



# Amending the Retirement Ordinance Pertaining to Board Members' Pension Benefits

Board of Directors

May 28, 2024

- Background Information
- Introduction of Additional Amendments
- First Reading of the Ordinance to Amend the Retirement Ordinance Pertaining to Pension Benefits for Board Members

- May 14, 2024 Meeting
  - Vote to Limit the Terminal Compensation of Future Board Members
  - Vote to Exclude District Retirees Who Become Directors from Participation in the Retirement System
  - Provide additional amendments to bifurcate service as a Director from service as a former employee

## **Problem to solve:**

Former employee who re-enters the Retirement System as a Board Member would be entitled to apply Terminal Compensation earned as an employee to Retirement Allowance that may be earned as a Director

For example: Employee works for the District for 10 years and earns a terminal compensation of \$100,000. Employee separates from the District but elects to remain a Member of the Retirement System by leaving in their contributions. One month later, employee is elected to the Board of Directors and serves for 20 years. Under the current language in the Retirement Ordinance, Employee would be entitled to a Retirement Allowance as a Board Member based on a Terminal Compensation of \$100,000.

**Solution** = Bifurcate the service of the Director from service as an Employee

This means:

- Clear distinction between service as an Employee and service as a Director
- Clarity that two periods of service shall be treated separately for purposes of calculating the individual's Retirement Allowance and the Health Insurance Benefit
- Employee would have two types of pension benefits:
  - One as Employee
  - Second as Director

- Define “Director” separately from “Employee”

Amend subsection 2(b) defining “Employee” of the Retirement Ordinance as follows:

“Employee” shall mean any person, including persons generally classed as officers or officials, in the employ of the East Bay Municipal Utility District whose Compensation in such employment is paid wholly by the District. ~~For purposes of this Ordinance “Employee” shall also include persons holding elective office as Director of the District.~~

Add subsection (kk) to Section 2 of the Retirement Ordinance:

**(kk) “Director” shall mean an individual elected or appointed to serve on the East Bay Municipal Utility District Board of Directors**

- Bifurcate the Service of a Future Board Member from Service as an Employee

Section 2(g) defining “District Service” of the Retirement Ordinance shall be amended as follows:

For purposes of this Ordinance, a Director shall be considered as being in the District service at all time during which the office of Director is held. **For an elected or appointed Director, who first performs services as a Member of the Retirement System as a Director on or after July 15, 2024, “District Service” performed as an Employee shall not be combined with “District Service” performed as a Director for purposes of determining Current Service under Sections 15 and 42 or for purposes of determining Continuous Service under Section 36.**

- Bifurcate the Service of a Future Board Member from Service as an Employee

Section 12(f) titled “Refund of Contributions” of the Retirement Ordinance shall be amended as follows:

Any member who re-enters District Service, and who elected to remain a Member of the Retirement System pursuant to Section 12(b)(2), shall receive credit for all service prior to the date of termination in the same manner as if he or she never left District Service and the two periods of service shall be deemed a single period for purposes of monthly Retirement Allowance calculations.” **Effective on or after July 15, 2024, a Member who elected to remain a Member of the Retirement System pursuant to Section 12(b)(2) and who re-enters District Service as a Director, shall not be entitled to treat the two periods of service as a single period for purposes of determining monthly Retirement Allowance calculations under Sections 15 and 42, as well as eligibility for the Health Insurance Benefit pursuant to Section 36(d), and shall be treated as a new Member for the period of service as Director and the period of service as a Director shall not be combined with service as an Employee.**

- Bifurcate the Service of a Future Board Member from Service as an Employee

Section 12(f) titled “Refund of Contributions” of the Retirement Ordinance shall be amended as follows:

Terminal Compensation shall be as provided in Section 2(m) and the two periods of service shall be deemed a single period for purposes of monthly Retirement Allowance calculations, provided that the Member completes five years of Continuous Employment after re-entry. Any member who fails to complete five years of Continuous Employment after re-entry shall be considered a new Member for the second period of service. **Effective on or after July 15, 2024, Terminal Compensation for a Director who re-enters District Service pursuant to this Section 12(f) shall be based on the highest average annual compensation earnable by the Director during the period of service as Director and shall be applied to any portion of the Retirement Allowance provided for under Sections 15, 34 or 42 of this Retirement Ordinance resulting from service as a Director.**

- Bifurcate the Service of a Future Board Member from Service as an Employee

Amend Section 36 by adding the following:

**(m) Effective July 15, 2024, for purposes of determining eligibility for and the amount of any benefit provided under Section 36, the period of service as a Director shall not be combined with service as an Employee. Eligibility for and the amount of the Health Insurance Benefit to be provided under Section 36 for service as a Director will be determined using only the Member's Continuous Service credited during the period of service as a Director. Eligibility for and the amount of the Health Insurance Benefit to be provided under Section 36 for service as an Employee will be determined using only the Member's Continuous Service credited as an Employee. A Member may qualify independently for two separate Health Insurance Benefits, one based on the period of Continuous Service as an Employee, and one based on the period of Continuous Service as a Director, however, the combined amount for each period shall not exceed one-hundred percent (100%) of the HIB set forth in Section 36(d).**

## Limit Terminal Compensation

Amend subsection 2(m) defining “Terminal Compensation” of the Retirement Ordinance by adding:

**Notwithstanding any other provision of this Ordinance, including but not limited to Section 34, Terminal Compensation for a Director who is elected or appointed a Director on or after July 1, 2024, shall be based on the highest average annual compensation earnable by the Director during the period of service as a Director and shall be applied to any portion of the Retirement Allowance provided for under Sections 15, 34 or 42 of this Retirement Ordinance resulting from service as a Director.**

## Required Amendments to Allow District Retirees to Serve on the Board Without Ceasing Their Pension Payments

Amend Section 5(k) of the Retirement Ordinance as follows:

(k) Every Director in office on January 1, 1987 shall become a Member of the Retirement System on that date. All persons thereafter assuming the office of Director shall become Members on the date of assumption of office. **Effective on or after July 15, 2024, any person who has been retired for service from the Retirement System and who receives a Retirement Allowance pursuant to Section 15 or Section 42 and who is elected or appointed to serve as a Director on the Board of Directors shall not become a Member of the Retirement System nor accrue any pension or Health Insurance Benefit with respect to service as a Director.**

- June 11, 2024 Conduct Second Reading and Adopt the Ordinance Amending the Retirement Ordinance
- July 15, 2024 – Amendments to take effect

# Questions/Feedback

