

# City of Philadelphia



(Bill No. 161013)

## AN ORDINANCE

Amending Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” to create a new Plan, entitled “Plan 16,” for certain employees, to expand the scope of “DC Plan” to cover additional employees, to change contribution rates for certain employees, to amend various provisions relating to the Deferred Retirement Option Plan (“DROP”), and to make technical amendments; and amending Bill No. 110443 (became law Sept. 15, 2011) to revise certain effective dates relating to the DROP; all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

**SECTION 1.** Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” is hereby amended as follows:

### **TITLE 22. PUBLIC EMPLOYEES RETIREMENT CODE**

#### **CHAPTER 22-100. GENERAL PROVISIONS**

\* \* \*

§22-104. Continuation of Divisions and Plans.

\* \* \*

(2) Plans. The several plans of benefits that form part of the City of Philadelphia Public Employees Retirement System are designated and assigned to the foregoing divisions thereof as follows:

\* \* \*

Plan Y includes all current and former municipal employees of the City [(that is, those] who are not members of Plan A, Plan B, [or] Plan [J as defined in this Section),] *J, Plan '10, or Plan 16, and* who are appointed on or after January 8, 1987. Plan Y is a plan within Municipal Division New.

Plan '10 includes (i) certain employees hired on or after January 1, 2010, subject to election under Section 22-201(5); and (ii) certain electing employees; all as set

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forth in § 22-201(5) and § 22-206(1). *Plan '10 is a plan within Municipal Division New, Fire Division New, Police Division New, and Elected Official Division.*

*Plan 16 includes all employees represented by AFSCME District Council 33 hired or rehired on or after August 20, 2016; and (ii) certain electing employees; all as set forth in Section 22-201(6) and Section 22-206(2). Plan 16 is a plan within Municipal Division New.*

\* \* \*

## §22-105. Definitions.

In addition to the definitions set forth in § 1-103(1) of the Code, the following definitions apply to this Title unless the context plainly requires otherwise:

### (4.1) Annual salary.

(a) *For employees in the civil service: The annual rate of pay for the employee established by the Civil Service pay plan applicable to the employee plus the longevity rate of pay to which the employee is entitled under the Civil Service Regulations or applicable collective bargaining agreement, if any.*

(b) *For employees not in the civil service: The annual rate of pay set for the employee by the appointing authority, or by law, including any longevity rate of pay to which an employee is entitled.*

(c) *For elected officials: The annual rate of pay provided by law.*

\* \* \*

### (6) Average Final Compensation.

\* \* \*

(e) *For a member of Plan 16, average final compensation shall be the lesser of: (.1) the average final compensation as calculated for a member of Plan Y under Section 22-105(6)(a); or (.2) the Stacked Hybrid Cap.*

\* \* \*

### (9) Compensation.

(a) The gross pay, exclusive of any taxable fringe benefits, of any member for personal services as appears on the City payroll, subject to the following:

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\* \* \*

(.6) For members of Plan 16, compensation shall be the lesser of: (.1) compensation as calculated for a member of Plan Y under Section 22-105(9)(a)(.3); or (.2) the Stacked Hybrid Cap; provided, that for purposes of Section 22-105(6)(e)(.1), Section 22-105(10), Section 22-401(4), Section 22-801(3), and Section 22-1404(1), compensation shall be as calculated for a member of Plan Y under Section 22-105(9)(a)(.3).

\* \* \*

(10) Credited service. Any period of service as an employee for which regular member contributions are made, *or, with respect to members of Plan 16, would have been made had the member's compensation not exceeded the Stacked Hybrid Cap*, and any other period of service for which credit is purchased in accordance with the provisions of § 22-801 (Leaves of Absence Without Pay), § 22-803 (Purchase of Prior City Service), § 22-802 (Purchase of Governmental Service) or § 22-809 (Pension Credit for Former F.P.T.F. Employees), subject to such limitations and restrictions as are set forth in Chapter 22-800 (Purchase of Credited Service).

\* \* \*

(16) Final compensation.

(a) For members of Plan A, Plan B, Plan D, Plan J, Plan L, Plan X, Plan Y, and Plan '10, final compensation shall be [The] the higher of either the rate of pay at separation from service or the total compensation for the last full year of service, including supplementary compensation received under Civil Service Regulation No. 32.

(b) For members of Plan 16, final compensation shall be the lesser of: (.1) final compensation calculated under Section 22-105(16)(a); or (.2) the Stacked Hybrid Cap; provided, that for purposes of Section 22-401(4), final compensation shall be as calculated for a member under Section 22-105(16)(a).

\* \* \*

(23) Member. Any employee or former employee of the City who satisfies the conditions for membership in the Retirement System and the appropriate plan. *This definition shall not apply to the capitalized term "Member" as used in Chapter 22-1400.*

(24) Member contributions. Payments made to the Retirement System by a member for the provision of service retirement benefits, separation retirement benefits, optional early retirement benefits, death benefits and disability benefits. *This definition*

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*shall not apply to the term as used in Chapter 22-1400.*

(25) Minimum retirement age:

\* \* \*

(10) Plan '10: fifty-five (55) for elected officials;[.]

