

RESOLUTION 2022-XXX

A RESOLUTION OF THE SANTA ANA CITY COUNCIL AMENDING AND RESTATING RESOLUTION 92-061 PROVIDING FOR DELEGATION OF AUTHORITY TO THE CITY MANAGER TO PERFORM NECESSARY ACTIONS TO APPLY FOR DISABILITY AND INDUSTRIAL DISABILITY RETIRMENTS FOR MISCELLANEOUS AND LOCAL SAFETY MEMBERS PURSUANT TO GOVERNMENT CODE SECTION 21173

WHEREAS, the City of Santa Ana is a contracting agency of the California Public Employees' Retirement System ("CalPERS"); and

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and such disability is "industrial" within the meaning of such Law; and

WHEREAS, on December 17, 1985, the Santa Ana City Council approved Resolution No. 85-157, delegating to the City Manager the authority or duty to make CalPERS disability retirement determinations and the right to appeal the City Manager's determination to the City Council;

WHEREAS, on July 7, 1987, the Santa Ana City Council approved Resolution No. 87-56 amending Resolution No. 85-157 to provide that the appeal would be at no cost for the City employee and repealing sections 3-6 of Resolution No. 85-157; and

WHEREAS, on June 15, 1992, the Santa Ana City Council approved Resolution No. 92-061 delegating authority to the City Manager to make disability retirement determinations and modifying the appeal procedures for local safety members of CalPERS to conform with changes in the law that required that any appeal hearing be conducted by an administrative law judge; and

WHEREAS, the Santa Ana City Council has determined upon legal advice that it may delegate authority under Government Code section 21173 to make determinations whether an employee of the City of Santa Ana classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such Law to the City Manager; and

WHEREAS, the Santa Ana City Council has determined that it is necessary to amend and restate Resolution No. 92-061 to summarize the delegation of authority to the City Manager, which includes the authority to perform all necessary actions to effectuate the full disability and industrial disability process for City employees that are miscellaneous and local safety members of CalPERS;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Ana, that:

Section 1. The Santa Ana City Council delegates to the City Manager the authority to make application on behalf of the City of Santa Ana pursuant to Government Code section 21152(c) for disability retirement of all employees and to initiate requests for reinstatement of such employees who are retired for disability.

Section 2. The Santa Ana City Council delegates to the City Manager the authority to make determinations of disability on behalf of the City of Santa Ana under Government Code 21156 and whether such disability is industrial and to certify such determinations and all other necessary information to CalPERS.

Section 3. A local safety member of CalPERS may appeal the determination by the City Manager regarding whether the local safety member is or is not incapacitated for purposes of eligibility to retire for disability. Appeal hearings shall be conducted by an administrative law judge of the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Section 4. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this ____ day of April, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho
City Attorney

By: Laura A. Rossini
Laura A. Rossini
Chief Assistant City Attorney

AYES: Councilmembers _____
NOES: Councilmembers _____
ABSTAIN: Councilmembers _____
NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2022 -XXX to be the original resolution adopted by the City Council of the City of Santa Ana on _____, 2022.

Date: _____

Clerk of the Council
City of Santa Ana