

Legislation Text

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Amending Title 22 of The Philadelphia Code, entitled "Public Employees Retirement Code," by expanding the scope of "Plan '10" and "DC Plan" to cover additional employees, including Fire Department employees; by revising the definition of "Fire employee"; and by making technical changes; all under certain terms and conditions.

WHEREAS, An Arbitration Panel constituted pursuant to Act 1968, June 24, P.L. 237, No. 111, 43 P.S. §§ 217.1, et seq. ("Act 111"), issued an Award dated October 12, 2010, providing for a new pension plan for fire members of the City's retirement system, called "Plan '10"; and

WHEREAS, Section 7 of Act 111, 43 P.S. § 217.7, provides that such award "shall constitute a mandate . . . to the lawmaking body of [the] political subdivision . . . with respect to matters which require legislative action"; and

WHEREAS, Council, therefore, has a mandatory duty under State law to implement the pension award; and

WHEREAS, Council wishes to clarify the status of fire service paramedics as fire employees, for pension purposes only; now, therefore

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

SECTION 1. Title 22 of The Philadelphia Code is hereby amended to read 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 '10 includes (i) certain employees hired or rehired on or after January 1, 2010, subject to

election under Section 22-201(5); and (ii) certain electing employees; all as set forth in § 22-201(5) and § 22-206.

§ 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:

\* \* \*

(6) Average Final Compensation.

\* \* \*

(d) For a member of Plan '10, average final compensation shall be the average of the member's five (5) highest annual compensations, calculated for either five (5) calendar years or five (5) anniversary years, except that for police *and fire* members of Plan '10 it shall mean the five highest annual compensations during the period when contributions are required under § 22-902(2)(e). If the member has less than five (5) years of credited service, exclusive of any purchase of other governmental service, average final compensation is equal to the average annual compensation received during such period of credited service.

\* \* \*

(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:

\* \* \*

(.2) For members of Plan A, Plan B, or Plan L and for police *or fire* employee members of Plan '10, compensation shall include base pay, leave and longevity payments paid before a member's separation from service but shall exclude overtime, holiday overtime, compensatory time, shift differentials and any lump sum payment of benefits.

\* \* \*

(.5) Effective July 1, 2003, for members of Plan X or Plan A *and for fire employee members of Plan '10*, compensation shall include, in addition to payments provided above, premium pay, not to exceed a maximum of four percent (4%) of base salary, in accordance with the collective bargaining agreement between the City and the International Association of Fire Fighters.

\* \* \*

(17) Fire Division New. The Fire Division New includes all current and former [uniformed employees of the fire fighting forces of the Fire Department of the City] *Fire employees*, who are appointed on or after July 1, 1988.

(18) Fire Division Old. The Fire Division Old includes all current and former employees of the City who on the effective date of this Title are members, or who upon reemployment are entitled to be members, of Police-Fire Coverage Plan 50, established by an ordinance of City Council approved December 1, 1966 (Bill No. 2163), who are full-time [uniformed employees of the fire fighting forces of the Fire Department of the City] *Fire employees* except those who are members of the Municipal Division Old.

(19) Fire employee. Any uniformed member of the fire fighting forces of the Fire Department of the [City.] *City; any fire service paramedic.*

\* \* \*

(25) Minimum retirement age. The youngest age at which an employee may retire from City service and receive full service retirement benefits, or the age at which a separated member may receive full separation service retirement benefits. The minimum retirement age for the various plans of the Retirement System is as follows:

\* \* \*

(8) Plan '10: fifty (50) for police *or fire* employees.

\* \* \*

#### CHAPTER 22-200. MEMBERSHIP.

§ 22-201. Membership Upon Employment.

\* \* \*

(5) Employees first hired or assuming elected office on or after January 1, 2010. All employees who (i) are police employees *or fire employees*; and who (ii) are hired, rehired, or first assume elected office on or after January 1, 2010, *for police employees, or October 15, 2010, for fire employees*; are members of Plan '10 immediately upon employment by the City or upon taking office, unless, within thirty (30) days of employment [or taking office], the employee makes an irrevocable election to become a member of Plan *A or B*, [L or Y,] as applicable.

\* \* \*

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

§ 22-301. Service Retirement Benefits.

\* \* \*

(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:

\* \* \*

(h) For police *and fire* employee members of Plan '10, one and three quarters percent (1.75%) of average final compensation multiplied by the member's years of credited service for the first twenty (20) years of credited service.

(i) Notwithstanding the provisions of subsections (h) above, the sum of any benefits under Plan '10 plus any benefits to which a member is entitled pursuant to prior membership in another Plan under this Title shall not exceed the member's average final compensation. For purposes of this subsection (i) only, "average final compensation" shall be as defined with respect to the member's prior Plan, as set forth in § [22-105(a),] 22-105(6)(a), (b) or (c), as applicable.

\* \* \*

§ 22-306. Retirement and Survivorship Benefit Options.

(1) Election of options. Any member may at any time prior to retirement elect in writing one of the following options pursuant to which retirement benefits and survivorship benefits will be paid.

\* \* \*

Option 4 - With respect to a member of Plan D, Plan J, Plan A, Plan B or Plan X and police *and fire* members of Plan '10 only, the retired member will receive retirement benefits in the form of an annuity for life. If the retired member elected this option or dies without having elected any option, one-half of the amount of the member's retirement benefit, without reduction, shall be paid to the member's surviving spouse, provided that they were married at least two (2) years before retirement or the date on which a separated member became eligible to apply for retirement benefits.