(11) Plan 16: sixty (60).

\* \* \*

(43) Stacked Hybrid Cap. \$50,000, annually on a calendar year basis.

[(43)] (44) Survivor.

\* \* \*

[(44)] (45) Tax Code.

\* \* \*

[(45)] (46) Totally disabled.

\* \* \*

[(46)] (47) USERRA.

\* \* \*

[(47)] (48) Vested member.

\* \* \*

## CHAPTER 22-200. MEMBERSHIP

\* \* \*

§22-201. Membership Upon Employment.

\* \* \*

(2) Employees [first] hired *or rehired* on or after January 8, 1987. All

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employees who are hired, rehired, or first elected on or after January 8, 1987, shall be members of Plan A, Plan B, Plan L, or Plan Y of the Retirement System, except to the extent that they are afforded other options pursuant to § 22-203 (Membership After Reemployment) or are Police or Fire employees covered by subsection (3) or (5), or are municipal employees covered by subsection (4), [or] (5), *or* (6), or are elected officials covered by subsection (5). Of these employees:

\* \* \*

(5) Employees [first] hired *or rehired* or assuming elected office on or after January 1, 2010. All employees who

\* \* \*

(ii) are hired or rehired or first elected [on or after the date] *during the period* set out below *in subparagraphs (a) through (j)* are members of Plan '10 immediately upon employment by the City or upon taking office, except to the extent that they are afforded other options pursuant to §22-203 (Membership After Reemployment) or unless, within thirty (30) days of employment, the employee (except an employee who either (.1) is represented by Lodge No. 5 of the F.O.P. and is an employee of the Register of Wills or (.2) is a guard represented by DC33) makes an irrevocable election to become a member of Plan A or B or Y or L, as applicable.

(a) For police employees: *On or after* January 1, 2010.

(b) For fire employees: *On or after* October 15, 2010.

(c) For employees of the Sheriff's Office or of the Register of Wills: *On or after* January 1, 2012.

(d) For employees represented by AFSCME, District Council 47: *On or after* March 5, 2014.

(e) For municipal employees in the civil service not represented by a union: *On or after* May 14, 2014.

(f) For employees represented by AFSCME, District Council 33, other than guards represented by DC33 or OHCD employees: *From* September 9, 2014, *through August 19, 2016*.

(g) For guards represented by DC33: *From* November 14, 2014, *through August 19, 2016*.

(h) For municipal employees not in the civil service and not

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represented by a union: *On or after* November 14, 2014.

(i) For elected officials: [the effective date of the Ordinance adding this subsection (i)] *On or after November 14, 2014*.

(j) For OHCD employees: [the effective date of the Ordinance adding this subsection (j)] *From December 1, 2015, through August 19, 2016*.

(6) *Employees represented by AFSCME District Council 33 first hired or rehired on or after August 20, 2016. All employees represented by AFSCME District Council 33 hired or rehired on or after August 20, 2016 shall be members of Plan 16 of the Retirement System, except to the extent that they are afforded other options pursuant to § 22-203 (Membership After Reemployment).*

\* \* \*

## §22-202. Membership After Transfer of Employment

(1) Transfers between divisions. After transferring employment between divisions, a member's retirement rights and related benefits are determined solely by the provisions of the appropriate plan of the division into which the member has transferred. Credited service under the plan of the member's previous division is automatically transferred as credited service to the appropriate plan of the member's new division except in the following cases:

\* \* \*

(f) If any member of Plan J, [or] Plan Y, *or Plan 16, or any municipal employee member of Plan '10*, of the Retirement System is appointed to a position:

\* \* \*

## §22-203. Membership After Reemployment.

(1) Reemployment on or after January 8, 1987.

(a) Except as provided in paragraph (b) of this subsection, all separated employees who became reemployed by the City on or after January 8, 1987 become subject to the provisions of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16*.

\* \* \*

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(2) Purchase of credit for prior City service. Any rehired employee who becomes a member of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* pursuant to § 22-203(1) (Membership After Reemployment) and who withdrew contributions for prior service with the City may purchase credit for prior service in the member's new plan, regardless of the retirement plan to which the member had previously belonged. To purchase credit for prior service, the rehired employee must pay the amount the member contributed or would have contributed for credit if the member had been a member of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* during the member's prior employment, plus interest at the assumed earnings rate for fund investments as determined by the Board from time to time. Requirements for the purchase of credit are provided in § 22-803 (Purchase of Prior City Service).

\* \* \*

## §22-204. Reemployment of Retired Members

\* \* \*

(2) Reemployment for less than three (3) years. If the period of reemployment under Plan A, Plan B, Plan L, [or] Plan Y, *Plan '10, or Plan 16* [or] is less than three (3) years, then when the reemployed member retires from City employment, the previous retirement benefits shall resume, and the Board shall refund the member's regular contributions made during the period of reemployment, and cancel the member's service credit for that period of reemployment.

