#2

CB 117447

Cecelia M. Carter / John McCoy
SCERS Disability Retirement Modification ORD
May 9, 2012
Version #2

ORDINANCE ________________

AN ORDINANCE relating to the Seattle City Employees' Retirement System; eliminating the disqualification for disability retirement due to pre-existing conditions; clarifying the requirements for disability appeals; authorizing the re-examination of persons retired for temporary total disability every 24 months; and amending Sections 4.36.145, 4.36.220 and 4.36.250 of the Seattle Municipal Code.

WHEREAS, the Seattle City Employees' Retirement System (SCERS) was established by amendment to the Charter of the City of Seattle in 1929; and

WHEREAS, members of the Retirement System may be retired for permanent total disability, or for temporary total disability, if certain conditions are met; and

WHEREAS, members are not eligible for permanent total disability retirement or temporary total disability retirement if the disability is connected with any illness or disability existing prior to entering City service; and

WHEREAS, in the opinion of the SCERS Board of Administration, denial of a disability retirement because of a pre-existing condition is not necessary to protect the Retirement Fund from overuse of this benefit, given the additional requirement that members must have 10 years of City service, a requirement that is similar to those found in the federal Social Security Disability Insurance program; and

WHEREAS, the SCERS Board of Administration voted unanimously to petition the City Council to eliminate the pre-existing condition disqualification provisions relating to total disability retirement and temporary total disability retirement;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 4.36.145 of the Seattle Municipal Code, last amended by Ordinance 116070, is amended as follows:

4.36.145 - Finality of Board decisions.

A. A decision of the Board of Administration shall be final and conclusive on the following matters subject only to review by a court of record, and reversal if the decision is arbitrary or capricious or makes an error of law:

1. The eligibility or obligation of an officer or employee to participate in the Retirement System;

2. The accrual and amount of creditable service; the amount of contributions due to the Retirement System, the amount of contributions received, and the opportunity extended members to redeposit or buy-in of service credit, and the terms thereof;

3. The eligibility for, amount, and kind of benefits payable to any member or beneficiary;

4. A member's eligibility for disability retirement and recall to active duty;

5. The portability of retirement benefits;

6. Termination of benefits; and

7. Compliance with ordinance procedures and Board rules.

B. The Board may delegate the hearing of any of the foregoing to a committee consisting of at least three ((~~(3)~~)) members of the Board. A member, the Executive Director, if affected, or a City department aggrieved by a committee decision may appeal the decision to the Board <u>by submitting a written request to the Executive Director</u> within ten ((~~(10)~~)) business days after receipt thereof, and the board shall hear the matter de novo.

Section 2. Section 4.36.220 of the Seattle Municipal Code, last amended by Ordinance 115600, is amended as follows:

4.36.220 - Retirement for disability.

A. Any member may be retired for permanent and total disability, either ordinary or accidental, occurring while in City service ((~~and not connected with any illness or disability~~

~~existing prior to entering City service,~~)) upon examination as hereinafter set forth, if such employee meets either of the following requirements:

1. The disability of such member arose out of and in the course of his employment as an employee of the City; or

2. Such member had, at the time of occurrence of such disability, at least ten ((~~(10)~~)) years of City service, over a period of not to exceed ((~~fifteen (~~))15((~~)~~)) years immediately preceding retirement, provided that City service lost while on previous disability retirement shall not be considered in determining if the applicant has City service in the limits specified.

B. Any member while in the City service, or within three ((~~(3)~~)) months after the discontinuance of City service, or while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of City service, shall be examined by a physician or surgeon, appointed by the Board of Administration, upon the application of the head of the office or department in which the member is employed, or upon application of the member, or a person acting in his behalf, stating that the member is permanently and totally incapacitated, either physically or mentally, for the performance of duty and ought to be retired. If such medical examination shows, to the satisfaction of the Board, that the member is permanently and totally incapacitated either physically or mentally for the performance of duty and ought to be retired, the Board shall retire the member for disability forthwith.

