



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
April 5, 2022

TOPIC: CalPERS Resolution Delegating Authority for the Disability and Industrial Disability Retirement Process

AGENDA TITLE:

Approve Amended and Restated Resolution to Update the Required Language from CalPERS Delegating Authority to the City Manager for Disability Retirement Determinations and Applications and Recognizing an Appeal Process

RECOMMENDED ACTION

Adopt a resolution for an amendment to and restatement of Resolution No. 92-061 delegating authority to the City Manager to perform the necessary actions to effectuate the full Disability and Industrial Disability Retirement process for Miscellaneous and Local Safety Members.

DISCUSSION

On January 7, 1974, the City Council adopted Resolution No. 74-6, which delegated to the City Manager the authority to make determinations of disability on behalf of the City, whether such disability is industrial, and to certify such determinations and all other necessary information to the California Public Employees' Retirement System ("CalPERS"). On December 17, 1985, the City adopted Resolution No. 85-157, which repealed Resolution No. 74-6 and delegated to the City Manager the authority to make determinations regarding disability retirements on behalf of the City and provided for an appeals process for an employee to appeal the City Manager's determination. On July 7, 1987, the City Council adopted Resolution No. 87-56, which amended Resolution No. 85-157 to provide the appeal would be at no cost to the City employee, repealing sections 3-6 of Resolution No. 85-157 (describing said costs). On April 3, 1992, the City adopted Resolution No. 92-061, delegating authority to the City Manager to make disability retirement determinations and providing for the appeal hearing of any local safety member before an administrative law judge instead of the City Council.

CalPERS has determined that the current resolution (Resolution 92-061) does not include the required language authorizing the City Manager perform the necessary actions to effectuate the full Disability Retirement process, specifically, to sign Employer-Originated Disability ("ERO") applications, which is necessary under the Government Code. For the City to be in compliance, it would be necessary for the current resolution to be updated

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and approved by the City Council, with a copy of the executed document to be submitted to CalPERS.

Government Code § 21153 states, "Notwithstanding any other provision of law, an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement as provided in Section 20731."

The California Public Employees' Retirement System Public Agency & Schools Reference Guide, January 2022 edition, provides further instruction for contracting agencies:

As soon as it is believed the CalPERS member is unable to perform the job because of an illness or injury, which is expected to be permanent, or last at least 12 consecutive months or will result in death as determined based on competent medical opinion, application for Disability Retirement or Industrial Disability Retirement should be submitted by either the member or on the member's behalf. The medical condition does not have to be "permanent and stationary" under Workers' Compensation to submit the application (Gov. Code sections 21153 and 21252).

Therefore, for the good and efficient order of operations, staff recommends approval of the amendment to and restatement of Resolution No. 92-061, delegating authority to the City Manager to perform the necessary actions to effectuate the full Disability and Industrial Disability Retirement process for Miscellaneous and Local Safety Members.

ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Resolution
2. Resolution 92-061

Submitted By: Jason Motsick, Executive Dir Human Resources

Approved By: Kristine Ridge, City Manager