(3) Reemployment for three (3) or more years. If the period of reemployment under Plan A, Plan B, Plan L, [or] Plan Y, *Plan '10, or Plan 16* is three (3) years or more, then when the reemployed member retires from City employment, the member's retirement benefits are redetermined to include credited service earned both before and after reemployment.

\* \* \*

(7) Disabled members. A disabled member receiving service-connected disability retirement benefits shall have such benefits suspended upon reemployment and may, upon completing five (5) years of continuous reemployment with the City, purchase credited service for the period of time spent receiving service-connected disability retirement benefits. The purchase of credited service must occur prior to completion of the sixth year of reemployment unless the member enters into an installment payment plan pursuant to § 22-806 (Installment Payments). For members of Plan D, Plan J and Plan X, each year of credited service or portion thereof purchased shall cost six percent (6%) of the annual salary of the position the member separated from at the time of the member's separation to receive a service-connected disability retirement benefit plus six percent (6%) annual interest on said cost from the year separated to the date of

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application for repurchase under this subsection. For members of Plan A, Plan B, Plan Y, [and] Plan L, *Plan '10*, and *Plan 16*, each year of credited service or portion thereof purchased shall cost an amount determined by the total of:

(a) the product of the percentage of compensation that employees in the employee's plan were contributing at the time of the employee's separation to receive a service-connected disability retirement times the annual salary that the employee was receiving at that time[;], *or, for members of Plan 16 whose annual salary was in excess of the Stacked Hybrid Cap, times the Stacked Hybrid Cap*; plus

(b) nine percent (9%) annual interest on the amount in (a) from the year separated to the date of application for repurchase under this subsection.

\* \* \*

## §22-205. Optional Transfer of Membership

(1) Reemployed members of Plan D, Plan J or Plan X. Any separated employee who:

\* \* \*

(c) upon separation from employment with the City when covered by Plan D, Plan J or Plan X, did not withdraw their pension contributions, upon reemployment, may elect either to be subject to the provisions of the plan covering them when they separated from service with the City or to transfer membership to the applicable division covered by Plan A, Plan B, Plan L, [or] Plan Y, *or Plan 16*. Such transfers are irrevocable.

\* \* \*

(3) Contributions. If a member transfers membership to Plan A, Plan B, Plan L, [or] Plan Y, *or Plan 16*, the member must pay the Retirement System the difference between the contributions made before the transfer and the amount that would have been contributed if membership had been established in such plan during previous credited service, in accordance with the provisions of § 22-803 (Purchase for Prior City Service), except that:

\* \* \*

(4) Transfer of credited service. In transfers of membership to Plan A, Plan B, Plan L, [or] Plan Y, *or Plan 16*, all of the member's credited service, including service credited before the transfer, shall be transferred to the applicable plan. The transferred member shall be treated as though membership had existed in such plan for the member's



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entire credited service and the member's retirement rights and benefits shall be determined solely by the new applicable plan.

§ 22-206. Electing Members of the Retirement System.

\* \* \*

(2) *A member of Plan '10 represented by AFSCME District Council 33 may elect to participate in Plan 16 within ninety (90) calendar days of the effective date of this subsection. A member who makes such an election shall automatically become a member of Plan 16 upon payment to the Retirement System of the difference between the contributions made before the election and the amount that would have been contributed if membership had been established in Plan 16 during previous credited service, in accordance with the provisions of § 22-803(1) (Purchase of Prior City Service, Cost of Purchase), except that the interest provided for in § 22-803(1) shall not be charged on the purchase. In such case, all of the member's credited service, including service credited before the election, shall be transferred to Plan 16. For purposes of a member's defined benefit, the member shall be treated as though membership had existed in Plan 16 for the member's entire credited service and the member's retirement rights and defined benefit shall be determined solely by Plan 16. A member's participation and benefits in the DC Plan shall be determined by the applicable provisions of Chapter 22-1400.*

## CHAPTER 22-300. RETIREMENT BENEFITS

§22-301. Service Retirement Benefits

(1) Eligibility

\* \* \*

(b) Subject to the provisions of paragraphs (c) and (d) below, any member of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* who has attained minimum retirement age and has ten (10) or more years of credited service is a vested member of the Retirement System and eligible for service retirement benefits.

(c) (.1) After the effective date of this Title (January 13, 1999), members of Plan A, Plan B, Plan Y or Plan '10 who [hold positions that] are both exempt from civil service and [who are] not [entitled to be] represented by a union and who are employed after the effective date of this [Title] *Title*, shall vest their retirement benefits upon attaining five (5) years of credited service.

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(.2) Any members of Plan A, Plan B or Plan Y who [hold positions that] are both exempt from civil service and [who are] not [entitled to be] represented by a union and who are currently employed on the day immediately preceding the effective date of this Title may elect to vest their retirement benefits upon attaining five (5) years of credited service.

\* \* \*

(.3) After the effective date of this Title (January 13, 1999), members of Plan A, Plan B, Plan Y or Plan '10 who [hold positions that] are both exempt from civil service and [who are] not [entitled to be] represented by a union and who have prior City service and are reemployed after the effective date of this Title may elect to vest their retirement benefits upon attaining five (5) years of credited service.