\* \* \*

(4) Change of option. Until retirement, a member may revoke the election of any option under this Section, and may elect any other option, except that only members of Plan D, Plan J, Plan A, Plan B, or Plan X and police *and fire* members of Plan '10 may elect Option 4. On retirement, subject to the provisions of § 22-702 (Designation of Survivors), the last election of any of the foregoing options shall be irrevocable.

\* \* \*

CHAPTER 22-400. DISABILITY BENEFITS.

§ 22-401. Service-Connected Disability Retirement Benefits.

\* \* \*

(4) Benefit Amount. Upon retirement for service-connected disability, a member shall receive an annual retirement benefit equal to seventy percent (70%) of the member's final compensation, as it may be adjusted by § 22-401(5) and § 22-306, subject to the provisions of § 22-403 (Reexamination of Disabled Members). The member may also elect to receive either a lump-sum payment equal to the member contributions to the Retirement System or, in lieu thereof, any survivor benefit option available to the member's plan under § 22-306. The member's election shall be irrevocable. A member of Plan D, Plan J, Plan A, Plan B, or Plan X or a police *or fire* member of Plan '10 who fails to make the foregoing election prior to retirement will be deemed to have elected Option 4.

\* \* \*

§ 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,] *L* or Plan Y, or *as a police member of Plan ['10] '10*, has had ten (10) or more years of credited service, or who as a member of Plan A or Plan [X] *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 22-700. BENEFICIARIES AND SURVIVORS.

\* \* \*

§ 22-702. Designation of Survivors.

\* \* \*

(2) Death of designated survivor. If all designated survivors of a member predecease the retired member, the member may, within one (1) year of the death of the last of such survivors, designate new survivors. In the event such redesignation is made, and if the retired member has chosen retirement benefit Option 2 or Option 3 under § 22-306, an appropriate actuarial adjustment shall be made in the benefits of the retired member. A retired member of Plan D, Plan J, Plan A, Plan B, or Plan X or a police *or fire* member of Plan '10 who had elected Option 4 or who had failed to make an election may not designate a new survivor. If

such member rejects the option to redesignate survivors, or if one (1) year elapses without the member having exercised such option, an adjustment shall be made to the retired member's benefits to reflect the absence of a survivor. Effective the first day of the month following such retiree's written rejection of the option to redesignate, or the first day of the month following the expiration of the time period to redesignate, whichever date first occurs, such retired member's benefit will be redetermined as a benefit calculated as though the member had selected no survivorship benefit option. The option provided for in this subsection is subject to the following additional conditions:

\* \* \*

CHAPTER 22-900. CONTRIBUTIONS.

\* \* \*

§ 22-902. Member Contributions.

\* \* \*

(2) Basic Contribution Rate. Member contributions shall be made at the following basic contribution rates:

\* \* \*

(e) Members of Plan '10 who are police *or fire* employees, five and a half percent (5.5%) of compensation; provided that no contributions shall be required of any employee with more than twenty (20) years of credited service.

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

\* \* \*

(.3) For members in Plan A and Plan B, the required employee contribution shall be such percent of payroll as set forth in subsection (A) below, provided that this percentage is at least equal to thirty percent (30%) of the normal cost for members in Plan A and Plan B. If the percentage of payroll set forth in subsection (A) below does not equal thirty percent (30%) of the normal cost, the contribution percentage will be adjusted to equal the thirty percent (30%) of the normal cost. For members of Plan B hired before January 1, 2010, and for members of Plan A *hired before October 15, 2010*, if the percentage of payroll set forth in subsection (A) exceeds fifty percent (50%) of the normal cost, the contribution percentage will be adjusted so as not to exceed fifty percent (50%) of such normal cost.

(A) For members of Plan B hired before January 1, 2010, and for members of Plan A *hired before October 15, 2010*, five percent (5%). For members of Plan B hired on or after January 1, 2010, *and for members of Plan A hired on or after October 15, 2010*, six percent (6%).

\* \* \*

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.

\* \* \*

(9) Normal Retirement Age. Attainment of age 50 for police *and fire* employees; attainment of age 60 for all other employees.

\* \* \*

§ 22-1403. Membership in DC Plan.

\* \* \*

(2) Electing members of the Retirement System. If a police *or fire* employee is a member of any other plan within the Retirement System, such member may elect to participate in the DC Plan. In such case, any credited service rendered by the member, or compensation paid to the member, after the member is enrolled in the DC Plan shall apply solely to the calculation of the member's benefit under the DC Plan and Plan '10 and shall not be considered for purposes of determining the accrued benefit under the member's original plan. Credited service accrued by the member under the original plan shall not be considered for purposes of calculating the member's benefit under DC Plan and Plan '10. The above notwithstanding, in determining the member's credited service for vesting purposes under Section 22-1406, all credited service with the City shall be considered. An election to become a member of the DC Plan must be made within ninety (90) calendar days of the effective date of this Chapter *or, with respect to fire employees, within ninety (90) calendar days of the effective date of the ordinance adding fire employees to this subsection.* Prior to enrollment in the DC Plan, the Board shall provide to the member an estimated calculation of the member's projected total pension and retirement benefits determined as of the member's minimum retirement age. Enrollment in the DC Plan is irrevocable.

\* \* \*

SECTION 2. Effective Date. This Ordinance shall be effective immediately, and shall apply retroactively to October 15, 2010.

**Explanation:**

[Brackets] indicate matter deleted.  
Italics indicate new matter added.