C. The Board shall secure such medical services and advice as it may deem necessary to carry out the purpose of this section and of Section 4.36.240, and shall pay for such medical services and advice such compensation as the Board shall deem reasonable.

D. The provisions of this section shall not be applicable to employees pensioned for permanent and total disability, as defined in and pursuant to state law.

Section 3. Section 4.36.250 of the Seattle Municipal Code, last amended by Ordinance 89752, is amended as follows:

4.36.250 - Temporary total disability.

A. Any member who has not attained the age of ((~~sixty-five (~~))65((~~)~~)) and who has at least ten ((~~(10)~~)) years of City service over a period of not to exceed ((~~fifteen (~~))15((~~)~~)) years may, upon his application therefor, be retired by the Board for temporary total disability occurring while in City service ((~~and not connected with any illness or disability existing prior to entering such service~~)). Such temporary total disability shall include only a physical or mental incapacity which the Board finds and determines temporarily and totally incapacitates such member for City service.

B. Temporary total disability retirement allowances shall be computed and paid until such disability has ceased, in the same manner and amounts as for permanent and total disability, and shall commence immediately after termination of all payments to the member on account of sick leave, vacation, accumulated time, industrial insurance benefits, and disability payments under Charter Article XVI, Section 24,[1] or any other such benefits.

C. Upon determining that any such temporary total disability has ceased, the Board shall terminate the temporary total disability retirement, and the retirement allowance therefor shall be cancelled; or if a member is otherwise eligible, the Board shall convert such temporary total disability retirement to a permanent total disability retirement or a service retirement.

D. In determining eligibility for temporary total disability retirement and termination thereof, the Board may secure such medical assistance as it deems necessary. <u>The Board shall have the authority to require a medical re-examination of a member retired for temporary total disability at least once every 24 months following the effective date of the temporary total disability retirement until such time as the member has attained regular service retirement age, and at any time if there is reason to believe the temporary total disability has ceased.</u>

E. Upon termination of any temporary total disability retirement, a member who returns to active City service shall be reinstated as a nonretired member of the retirement system and his accumulated contributions less annuity payments shall be credited to his account and he shall contribute at the rate applicable to him at the time he was retired. Any member who does not return to City service after termination of temporary total disability retirement shall be entitled to his accumulated contributions less any annuity payments made to him.

F. Periods during which a member is retired for temporary total disability shall not be recognized as creditable service on any subsequent retirement.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of ________________________, 2012, and signed by me in open session in authentication of its passage this

_____ day of ___________________, 2012.

____

President __________of the City Council

Approved by me this ____ day of _____________________, 2012.

____

Michael McGinn, Mayor

Filed by me this ____ day of __________________________, 2012.

____

Monica Martinez Simmons, City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
SCERS – Retirement	Cecelia M. Carter / 206-615-1423	Hall Walker / 206-233-7065

Legislation Title: AN ORDINANCE relating to the Seattle City Employees' Retirement System; eliminating the disqualification for disability retirement due to pre-existing conditions; clarifying the requirements for disability appeals; authorizing the re-examination of persons retired for temporary total disability every 24 months; and amending Sections 4.36.145, 4.36.220 and 4.36.250 of the Seattle Municipal Code.

Summary of the Legislation:

This legislation would eliminate the pre-existing condition disqualification provisions relating to disability and temporary disability retirement. Additionally, it clarifies the process for members to appeal a Board decision and codifies the Board's authority to request re-examinations of members on temporary disability retirement.

Background:

This modification came before the Board of Administration of the Seattle City Employees' Retirement System (SCERS) when the Board realized an employee with more than 10 years of service was to be denied a disability retirement benefit because the employee's disabling condition pre-dated his or her employment with the City; all other criteria for a disability retirement were met in this case. The Board found this provision to be inconsistent with the City's relationship with its employees and unnecessary to protect the Retirement Fund from overuse, since members must have 10 years of City service to qualify for the benefit. The service requirement is similar to those found in the federal Social Security Disability Insurance program, which is available to people with at least 40 quarters (i.e. 10 years) of wage history, or less if they are relatively young.