\* \* \*

(.4) Any members of Plan A, Plan B or Plan Y who currently hold positions (both exempt from civil service and not [entitled to be] represented by a union) [what] *that* would have made them eligible for 5-year vesting under subsection (c)(.2) above if they had held that position on the day immediately preceding the effective date of this Title (January 13, 1999) and who were currently employed on the day immediately preceding the effective date of this Title but who were not in such an eligible position at the time and who subsequently transferred positions without any break in service may elect to vest their retirement benefits upon attaining five (5) years of credited service.

\* \* \*

(3) Amount and calculation of benefits. Annual service retirement benefits may not exceed the member's average final compensation. Annual service retirement benefits are calculated as follows:

\* \* \*

(d) For a member of Plan Y *or a member of Plan 16*, two and two-tenths percent (2.2%) of average final compensation multiplied by the amount of credited service (expressed in years and specified to the day) for the first ten (10) years of credited service, plus two percent (2%) of average final compensation multiplied by the amount of credited service (expressed in years and specified to the day) in excess of ten (10) years of credited service.

\* \* \*

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(i) For members of Plan '10 who are municipal employees *or elected officials*, one and a quarter percent (1.25%) of average final compensation multiplied by the member's years of credited service for the first twenty (20) years of credited service.

\* \* \*

## §22-303. Optional Early Retirement Benefits.

(1) Eligibility. The following members are eligible for optional early retirement benefits:

(a) Any member of Plan J, Plan L, [or] Plan Y, *or Plan 16*, and any member of Plan '10 who is a municipal employee or an elected official, who is age fifty-two (52) or older and had become a vested member as defined in Section 22-105(47).

\* \* \*

(e) Any member of Plan Y *or Plan 16*, and any member of Plan '10 who is a municipal employee, who has thirty-three (33) or more years of credited service, regardless of age.

\* \* \*

## §22-306. Retirement and Survivorship Benefit Options.

\* \* \*

(2) Failure to choose option; members of plans not eligible for Option 4. If a member of Plan L, [or] Plan Y, *or Plan 16*, or a member of Plan '10 who is a municipal employee or an elected official, retires without electing a retirement benefit option among Option 1, Option 2 and Option 3, the member shall receive retirement benefits without actuarial reduction except for early retirement under § 22-303 (Optional Early Retirement Benefits). Upon the member's death, subject to the provisions of subsection (3), no further benefits will be paid.

(3) Failure to designate survivor. When a member of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* retires without designating any survivor and then dies, no further benefits will be paid; provided, however, that if such member is survived by a spouse or Life Partner to whom the member had been married or in a Life Partnership two (2) years or more, and with whom the member was either living at the time of death, or had one or more children who are under the age of eighteen (18) at the time of the member's death, the member shall be deemed to have designated such spouse or Life Partner as the survivor under Option 1.

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\* \* \*

§22-308. Suspension of Retirement Benefits.

(1) Retired member's return to service in Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16*. If any retired member receiving retirement benefits under the provisions of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* returns to the service of the City, either by appointment or election to any position for which the retired member shall thereby become entitled to wages, salary, fees, or other compensation, the member's retirement benefits shall be suspended during the period of such service.

\* \* \*

## CHAPTER 22-400. DISABILITY BENEFITS

\* \* \*

§22-402. Ordinary Disability Retirement Benefits.

(1) Qualification.

(a) Any member found to be mentally or physically totally incapacitated from the further performance of duty as the result of causes occurring not in the actual performance of duty to the City and who, as a member of Plan B, Plan D, Plan J, Plan L, [or] Plan Y, *or Plan 16*, or as a member of Plan '10 other than a fire employee, has had ten (10) or more years of credited service, or who as a member of Plan A or Plan X, or as a fire member of Plan '10, has had five (5) years of credited service, or a member of Plan B or Plan D who is totally disabled, in which case such member is considered to have had at least ten (10) years of credited service, shall be deemed retired and shall receive ordinary disability retirement benefits.

\* \* \*

## CHAPTER 22-800. PURCHASE OF CREDITED SERVICE

§ 22-801. Leaves of Absence Without Pay.

\* \* \*

(3) Basis of member contributions.

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(a) *For members of all Plans except Plan 16:* If a member makes contributions to the Retirement System for the period of an unpaid leave of absence, the amount of such contribution is based on the member's compensation rate as of the first day of the leave of absence; *and the applicable contribution rate during the leave of absence, pursuant to Section 22-902 (Member contributions).* If contributions are made for a leave of absence, the period of the leave is included as credited service for determining retirement and death benefits. Hypothetical earnings for which credited service contributions are paid may be used in calculating final compensation or average final compensation where appropriate.

