to the Council. Both of these Charter Sections specify that the Council shall be advised in writing by an enrolled actuary as to the costs of the proposed benefits. In addition, 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 this ordinance. If the future costs of the changes exceed one-half of one 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 this ordinance shall be considered.


Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to LACERS, FPPP, and the Office of the City Administrative Office (CAO) and their comments have been incorporated.

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. They or another 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:pj  
Transmittal

ORDINANCE NO. \_\_\_\_\_

An ordinance adding Subsection (c) to Section 4.1002 of Chapter 10 of Division 4 of the Los Angeles Administrative Code to allow sworn peace officer personnel, who provide police services for the City, to maintain membership in the Los Angeles City Employees' Retirement System when their sworn positions are transferred from the Department of General Services' Office of Public Safety into the Los Angeles Police Department.

**WHEREAS**, the Department of General Services is an Outside Agency as defined in Charter Section 1202(h);

**WHEREAS**, the City at some future date intends to transfer sworn peace officer personnel providing police services to the City from the Department of General Services to the Los Angeles Police Department pursuant to a merger of police services to be authorized by action of the City Council;

**WHEREAS**, employees who would be transferred pursuant to this merger would become Transferring Employees as defined in Charter Section 1202(i);

**WHEREAS**, the City Council is authorized in Charter Section 1216(b)(1) to provide Transferring Employees with benefits other than those provided by the Fire and Police Pension Plan; and

**WHEREAS**, the City Council desires to enact an ordinance to provide Transferring Employees with pension benefits provided by the Los Angeles City Employees' Retirement System in lieu of benefits provided by the Fire and Police Pension Plan.

**NOW, THEREFORE,**

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

Section 1. Subsection (c) is added to Section 4.1002 of Chapter 10 of Division 4 of the Los Angeles Administrative Code to read as follows:

(c) Notwithstanding the provisions of Subsections (a) and (b) of this Section, certain employees shall remain members of the Retirement System pursuant to the provisions of this Subsection.

The Department of General Services is an Outside Agency as defined in Charter Section 1202(h). Members employed by the Department of General Services as sworn peace officer personnel, whose positions may be transferred to the Los Angeles Police Department (LAPD) pursuant to a merger of police services authorized by the City Council shall, at the time of the transfer, become Transferring Employees as defined in

Charter Section 1202(i) and for purposes of this Subsection. The purpose of this Subsection is to provide these Transferring Employees with the benefits provided by the Retirement System, in lieu of the benefits provided by the Fire and Police Pension Plan, pursuant to the authority provided in Charter Section 1216(b)(1).

Transferring Employees shall remain members of the Retirement System for so long as they continue in employment with the LAPD in any sworn position, except as otherwise provided in the following paragraph. In addition to continuing to be members during any period(s) of academy training required in connection with positions held at the time of the transfer, Transferring Employees shall continue to be members of the Retirement System during any period(s) of academy training required to qualify for employment in any other sworn position with the LAPD, provided that they have not opted out of membership as provided in the following paragraph.

In the event that a Transferring Employee decides to transfer to a position with the LAPD that is not a sworn position transferred from the Department of General Services, such Transferring Employee may elect to opt out of membership in the Retirement System. In order to opt out of membership in the Retirement System, a member shall file a written opt out election form with the Retirement System, which election shall become effective on the date the Transferring Employee changes classifications and becomes eligible for membership in the Fire and Police Pension Plan or the Pension Savings Plan established in Chapter 16, Division 4 of this Code, as applicable. The Retirement System shall establish the period during which an opt out election form must be filed, which period shall be at least seven days in length and shall end not later than the day before the date the member is scheduled to change classifications; failure to file an opt out election form within the period established by the Retirement System shall constitute an irrevocable election not to opt out of membership in the Retirement System. A member shall have seven days from the date an opt out election form is filed to revoke his or her election, after which the election shall be irrevocable. Once an election has become irrevocable, it shall not be revoked for any reason by anyone, including the Board, except in the following circumstance: If a Transferring Employee who has opted out and changed classifications should for any reason subsequently revert to a position that was transferred from the Department of General Services, he or she shall be reinstated to membership in the Retirement System. The provisions of this paragraph allowing a member, under specified conditions, to opt out of membership shall expire two years from the effective date of this Subsection, although a member who timely files an opt out form prior to expiration of the two-year period shall be allowed to opt out even if his or her classification changes after expiration of the two-year period. The Board shall not have any authority to waive or extend any time limitation set forth in this paragraph.

Transferring Employees shall not become members of the Fire and Police Pension Plan except as provided in the preceding paragraph. In the event that a Transferring Employee should terminate employment and thus cease to be a member of the Retirement System, his or her status as a Transferring Employee shall terminate and shall not be reinstated in the event he or she should again enter City employment.

Sec. 2. Pursuant to Charter Section 252(i), this ordinance shall take effect upon publication.

Sec. 3. 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 the 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 this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_  
Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Judith Reel (for)  
MARY JO CURWEN  
Deputy City Attorney

Date August 20, 2012

File No. CF 11-1392