

# RESOLUTION NO. 89-875

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF November 14, 1989

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. 82-191 ADOPTED MARCH 23, 1982

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 the following determinations: (i) whether a member is incapacitated for the performance of duty; and (ii) 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;

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(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 appeals from disability determinations of the Retirement System Manager shall be determined in accordance with the following procedure:

- (a) In the event a safety member is dissatisfied with the determination of the Retirement System Manager as to whether the member is incapacitated physically or mentally for the performance of his or her duties for purposes of the Public Employees' Retirement Law, or as to whether the member shall be reinstated after disability retirement, the member shall have the right to appeal any such decision by filing notice of appeal with the Retirement System Manager within thirty (30) calendar days of receipt by the member of the determination. Such appeal shall be heard by an Administrative Law Judge (ALJ) pursuant to the Administrative Procedure Act, Government Code Sections 11500 et seq. In particular, the following provisions shall apply: Section 11500 ("Definitions"); 11502 ("Administrative Law Judges"); 11507.5 through 11507.7 ("Discovery"); 11508 ("Notice of Hearing"); 11510 ("Subpoenas"); 11511 ("Deposition"); 11511.5 ("Prehearing Conference"); 11512 ("Conduct of Hearing"); 11513 ("Evidence"); 11513.5 (Ex parte Communications"); 11514 ("Affidavits"); 11515 ("Official Notice"); 11517(b) (relating to the proposed decision of the ALJ); 11518 (form of decision); 11524 ("Continuances"); 11525 ("Contempt"); and 11528 ("Oaths").
- (b) The decision of the ALJ shall be final and binding on the City and on the member.
- (c) Judicial review of the decision of the ALJ may be sought by the City or the member within ninety (90) days of the decision of the ALJ.

(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 non-industrial, 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.

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BE IT FURTHER RESOLVED that Resolution No. 82-191, adopted March 23, 1982, is repealed.

*Ann Rudin*  
MAYOR

ATTEST:

*Valerie A. Burrows*  
CITY CLERK

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