(b) *For members of Plan 16:*

(.1) *If a member makes contributions to the Retirement System for the period of an unpaid leave of absence, the amount of such contribution is based on the applicable contribution rate during the leave of absence, pursuant to Section 22-902 (Member contributions), regardless of whether the member's compensation has exceeded or will exceed the Stacked Hybrid Cap, and a compensation rate calculated as follows: the lesser of (a) the member's actual compensation rate as of the first day of the leave of absence; or (b) the Stacked Hybrid Cap. If contributions are made for a leave of absence, the period of the leave is included as credited service for determining retirement and death benefits. Hypothetical earnings for which credited service contributions are paid may be used in calculating final compensation or average final compensation where appropriate, provided that the sum of such hypothetical earnings plus any such employee's actual compensation for the applicable calendar year shall not exceed the Stacked Hybrid Cap.*

(.2) *Notwithstanding anything else in this Title, with respect to a member of Plan 16 who has been granted a leave of absence (1) because of such member's illness, maternity or injury, or (2) with respect to which employment protections are required under USERRA or Chapter 73 of Title 51 of the Pennsylvania Consolidated Statutes (51 Pa. C.S. Ch. 73), the sum of (i) contributions paid by such member in the applicable calendar year for current service pursuant to Section 22-902, and (ii) contributions paid by such member in the applicable calendar year for such leave of absence pursuant to this Section 22-801(3)(b), shall not exceed the contributions such member would have paid in the applicable calendar year had he or she been on the active payroll for the period such member was on such unpaid leave of absence. This limitation shall not otherwise affect the purchase of credited service under this Section 22-801 or any other provision of this Title.*

[(b)] (c) A member who, in accordance with Civil Service Regulations, receives a leave of absence without pay in order to serve as a full time officer or employee of a union representing only City employees, or to secure special education or training, may continue to make contributions into the Retirement System *consistent with*

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*the contribution rate applicable to the member pursuant to this Section 22-801(3), based upon the salary the member would be receiving if the member had not been granted such leave of absence, provided that, with respect to a member of Plan 16, the term salary in this subsection shall mean the lesser of the member's actual salary or the Stacked Hybrid Cap.*

§22-802. Purchase of Governmental Service.

\* \* \*

(2) Maximum purchase of service; limitation. \* \* \* A member in Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* must file applications to purchase governmental service with the Board within one (1) year following date of employment for new employees, or within one (1) year following [the effective date of this Title] *January 13, 1999*, for members of the Plan on [the effective date of this ordinance] *that date*. Provided, however, that members of Plan A, Plan B, Plan L, Y, [or] Plan '10, *or Plan 16* who file beyond the one-year deadline, may make such purchase by paying the additional interest provided in Section 22-807. Notwithstanding any other provision in this Title, for persons hired on or after July 1, 2010: service credits purchased pursuant to Section 22-802(1) by a member [who holds a position that is both exempt from civil service and who is not entitled to be represented by a union] *who is not in the civil service and not represented by a union* shall not count toward the vesting requirements set forth in Section 22-301 unless and until the member has attained a minimum of five years of credited service with the Retirement System other than through the application of Section 22-802(1).

\* \* \*

(4) Computation of payment for Members in Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16*. The employee may purchase governmental service by paying:

(a) The normal cost rate (employee plus employer) in effect on the date the employee becomes a member of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* multiplied by

(b) The member's annual compensation at that time multiplied by

(c) The years of credited service being purchased.

\* \* \*

§22-803. Purchase of Prior City Service

(1) Cost of purchase. If an employee is separated from City employment and

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withdraws contributions covering credited service, then § 22-302 (Separation Retirement Benefits) provides that the employee no longer has service credit for retirement, death or disability benefits. If such an individual is later reemployed by the City in Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16*, the employee may purchase credit for previous City service by paying the Retirement System the amount of the contributions that would have been made during the period of previous employment if the employee had then been a member of the appropriate plan of the Retirement System, together with interest thereon at the assumed earnings rate on fund investments as determined by the Board from time to time.

(2) Limit on time to purchase. If an employee applies to restore credit for previous service, the employee must either pay the full amount calculated under subsection (1) or make arrangements within the first year of reemployment to pay such amount on the installment plan described in § 22-806 (Installment Payments) or through transfer payments described in § 22-808 (Transfer Payments). Provided, however, that members of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* who file beyond the one-year deadline may make such purchase by paying the additional interest provided in Section 22-807.

\* \* \*

(4) Purchase of temporary service by [members of Plan Y.] *municipal employees, hired on or after January 1, 1987*. If a temporary employee who was originally hired on or after January 8, 1987 for six (6) months or less continues to work for the City after the six (6) months are over, that employee becomes a member of [Plan Y] *the applicable plan for persons hired on the employee's date of hire*, beginning with the first full pay period after the six (6) months. At that time, the employee may purchase service credit for the period of temporary service by paying contributions covering such period, together with interest thereon at the current rate determined by the Board's actuary.

\* \* \*

§22-807. Interest.

Any member of Plan A, Plan B, Plan L, Plan Y, [or] Plan '10, *or Plan 16* who desires to purchase credited service for:

\* \* \*

## CHAPTER 22-900. CONTRIBUTIONS

\* \* \*

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§22-902. Member Contributions.