A historical look back reveals over the last 20 years (1992-2011) there was an average of 2.15 disability retirements per year granted by the Board of Administration; while a ten-year look back (2002-2011) reveals there was an average of 2.6 disability retirements granted; and a five-year look back (2007-2011) reveals there was an average of 1 disability retirement granted. This demonstrates that disability retirements are a small component of the overall fund liabilities. For calendar year 2011, the aggregate amount paid to retirees receiving disability retirement benefits was less than $950,000 out of approximately $120 million in total benefit payments.

Milliman, the actuary for SCERS and its Board of Administration, said it had no basis on which to estimate the effect of the proposed change. As an illustrative measure, if the ordinance resulted in one additional disability retirement per year, the cost of this action would be a 1 basis point (.01%) increase to the plan's normal cost, based on the January 1, 2011 valuation. It would raise the normal cost from 15.19% of payroll to 15.20%. This represents a roughly $100,000 increase to the actuarial accrued liability of the fund, valued in total at $2.7 billion.

The actuary's illustration of a 1 basis point increase to normal cost is predicated on the assumption of one additional disability retirement per year; thus raising the more recent five-year average from one disability retirement per year to two disability retirements per year. Similarly, if only one additional disability retirement occurred every two years, the estimated increase in normal costs would be half of the value outlined above.

Please check one of the following:

____ **This legislation does not have any financial implications.**
(Please skip to "Other Implications" section at the end of the document and answer questions a-h. Earlier sections that are left blank should be deleted. Please delete the instructions provided in parentheses at the end of each question.)

__X__ **This legislation has financial implications.**
(If the legislation has direct fiscal impacts (e.g., appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" Section. Please delete the instructions provided in parentheses at the end of each title and question.)

Appropriations:

(This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not supported by revenue/reimbursements, please confirm that there is available fund balance to cover this appropriation in the note section.)

Fund Name and Number	Department	Budget Control Level*	2012 Appropriation	2013 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:

See Attachment 1 for a discussion of the actuarial impact of the proposed rule change.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

(This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.)

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
TOTAL	n/a	n/a	n/a	n/a

Revenue/Reimbursement Notes:

There are no Revenue / Reimbursements resulting from this legislation.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

(This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.)

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2012 Positions	2012 FTE	2013 Positions*	2013 FTE*
TOTAL	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**	**n/a**

** 2013 positions and FTE are <u>total</u> 2013 position changes resulting from this legislation, not incremental changes. Therefore, under 2013, please be sure to include any continuing positions from 2012.*

<u>Position Notes:</u>

There is no financial impact to positions as a result of this legislation.

Do positions sunset in the future?

(If yes, identify sunset date)

Not applicable

Spending/Cash Flow:

(This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.)

Fund Name & #	Department	Budget Control Level*	2012 Expenditures	2013 Anticipated Expenditures
			n/a	n/a
TOTAL			n/a	n/a

** See budget book to obtain the appropriate Budget Control Level for your department.*

<u>Spending/Cash Flow Notes:</u>

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

This legislation will open up the opportunity for employees hired with a disabling condition to apply for disability retirement if their condition worsens and thus prohibits them from further employment; provided the 10-year service requirement and all other criteria have been met.

b) What is the financial cost of not implementing the legislation?

There is no additional financial cost to not implementing this legislation.

c) Does this legislation affect any departments besides the originating department?

This legislation affects all City departments with membership in SCERS.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

No alternatives have been explored.

e) Is a public hearing required for this legislation?

No public hearing is required for this legislation.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Notice is not required for this legislation.

g) Does this legislation affect a piece of property?

This legislation does not affect a piece of property.

h) Other Issues:

This legislation only affects active members of the Seattle City Employees' Retirement System and does not impact the entire City of Seattle employee base. Particularly, this legislation has no impact on uniformed police and fire personnel as they are not members of SCERS. This legislation has no impact on former employees with a vested account balance in SCERS after three months of discontinuance of City service, nor does this legislation impact a former employee once retired.

