



CITY OF SACRAMENTO

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DEPARTMENT OF PERSONNEL
EMPLOYEE SERVICES DIVISION
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DONNA L. GILES
DIRECTOR OF PERSONNEL

March 17, 1982

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: DETERMINATION OF PERS SAFETY MEMBERS'S DISABILITY
RETIREMENT

SUMMARY

This report provides, by resolution, that the Retirement System Manager be authorized to make determinations regarding disability retirement applications filed by Public Employees' Retirement System (PERS) local safety members. In addition, it provides for an appellate process whereby a member may appeal an adverse decision by the Retirement System Manager. This process is identical to that currently authorized by Chapter 34, Article XIV of the Sacramento City Code, for members of the Sacramento City Employees' Retirement System.

BACKGROUND

In January, 1977 the City contracted with the Public Employees' Retirement System (PERS) for retirement benefits administration for employees hired after that date. As a result of this contractual agreement, the City became subject to Public Employees' Retirement Law. The law provides that if a local safety member enrolled in PERS files a disability retirement application with PERS, that "the governing body . . . shall certify . . . its determination under this section that the member is or is not so incapacitated (Government Code Section 21025)."

With realization that it was impractical for the City Council to act in a jurist capacity - which could involve lengthy medical and legal testimony - a procedure was proposed and adopted by the City Council on October 3, 1978 (City Council Resolution No. 78-710; see Attachment 1) which delegated the determination to the Retirement System Manager and, in the event of an adverse decision to the applicant, provided an appeals process for hearing by an Administrative Law Judge of the

APPROVED
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State Office of Administrative Hearings. City Council Resolution No. 78-710 provides further that:

The hearing officer shall prepare recommended findings and a recommended decision which shall be presented to the Council for adoption, rejection or modification. If the Council rejects the Retirement System Manager's or hearing officer's recommended findings and decision, the Council shall determine the issue of incapacity upon the record, with or without the taking of additional evidence.

Recently, the first application of a PERS public safety member for disability retirement was received. During consultation with the City Attorney, it was determined that the language of Council Resolution No. 78-710 does not alleviate the City Council of administrative hearing responsibilities; the resolution (cited above) still requires that the City Council make final determination regarding PERS disability retirement applications.

In order to remedy this situation, revised procedures are proposed in the attached resolution (Attachment 2). These procedures provide:

1. That the City Council delegate authority to the Retirement System Manager to make determinations regarding disability retirement applications, as permitted by Section 21023(c) of the Government Code.
2. That the Retirement System Manager be authorized to make applications for disability retirement of local safety members and to initiate requests for reinstatement of members who are retired for disability.
3. That in the event a local safety member is dissatisfied with the determination of the Retirement System Manager, the appeal procedures contained in Chapter 34, Article XIV of the Sacramento City Code - with respect to appeals to the City's Retirement Hearing Commission - shall apply. In the event of such an appeal, the decision of the Retirement Hearing Commission shall be final.

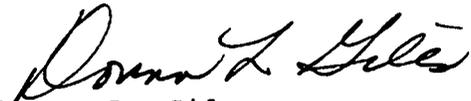
The proposed resolution also repeals City Council Resolution No. 78-710.

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RECOMMENDATION

It is recommended that the attached resolution, which delineates procedures for processing a PERS local safety member's application for disability retirement, be approved.

Respectfully submitted,



Donna L. Giles
Director of Personnel

APPROVED:

For: 
Walter J. Slipes
City Manager

DLG/RS/yb

Attachments:

1. City Council Resolution No. 78-710
2. Revised Resolution

March 23, 1982
All Districts

RESOLUTION NO. 78-710

Adopted by The Sacramento City Council on date of

OCT. - 3 1978

A RESOLUTION AUTHORIZING REFERRAL OF DETERMINATION
OF PERS SAFETY MEMBER'S DISABILITY TO HEARING OFFICER
FOR HEARING AND RECOMMENDED DECISION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

WHEREAS, pursuant to Government Code §§21024 and 21025 the City Council may be requested to determine whether a safety member of the Public Employees Retirement System (PERS) is incapacitated for the performance of his duty; and

WHEREAS, the City Council desires to use hearing officers to conduct hearings and make recommended findings and decisions regarding the issue of safety employee's incapacity to perform duties as provided in Government Code §§21024 and 21025; and

