

December 5, 2013

FROM:  **JEFF CARDELL, Director**
Personnel Services Department

SUBJECT: AMENDMENT TO THE FRESNO MUNICIPAL CODE SECTIONS 3-332, 3-334 AND 3-410 TO ELIMINATE THE MANDATORY AGE OF SERVICE RETIREMENT FOR TIER 1 AND TIER 2 OF THE FIRE AND POLICE RETIREMENT SYSTEM

AGENDA ITEM NO. 2E
COUNCIL MEETING 12/5/2013
APPROVED BY


DEPARTMENT DIRECTOR

CITY MANAGER 

RECOMMENDATIONS

It is recommended that the City Council adopt the Amendment to the Municipal Code sections 3-332, 3-334 and 3-410, eliminating the mandatory age of service retirement for the Fire and Police Retirement System.

EXECUTIVE SUMMARY

Sections 3-332, 3-334 and 3-410 of the Fresno Municipal Code (FMC) require the mandatory retirement of Public Safety Service Employees at the age of 65. The proposed amendment will eliminate the mandatory retirement age of retirement at the age of 65. Notice was provided to the affected bargaining units of the proposed change and they did not request to meet and confer. Additionally, notice was provided to the Retirement Board and the Board is in support of the proposed change.

BACKGROUND

The Retirement System for the City is codified in the Fresno Municipal Code (FMC). Two Articles in the FMC delineate the various provisions of the Fire and Police Retirement System. Each of these Articles contains a provision for mandatory retirement at the age of 65. Previously the mandatory retirement age was 60 years of age; however, it was changed, through collective bargaining with Police and Fire Units, to 65 years of age in April 2000, to eliminate the need for individual review of requests to postpone retirement to age 65. The proposed amendments to the Municipal Code are predicated on recent age discrimination suit filed by an FPOA member pursuant to the Fair Employment and Housing Act. The mandatory retirement age is also an impediment to the retention of qualified personnel. Consequently, notice was provided to the bargaining units that represent Fire and Police employees of the City's intent to eliminate the mandatory retirement age provision. None of the affected bargaining units requested to meet and confer regarding the proposed change. Notice was also provided to the Retirement Board.

FISCAL IMPACT

According to staff of the Retirement Board, elimination of the mandatory retirement age in the System will not likely increase or impact the City's normal contribution rate to the Retirement System. Consequently, it is expected that there will be no fiscal impact to the Departments that employ staff that are members in the Fire and Police Retirement system.

Attachment: Amendment to the Fresno Municipal Code

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BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTIONS 3-332 and 3-410 OF THE FRESNO
MUNICIPAL CODE, RELATING TO DELETION OF
MANDATORY RETIREMENT AGE.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 3-332 OF THE FRESNO MUNICIPAL CODE IS AMENDED TO
READ:

SERVICE RETIREMENT. Retirement of a member for service may be made by the
Retirement Board as follows:

- 1) ~~Every member shall be retired on the first day of the month next following that in which the member attains the age of sixty-five years.~~ Every member who attains age of sixty, who shall have completed ten years of service after qualifying for service retirement, shall not be required to make further contributions to the retirement fund. If such member shall not have completed ten years of service after qualification for service retirement, then the member shall be required to contribute to the retirement fund only until those ten years of service are completed;
- 2) Any member may retire upon written application to the Retirement Board, stating what time the member desires to be retired, provided that said member shall be entitled to be credited, at the time so specified for the member's retirement, with at least ten years of service in the aggregate, and shall have attained the age of fifty years.

SECTION 2. SECTION 3-334 OF THE FRESNO MUNICIPAL CODE IS AMENDED TO
READ:

RE-EMPLOYMENT OF PERSONS RETIRED FOR SERVICE

(a) A person who has been retired under this System for service, ~~at an age less than the age for compulsory retirement applicable to the person,~~ may be reinstated from retirement by the Board as provided in this section, and thereafter may be employed by the city in accordance with the laws governing such employment, in the same manner as a person who has not been so retired. Such reinstatement shall be based upon:

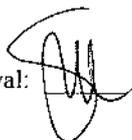
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Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



Amendment to Fresno Municipal Code

Resolution No.

(1) The retired member's application to the Board for reinstatement, ~~and~~

~~(2) The determination of the Board that the member's age at the date of application for reinstatement is at least six months less than the age of compulsory retirement for service applicable to the member.~~

(b) When any such person is reinstated from retirement under this section, the member's retirement allowance shall be canceled forthwith, and the member shall become a member of this System as of the date of reinstatement. The member's individual account shall be credited with an amount which is the actuarial equivalent of the member's annuity at the date of reinstatement, not to exceed the amount of the member's accumulated contributions as it was at the date of the member's retirement. The member's future rate of contribution shall be determined in the same manner as if the member were re-entering the System and redepositing accumulated contributions. The member's allowance at subsequent service retirement shall be determined in accordance with the provisions of this article, including the use of the same percentages of the member's average compensation, for each year of service, which would have been used if the member had not been retired previously or with the provisions of article 4 for a member who commenced service on or after August 27, 1990.

SECTION 3. SECTION 3-410 OF THE FRESNO MUNICIPAL CODE IS AMENDED TO READ:

SERVICE RETIREMENT. Retirement of a member for service may be made by the Retirement Board as follows:

~~(1) Every member shall be retired on the first day of the month next following that in which the member attains the age of sixty-five years.~~ Every member who attains age sixty, who shall have completed five years of service after qualifying for service retirement, shall not be required to make further contributions to the Retirement Fund. If such member shall not have completed five years of service after qualification for service retirement, then the member shall be required to contribute to the Retirement Fund only until those five years of service are completed;

(2) Any member may retire upon written application to the Retirement Board, stating what time the member desires to be retired, provided that said member shall be entitled to be credited, at the time so specified for the member's retirement, with at least five years of service in the aggregate, and shall have attained the age of fifty years.

SECTION 4. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2013.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2013
Mayor Approval/No Return: _____, 2013
Mayor Veto: _____, 2013
Council Override Vote: _____, 2013

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Tina Griffin, Senior Deputy City Attorney

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