\* \* \*

(2) Basic Contribution Rate. [Member] *Subject to subsection (3), below, member contributions shall be made at the following basic contribution rates:*

(a) Members of Plan J who are not covered under the Federal Social Security Act, as amended:

(.1) For members represented by AFSCME, District Council 47, or District Council 33 (except for guards represented by DC 33, *provided that this exception shall expire on the effective date of the ordinance adding this clause to subparagraph (.1)*), and for municipal employees not represented by a [union] *union:*

\* \* \*

(.2) For guards represented by DC 33:

(A) Through and including November 13, 2014, six percent (6%) of compensation.

(B) For the period November 14, 2014, [and thereafter,] *through the day before the effective date of the ordinance adding this clause to clause (B)*, the greater of (i) six percent (6%) of compensation; or (ii) fifty percent (50%) of the aggregate normal cost for all members in Plan J.

\* \* \*

(b) Members of Plan J who are covered by the Federal Social Security Act, as amended[, except for guards represented by DC 33,] *(except for guards represented by DC 33, provided that this exception shall expire on the effective date of the ordinance adding this clause to paragraph (b)*, three and three-quarters percent (3-3/4%) of that portion of compensation which is subject to tax under the Federal Insurance Contributions Act (26 U.S.C. §§ 3101 et seq.) plus six percent (6%) of that portion of compensation which is not subject to such tax, exclusive of that portion of such tax attributable to coverage for hospital insurance benefits; plus, for members represented by AFSCME, District Council 47, or AFSCME, District Council 33, and for municipal employees not represented by a union:

\* \* \*

(b.1) Members of Plan J who are guards represented by DC 33 and who



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are covered by the Federal Social Security Act, as amended:

\* \* \*

(.1) Through and including [the date prior to the effective date of the ordinance adding this subparagraph (b.1)] *November 13, 2014*; three and three-quarters percent (3-3/4%) of that portion of compensation which is subject to tax under the Federal Insurance Contributions Act (26 U.S.C. §§ 3101 et seq.) plus six percent (6%) of that portion of compensation which is not subject to such tax, exclusive of that portion of such tax attributable to coverage for hospital insurance benefits.

(.2) For the period November 14, 2014, [and thereafter,] *through the day before the effective date of the ordinance adding this clause to subparagraph (.2)*, the greater of (i) the amount calculated pursuant to subparagraph (.1) above; or (ii) fifty percent (50%) of the aggregate normal cost for all members in Plan J.

\* \* \*

(f) Members of Plan '10 who are municipal employees or elected officials, a percentage amount equal to fifty percent (50%) of the aggregate normal cost percentage for members of Plan '10 who are municipal employees or elected officials, as reported in the most recent actuarial valuation report of the Retirement System. The provisions of § 22-902[(3)](4) ("Election to cease contributions") shall not apply.

\* \* \*

(g) Members of Plan A, Plan B, Plan L, [or] Plan Y, *or Plan 16*, such contributions as the Board shall determine based on the most recent actuarial valuation report, in accordance with the following:

(.1) Separate basic contribution rates shall be determined for members of each of Plan A, Plan B, Plan L, [or] Plan Y, *or Plan 16*.

(.2) For members of Plan L, [and] Plan Y, *and Plan 16*, the required contributions shall equal the sum of *the amounts calculated pursuant to the applicable portions of clauses (i) through (iv), below*:

(i) S[s]uch percent of the aggregate normal cost for all members in such plans as set forth in subsections (A) through (D) below, including but not necessarily limited to, the normal cost for service retirement benefits, separation service retirement benefits; optional early retirement benefits, disability benefits, death benefits, survivor benefits, and expenses; provided, however, that for that portion of the benefits under Plan L which exceeds those available to members of Plan Y, the required Plan L contribution for each employee shall equal a proportionate share of one hundred

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percent (100%) of the aggregate normal cost of such greater benefits for all such members[; and]:

(A) *For members of Plan L; for members of Plan Y, except employees of the Sheriff's Office represented by Lodge 5 of the F.O.P., and except guards represented by DC 33, provided that this exception for guards shall expire on the effective date of the ordinance adding this paragraph (A); and for members of Plan 16: thirty percent (30%).*

(B) *For members of Plan Y who are employees of the Sheriff's Office represented by Lodge 5 of the F.O.P. and who were hired before January 1, 2012: thirty percent (30%).*

(C) *For members of Plan Y who are employees of the Sheriff's Office represented by Lodge 5 of the F.O.P. and who were hired on or after January 1, 2012: fifty percent (50%).*

(D) *For members of Plan Y who are guards represented by DC 33:*

*(.a) Until November 13, 2014, thirty percent (30%).*

*(.b) From November 14, 2014, through the day before the effective date of the ordinance adding this paragraph (D): fifty percent (50%).*