THEREFORE, BE IT RESOLVED that whenever the City Council is requested by the Board of Administration of PERS to determine whether a safety member is incapacitated for the performance of duty pursuant to Government Code §21024, such matter shall be referred first to the Retirement System Manager for hearing. The Retirement System Manager shall prepare recommended findings and a recommended decision which shall be presented to the Council no sooner than 10 days after the date of Retirement System Manager's recommended decision for adoption, rejection or modification. In the event that the Retirement System Manager's recommended decision is adverse to the applicant, the applicant may request, within 10 days of the Retirement System Manager's decision, that the matter be referred to a hearing officer from the State Office of Administrative Hearings for hearing. The hearing officer shall prepare recommended findings and a recommended decision which shall be presented to the Council for adoption, rejection or modification. If the Council rejects the Retirement System Manager's or hearing officer's recommended findings and decision, the Council shall determine the issue of incapacity upon the record, with or without the taking of additional evidence.


MAYOR

ATTEST:


CITY CLERK

OCT. - 3 1978
RESOLUTION No. 78-710

RESOLUTION NO. 82-191

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

RESOLUTION AUTHORIZING RETIREMENT SYSTEM MANAGER
TO FILE APPLICATIONS AND MAKE DETERMINATIONS ON
DISABILITY RETIREMENT OF PUBLIC EMPLOYEES
RETIREMENT SYSTEM LOCAL SAFETY MEMBERS, AND
PROVIDING AN APPELLATE PROCESS WITH RESPECT TO
SUCH DETERMINATIONS, AND REPEALING RESOLUTION
NO. 78-710 ADOPTED OCTOBER 3, 1978

APPROVED
BY THE CITY COUNCIL

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WHEREAS, the City of Sacramento is a contracting agency of the Public Employees Retirement System; and

WHEREAS, the Public Employees Retirement Law requires that a contracting agency determine whether a local safety member employee of such agency is disabled for purposes of the Public Employees Retirement Law and whether such disability is "industrial" within the meaning of such law; and

WHEREAS, the Sacramento City Council has determined upon legal advice that it may delegate authority under Section 21034 of the Government Code to make such determinations to the incumbent of the position of Retirement System Manager;

NOW, THEREFORE, BE IT RESOLVED:

(1) That the Sacramento City Council delegate and it does hereby delegate to the incumbent of the position of Retirement System Manager authority to make determinations under Section 21023(c) of the Government Code, on behalf of the Sacramento City Council and the City of Sacramento, of disability and whether such disability is industrial and to certify such determinations and all other necessary information to the Public Employees Retirement System;

(2) That the Retirement System Manager be and hereby is authorized to make applications on behalf of the City of Sacramento for disability retirement of employees in employments in which they are local safety members and to initiate requests for reinstatement of such employees who are retired for disability;

(3) That the Retirement System Manager shall, in administering the provisions of this resolution, follow the applicable provisions of this resolution, follow the applicable

provisions of the Government Code and the procedures specified by the Board of Administration of the Public Employees Retirement System;

(4) That in the event that a local safety member is dissatisfied with the determination of the Retirement System Manager, with respect to whether such member is disabled for purposes of the Public Employees Retirement Law, the provisions of Chapter 34, Article XIV of the Sacramento City Code with respect to appeals to the Retirement Hearing Commission shall apply. In the event of such an appeal, the decision of the Retirement Hearing Commission shall, subject to the provisions of Sacramento City Code Section 34.1411, be final.

(5) That in the event that a local safety member is dissatisfied with the determination of the Retirement System Manager with respect to whether the disability is industrial or nonindustrial, then the provisions of Government Code Section 21026 shall apply, and the Workers Compensation Appeals Board shall resolve the issue. Such determination shall, subject to the provisions of Government Code Sections 21026.1, 21026.2, 21026.3, 21026.4 and 21026.5, be final.

(6) That in the event that a local safety member is dissatisfied with the determination of the Retirement System Manager, with respect to reinstatement after disability retirement, the provisions of Chapter 34, Article XIV of the Sacramento City Code with respect to appeals to the Retirement Hearing Commission shall apply. In the event of such an appeal, the decision of the Retirement Hearing Commission, subject to the provisions of Sacramento City Code Section 34.1411 shall be final.

BE IT FURTHER RESOLVED that Resolution No. 78-710, adopted October 3, 1978, is repealed.

MAYOR

ATTEST:

CITY CLERK