



DAVID B. WESCOE
Retirement Administrator

June 19, 2006

Honorable Mayor Jerry Sanders
Council President Scott Peters
Councilmember Kevin Faulconer
Councilmember Toni Atkins
Councilmember Tony Young
Councilmember Brian Maienschein
Councilmember Donna Frye
Councilmember Jim Madaffer
Councilmember Ben Hueso

Dear Honorable Mayor and Councilmembers:

At the direction of the Board of Administration of the San Diego City Employees' Retirement System, I am writing to inform you of an action taken by the Board at its May 19 meeting that will reduce disability allowances currently being paid to disability retirees who retired without having met the age and service requirements for a service retirement ("non-service-eligible disability retirees"). The Board has determined that the disability retirement benefits of non-service-eligible disability retirees who retired on or after July 1, 2000 have been overpaid due to a misinterpretation of the Corbett Settlement Agreement and the terms of the SDCERS Plan, as contained in the San Diego Municipal Code.

The SDCERS Plan provides that a disability retirement benefit is the higher of: (1) a percentage of the member's final average salary (50% for industrial disability, 33 1/3 % for non-industrial disability) or (2) the member's service retirement allowance, if eligible. Final average salary is one-twelfth of the member's Final Compensation, which is the member's highest one-year salary.

Under the terms of the Corbett Settlement Agreement, active general and safety members retiring on or after July 1, 2000 were given two options for how their service retirement allowances

would be calculated. They could select either: (1) the pre-Corbett retirement factors with a 10% increase to their Final Compensation, or (2) the new higher retirement factors with no increase to their Final Compensation. The Corbett Settlement Agreement does not mention prospective disability retirement benefits.

Since the effective date of the Corbett Settlement Agreement (July 1, 2000), SDCERS has been increasing disability retirement allowances by adding 10% to the member's Final Compensation when calculating a disability benefit for a member who was not "service eligible" at the time of retirement. This was intended to approximate the increase that was expressly given to active members who "service retired" after July 1, 2000. This practice of adding 10% to these disability allowances was based upon direction from the previous Retirement Administrator, who believed it was an equitable way to treat a group of members who received no benefit from the Corbett Settlement Agreement.

The SDCERS Board has now determined that there is no support for this practice in either the SDCERS Plan or the Corbett Settlement Agreement. Accordingly, on May 19, 2006, the Board voted to end the practice of adding 10% to Final Compensation when determining disability allowances for non-service-eligible members.

The effect of the Board's decision is that no disability retirement granted by the Board after May 1 to a non-service-eligible member will include the additional 10%. With respect to non-service-eligible members who are already receiving a disability retirement, their monthly retirement allowances will be reduced to the correct amount beginning in July 2006.

If the City Council agrees with the Board's decision, then no further action is required. If, however, the intent of the City in the Corbett Settlement Agreement was to pay the 10%, then the City Council should amend the retirement plan by ordinance and clarify its intent.

Thank you for your attention to this issue. It is the Board's policy to follow the dictates of the Charter and Code, and if there is any uncertainty about intent, to seek clarification from the Plan Sponsor.

Sincerely,



for David B. Wescoe
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cc: SDCERS' Board Members
Labor Relations Manager