List attachments to the fiscal note below:

Attachment 1 – Letter from Nick J. Collier, ASA, EA, MAAA of Milliman dated February 3, 2012.

Milliman

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milliman.com

February 3, 2012

Ms. Cecelia Carter
Executive Director
Seattle City Employees' Retirement System
720 Third Ave., Suite 1000
Seattle, WA 98104

Re: Disability Retirement Eligibility Cost Study

Dear Cecelia:

Under certain conditions, monthly benefits are payable to disabled members of the Seattle City Employees' Retirement System (SCERS). To be eligible for this benefit, the member must have at least 10 years of service (or the disability must have occurred in the course of City employment) and the condition must not have existed prior to entrance into service with the City. It is our understanding that consideration is being given to removing the pre-existing condition exclusion. The purpose of this letter is to discuss the actuarial impact, per your request.

Variability

Any actuarial cost estimate is based on a number of assumptions which can have a significant impact on the results. This is particularly true in this case, as we have no experience on which to base some of our assumptions. In particular, we have no way of knowing how many additional disability retirements will occur due to this change. The actual cost will vary significantly depending on the actual number of additional disability retirements that may occur due to this proposed change.

Since we have no credible way of estimating the increase in disabilities due to the proposed change, we have not attempted to make any assumption with regard to this. To give some estimate of the potential cost, we have shown the cost impact if there was an increase in non-duty disability retirements of one per year. Note that under the current assumptions, approximately two disability retirements (not duty related) are assumed to occur each year.

Findings

The following chart shows the estimated cost impact of one additional disability retirement each year. The results shown are based on the actuarial valuation as of January 1, 2011.

($ Millions)	Current Provisions*	Revised Disability Eligibility	Estimated Cost of Change
Funded Status of SCERS as of January 1, 2011			
Actuarial Accrued Liability	$ 2,709.0	$ 2,709.1	$ 0.1
Actuarial Value of Assets	2,013.7	2,013.7	-
Unfunded Actuarial Accrued Liability	$ 695.4	$ 695.5	$ 0.1
Funded Ratio	74.3%	74.3%	0.0%
30-Year Funding Rate			
Normal Cost	15.19%	15.20%	0.01%
Unfunded Actuarial Accrued Liability	6.11%	6.11%	0.00%
Total 30-Year Funding Rate	21.30%	21.31%	0.01%

**Rates shown are based on the January 1, 2011 actuarial valuation, and do not reflect the change to the member crediting rate adopted after the valuation.*

The above chart shows the estimated increase in costs if the revised eligibility requirements for disability retirement were adopted, and it caused one additional person to take a non-duty disability retirement each year. For example, the increase in the ongoing annual cost (normal cost) plus the amount required to finance the increase in the unfunded actuarial accrued liability (UAAL) over a 30-year period is estimated to be an additional 0.01% of payroll. We have used 30 years as it is the period the Board ordinarily uses to measure funding sufficiency.

As previously noted, the estimated costs are based on one additional disability retirement per year. Therefore, if there were two additional disability retirements per year, the estimated cost increase would double. Similarly, if only one additional disability retirement occurred every two years, the estimated increase in costs would be half of the value shown above.

All values shown are based on the January 1, 2011 actuarial valuation and therefore only partially reflect the impact of the market decline that occurred in the fiscal year ended in 2008. Deferred losses will be recognized in the Actuarial Value of Assets in upcoming years. If the full impact of the decline were reflected in the exhibit, the Funded Ratio shown in the chart would decrease materially. However, the relative cost of the proposed change would not be affected.

Additional Comments

Based on the 2011 valuation and these actuarial calculations, it does not appear that the adoption of this change would materially affect the System's funded status. However, SCERS is currently projected to need increases in contribution rates in order to amortize its UAAL in the future. The Board should take this into consideration as they contemplate whether to adopt the proposed revision to the current disability retirement provisions.

