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| Agenda Item No. | 1 L |
| Council Meeting | 1/26/2012 |
| APPROVED BY | |
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| RETIREMENT ADMINISTRATOR | |

January 26, 2012

FROM: CITY OF FRESNO RETIREMENT BOARDS

BY: STANLEY L. MCDIVITT, Retirement Administrator

SUBJECT: ORDINANCE AMENDING SECTIONS 3-334 AND 3-543 OF THE FRESNO MUNICIPAL CODE RELATING TO RETIREE REINSTATEMENT TO CITY EMPLOYMENT

RECOMMENDATION

The City of Fresno Retirement Boards are recommending that the City Council consider approving the proposed Ordinance amending Fresno Municipal Code (FMC) Sections 3-334 and 3-543 relating to retiree reinstatement to City employment. The Boards' recommendation is based on the fact that the City is ultimately responsible for offering employment and determining fitness for duty.

Consistent with the Brown Act, the Retirement Boards request an introduction of these ordinances at this City Council meeting, followed by an approval at a subsequent Council meeting.

EXECUTIVE SUMMARY

City of Fresno Municipal Code sections 3-334 and 3-543 impose procedural requirements on service retirees who have been retired for over four months and wish to be reinstated to City employment. These restrictions include: filing a reinstatement application with the Retirement Board and passing a medical examination. The Code is silent with respect to service retirees who wish to be reinstated to City employment within four months of retirement.

The City of Fresno Retirement Boards have reviewed these sections of the FMC and discussed the appropriateness of requiring a Retirement Board to make a medical determination concluding fitness for duty for a service retiree who is requesting reinstatement because the City has offered employment. Since the City is ultimately responsible for determining fitness for duty before offering employment, we believe that it is not necessary to have the Retirement Board make a medical determination.

Therefore, the Boards propose this Ordinance to clarify that a service retiree may be reinstated anytime after retirement by deleting the four month distinction and the requirement of a medical examination.

The Boards maintain Code requirements for the filing of a reinstatement application and subsequent termination of retirement benefits.

FISCAL IMPACTS

There is no fiscal impact to the City or Retirement Systems relating to these Code amendments.

Attachments: Ordinance amending sections 3-353(e), 3-424(e) and 3-552(e) of the Fresno Municipal Code.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SUBSECTION (a) OF SECTION 3-334 AND
SUBSECTION (a) OF SECTION 3-543 OF THE FRESNO
MUNICIPAL CODE, RELATING TO REINSTATEMENT
FROM RETIREMENT FROM THE FIRE AND POLICE
RETIREMENT SYSTEM AND FROM THE EMPLOYEES
RETIREMENT SYSTEM

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

SECTION 1. Subsection (a) of Section 3-334 of the Fresno Municipal Code is amended to read:

(a) ~~After the expiration of four months from the effective date of last retirement, 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 retirement shall be based upon:

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

~~(2) The determination of the Board, based upon medical examination, that the member is not incapacitated for the duties to be assigned to the member; and~~

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~~(3)~~~~[(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.

SECTION 2. Subsection (a) of Section 3-543 of the Fresno Municipal Code is amended to read:

(a) ~~After the expiration of four months from the effective date of his or her last retirement, a~~[A] person who had been retired under this system for service 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:

~~(1) T~~[t]he retired member's application to the Board for reinstatement~~[.]; and~~

~~(2) The determination of the Board, based upon medical examination, that the retired member is not incapacitated for the duties to be assigned to him or her.~~

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SECTION 3. 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.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Approval: _____, 2012
Mayor Approval/No Return: _____, 2012
Mayor Veto: _____, 2012
Council Override Vote: _____, 2012

YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM

JAMES C. SANCHEZ
City Attorney

By: Tommi R. Saghatelian 1-5-12
Tommi R. Saghatelian
Deputy

[REV. 1/5/12]