(ii) *F[or] members represented by AFSCME, District Council 47, or AFSCME, District Council 33 (except guards represented by DC 33, provided that this exception shall expire on the effective date of the ordinance adding this clause to clause (ii)), and for municipal employees not represented by a union and for elected officials, for the period January 1, 2015, through December 31, 2015, one-half percent (0.5%) of compensation (except for municipal employees of the Auditing Department, not in the civil service, for whom this additional one-half percent (0.5%) shall apply for the period July 1, 2015, through December 31, 2015; and except for OHCD employees, for whom this additional one-half percent (0.5%) shall not apply), and, for the period January 1, 2016, and thereafter, one percent (1.0%) of compensation; and*

(iii) *for members represented by AFSCME, District Council 47, hired on or after March 5, 2014; for municipal employees in the civil service not represented by a union, hired on or after May 14, 2014; for members represented by AFSCME, District Council 33 (except guards represented by DC 33 and OHCD employees, provided that this exception shall expire on the effective date of the ordinance*

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*adding this clause to clause (iii)*), hired on or after September 9, 2014; for municipal employees not in the civil service and not represented by a union, hired or first elected on or after November 14, 2014; and for OHCD employees hired on or after [the effective date of the ordinance adding this clause relating to OHCD employees,] *December 1, 2015*, an additional one percent (1.0%) of compensation; and

(iv) for elected officials first elected on or after [the effective date of the ordinance adding this subparagraph (iv)] *November 14, 2014*, an additional one percent (1.0%) of compensation.

[(A) For members of Plan L, and for members of Plan Y except employees of the Sheriff's Office represented by Lodge 5 of the F.O.P., and except guards represented by DC 33, thirty percent (30%).

(B) For members of Plan Y who are employees of the Sheriff's Office represented by Lodge 5 of the F.O.P. and who were hired before January 1, 2012, thirty percent (30%).

(C) For members of Plan Y who are employees of the Sheriff's Office represented by Lodge 5 of the F.O.P. and who were hired on or after January 1, 2012, fifty percent (50%).

(D) For members of Plan Y who are guards represented by DC 33:

(a) Until November 13, 2014, thirty percent (30%).

(b) On November 14, 2014, and thereafter, fifty percent (50%).]

(3) *Additional contributions. For members represented by AFSCME, District Council 33, contributions shall be made at the rate set forth in the applicable provisions of subsection (2), above, plus an amount equal to the following, provided that, for members of Plan 16, the term "annual salary" in this subsection (3) shall mean the lesser of the member's annual salary as provided for in Section 22-105(4.1) or the Stacked Hybrid Cap:*

(a) *for employees earning an annual salary of more than \$45,000 but not more than \$55,000, excluding overtime; one-half percent (.5%) of compensation.*

(b) *for employees earning an annual salary of more than \$55,000 but not more than \$75,000, excluding overtime; one-and-a-half percent (1.5%) of compensation.*

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(c) *for employees earning an annual salary of more than \$75,000 but not more than \$100,000, excluding overtime; two-and-three-quarters percent (2.75%) of compensation.*

(d) *for employees earning an annual salary of more than \$100,000, excluding overtime; three percent (3%) of compensation.*

\* \* \*

[(3)] (4) Election to cease contributions. No member of the Retirement System will be required to pay contributions to the System after having attained the maximum allowable credited service upon which the member's pension will be calculated.

\* \* \*

(c) Any employee who elects to cease his/her contributions to the pension system under [§ 22-902(3)] § 22-902(4) shall have their pension benefit frozen as of the date their employee contributions cease.

(d) For purposes of this Section, the phrase "maximum allowable credited service" means that amount of service which, when multiplied by the applicable percentage or fraction for the member's plan, as provided in § 22-301, to calculate the member's pension, would yield the maximum pension provided in this Title, expressed as a percentage of average final compensation, based on the member's average final compensation at the time the member makes the election in [§ 22-902(3)(a)] § 22-902(4)(a).

## CHAPTER 22-1400. DEFINED CONTRIBUTION PLAN

\* \* \*

§22-1402. Definitions.

In addition to the definitions set forth in §§ 1-103(1) and 22-105 of the Code, the following definitions apply to this Chapter, *unless the context plainly requires otherwise*: [.]

\* \* \*

(6) 457 Plan. The City of Philadelphia Deferred Compensation Plan, an eligible deferred compensation plan established pursuant to Section 457(b) of the Tax

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Code[.] *for the purpose of investing Member Contributions.*

\* \* \*

(8) Member. An employee who becomes a member of the DC Plan pursuant to Section 22-1403. *This definition shall not apply to the lower case term “member,” which has been defined in Section 22-105(23).*

(9) Member Contribution. *The voluntary contribution a Member makes to the 457 Plan Defined Contribution Subaccount.*

[(9)] (10) Normal Retirement Age.

\* \* \*

[(10)] (11) Qualified Plan.

\* \* \*

[(11)] (12) Trust.

\* \* \*

[(12)] (13) Valuation Date.

\* \* \*

§22-1403. Membership in DC Plan.

\* \* \*

(1) Newly hired and elected employees, *and certain electing employees.* All members of Plan '10 *and Plan 16* shall be [members] *Members* in the DC Plan; *provided that any Plan 16 member whose annual salary is equal to or less than the Stacked Hybrid Cap shall not be permitted to make any Member Contribution.*

\* \* \*

§ 22-1404. Contributions.