Assumptions and Methods

All data, methods and assumptions are the same as those used in our January 1, 2011 actuarial valuation of SCERS, except for the adjustment for the change in the disability retirement eligibility. Please refer to that report for further details.

To reflect an increase of approximately one disability per year, we have increased the non-duty disability rates as follows:

Non-Duty Related Disability Rates*

	Male and Female	
Age	Current Provisions	Adjusted Assumptions
20	.00 %	.00 %
25	.00	.00
30	.03	.04
35	.03	.04
40	.03	.05
45	.03	.05
50	.05	.08
55	.05	.08
60	.05	.08
65	.00	.00

**Non-duty disability rates under current provisions are equal to 2/3rd of the total disability rates, as shown in Appendix A of the January 1, 2011 valuation report.*

It should be noted that we have not made any other changes in the demographic assumptions, as it is difficult to anticipate how plan changes will impact participant behavior, but changes in behavior could result.

Actuarial Certification

The cost estimates shown in this letter reflect the data, methods and assumptions used for the January 1, 2011 actuarial valuation. These cost estimates are subject to the uncertainties of a regular actuarial valuation; the costs are inexact because they are based on assumptions that are themselves necessarily inexact, even though we consider them reasonable. Thus, the emerging costs may vary from those presented in this letter to the extent actual experience differs from that projected by the actuarial assumptions.

The cost estimates presented in this letter are based on the January 1, 2011 actuarial valuation report. In preparing that report, we relied without audit on information (some oral and some in writing) supplied by SCERS' staff. This information includes, but is not limited to, statutory provisions, employee data, and financial information. We used SCERS' benefit provisions as stated in our January 1, 2011 Actuarial Valuation report. Note that this means we did not reflect the adjustment to the interest crediting rate that occurred subsequent to the valuation. In our examination, after discussion with SCERS and certain adjustments, we have found the data to be reasonably consistent and comparable with data used for other purposes. Since the valuation results, as well as the estimates shown in this letter, are dependent on the integrity of the data supplied, the results can be expected to differ if the underlying data is incomplete or missing. It should be noted that if any data or other information is inaccurate or incomplete, our determinations might need to be revised.

The emerging costs will vary from those presented in this letter to the extent that actual experience differs from that projected by the actuarial assumptions. Future actuarial measurements may differ significantly from the current measurements presented in this letter due to a number of factors. Due to the scope of this assignment, we did not perform an analysis of the potential range of such measurements. Actuarial computations presented in this letter are for purposes of studying the cost impact of changing disability eligibility. Determinations for other purposes may be significantly different from the results contained in this letter.

Milliman's work is prepared solely for the internal business use of SCERS. To the extent that Milliman's work is not subject to disclosure under applicable public records laws, Milliman's work may not be provided to third parties without Milliman's prior written consent. Milliman does not intend to benefit or create a legal duty to any third party recipient of its work product. Milliman's consent to release its work product to any third party may be conditioned on the third party signing a Release, subject to the following exceptions:

(a) The System may provide a copy of Milliman's work, in its entirety, to the System's professional service advisors who are subject to a duty of confidentiality and who agree to not use Milliman's work for any purpose other than to benefit the System.

(b) The System may provide a copy of Milliman's work, in its entirety, to other governmental entities, as required by law.

No third party recipient of Milliman's work product should rely upon Milliman's work product. Such recipients should engage qualified professionals for advice appropriate to their own specific needs.

The consultants who worked on this assignment are pension actuaries. Milliman's advice is not intended to be a substitute for qualified legal or accounting counsel.

On the basis of the foregoing, we hereby certify that, to the best of our knowledge and belief, this letter is complete and accurate and has been prepared in accordance with generally recognized and accepted actuarial principles and practices.

I, Nick Collier, am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Respectfully submitted,

Nick Collier

Nick J. Collier, ASA, EA, MAAA
Consulting Actuary
NJC/nlo