(1) City Contributions. For each Retirement System Year, the City shall

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make a contribution to the Account of each Member equal to fifty percent (50%) of the Member[’s] Contribution [to the 457 Plan] for such year[.], *provided that the Member Contribution is made prior to the date of the Member’s separation from service, and provided further that an election pursuant to Section 22-206(2) shall not affect contributions credited to the Account of a Member prior to such election.* The above notwithstanding, in no event shall the City’s annual contribution exceed one-and-a-half percent (1.5%) of such Member’s annual Compensation. All such contributions shall be held in the Trust and administered and distributed in accordance with the terms of the DC Plan and the Trust. The City’s contribution under this Section shall be offset by amounts allocated to the suspense account as provided in Sections 22-1405(3)(f) and 22-1406(2).

\* \* \*

§ 22-1405. Member Accounts and Allocation of Benefits.

(1) Subaccounts. A Member’s Account shall be comprised of the following subaccounts:

- (a) City Contribution Subaccount – the portion of each Member’s Account Balance resulting from City contributions under § 22-1404(1);
- (b) Rollover Contribution Subaccount – the portion of each Member’s Account Balance resulting from the Member’s Rollover contributions under § 22-1404(2); *and*
- (c) *457 Plan Defined Contribution Subaccount. The subaccount maintained with respect to the 457 Plan, to which any Member Contribution is remitted, and which reflects the portion of each Member’s Account Balance resulting from any such contributions.*

\* \* \*

**SECTION 2.** Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” is hereby amended as follows:

## **TITLE 22. PUBLIC EMPLOYEES RETIREMENT CODE**

### **CHAPTER 22-300. RETIREMENT BENEFITS**

\* \* \*

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## §22-310. Deferred Retirement Option Plan (DROP)

\* \* \*

(4) Eligibility. In order to be eligible to participate in this program, a member must be an active employee of the City and be otherwise eligible to retire under Section 22-301 and must have a minimum of ten (10) years of credited service, all as of the DROP entry date. In lieu of separating from employment and commencing receipt of service retirement benefits, any such member may enter into this program (“the DROP”) (i) in the case of Police Employees, [and] Fire Employees, *and members represented by AFSCME, District Council 33 or AFSCME, District Council 47*, on or after the date the member attains his or her “minimum retirement age,” as that term is defined in Section 22-105(25); or (ii) in the case of all other members, on or after the second anniversary of the date the member attains his or her “minimum retirement age” as that term is defined in Section 22-105(25), provided in either case that the member’s DROP entry date shall meet the requirements in Section 22-310(5)(a) below. For participation in the DROP to be effective, the application must be approved by the Board pursuant to Section 22-309.

\* \* \*

## (5) Benefit Requirements and Calculation.

(a) Except as otherwise provided by this Section, an election to participate in the DROP is irrevocable. The effective date of a member’s participation in the DROP shall be the date provided on the member’s application, provided that such date shall only be the beginning of a full pay period and shall not be earlier than ninety (90) days nor more than one hundred eighty (180) days after the date the application is filed with the Board nor earlier than [(i) in the case of Police Employees and Fire Employees, the date the member attains his or her “minimum retirement age,” as that term is defined in Section 22-105(25); or (ii) in the case of all other members, the second anniversary of the date the member attains his or her “minimum retirement age” as that term is defined in Section 22-105(25).] *the eligibility date set forth in Section 22-310(4).*

\* \* \*

**SECTION 3.** Section 4 of Bill No. 110443 (became law Sept. 15, 2011) is hereby amended to read as follows (new matter indicated by *italics*):

### SECTION 4. Effective Date; Applicability.

(a) This Ordinance (*Bill No. 110443*) shall take effect ninety (90) days after it becomes law, provided that the amendments to §22-310 of

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The Philadelphia Code, as set forth in Section 1 of *this Bill No. 110443*, shall not apply to any employee who attained eligibility to participate in the Deferred Retirement Option Program under the provisions of §22-310 as it existed before such amendments took effect, and such employees shall continue to be governed by the provisions of §22-310 as it existed prior to such amendments; *provided, further, that the amendments to Section 22-310(5)(b)(.2), relating to interest on DROP accounts, shall not be effective with respect to members represented by AFSCME District Council 33 or AFSCME District Council 47 until the adoption of the ordinance adding this clause to this Section 4, and shall only apply to members who have not yet attained eligibility to participate in the DROP by such date.*

**SECTION 4.** This ordinance shall be effective as follows:

- (1) Section 1: Immediately.
- (2) Section 2: Retroactive to September 15, 2011, provided that this ordinance shall not establish the right of any member to enter DROP retroactively.
- (3) Section 3: Retroactive to September 15, 2011, provided that this ordinance shall not in any way affect the benefits of any employee who has separated from employment on or before the date this ordinance is adopted.



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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 8, 2016. The Bill was Signed by the Mayor on December 9, 2016.



Michael A. Decker  
Chief Clerk of the City Council