

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 13-0247

Introduced by: The Council President
At the request of: The Administration (Department of Finance)
Introduced and read first time: July 15, 2013
Assigned to: Taxation, Finance and Economic Development Committee

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: April 28, 2014

AN ORDINANCE CONCERNING

1 **Change to Grow: 10-Year Plan – Retirement Savings Plan – ERS Class D Membership**

2 FOR the purpose of establishing a new Class D membership in the Employees’ Retirement
3 System to provide separate eligibility, contributions, and benefits provisions for employees
4 initially employed or reemployed with the City on or after a certain date; establishing a new
5 tax-qualified defined contribution plan (the “Retirement Savings Plan of the City of
6 Baltimore”) for the benefit of certain employees initially employed or reemployed by the
7 City of Baltimore on or after a certain date; providing for the administration of the Plan;
8 requiring Plan members and the City to make certain contributions to the Plan each payroll
9 period; permitting Plan members to select from among various investment options; imposing
10 certain vesting rules for City contributions; providing that a member’s account balance will
11 be distributed upon certain events; permitting certain employees to elect either (i) non-hybrid
12 membership in the Retirement Savings Plan or (ii) both Class D membership in the
13 Employees’ Retirement System and hybrid membership in the Retirement Savings Plan;
14 defining certain terms; clarifying certain rules governing contemporaneous benefits from two
15 or more retirement systems; correcting, clarifying, and conforming related provisions;
16 providing for a special effective date; and generally relating to the Retirement Savings Plan
17 of the City of Baltimore and Class D membership in the Employees’ Retirement System.

18 BY adding
19 New Article 22A - Retirement Savings Plan
20 Baltimore City Code
21 (Edition 2000)

22 BY repealing and reordaining, with amendments
23 Article 22 - Retirement Systems
24 Sections ~~2~~, 1(2), 1(9)(i)(B), 1(13a)(ii), 5(b)(5)(ii)1, and 8(d), 33(b)(9)(ii)1,
25 46, 47(b)-(d), and 48
26 Baltimore City Code
27 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 13-0247

1 BY adding
2 Article 22 - Retirement Systems
3 Sections 3(g)(4), 4(b)(4), 9.1, 9.2, 17.3, and 47(j) and (k)
4 Baltimore City Code
5 (Edition 2000)

6 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
7 Laws of Baltimore City read as follows:

8 **Baltimore City Code**

9 **ARTICLE 22A. RETIREMENT SAVINGS PLAN**

10 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS**

11 **§ 1-1. DEFINITIONS.**

12 (A) *IN GENERAL.*

13 IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

14 (B) *ACCOUNT.*

15 “ACCOUNT” MEANS THE SEPARATE BOOKKEEPING ACCOUNT ESTABLISHED AND
16 MAINTAINED ON BEHALF OF EACH MEMBER UNDER § 6-1 {“ACCOUNTS: ESTABLISHMENT”}
17 OF THIS ARTICLE.

18 (C) *BENEFICIARY.*

19 “BENEFICIARY” MEANS ANY PERSON ENTITLED UNDER § 9-4 {“DISTRIBUTABLE EVENTS –
20 DEATH”} OF THIS ARTICLE TO RECEIVE THE VALUE OF A MEMBER’S ACCOUNT ON THE
21 DEATH OF THAT MEMBER.

22 (D) *BOARD OF TRUSTEES; BOARD.*

23 “BOARD OF TRUSTEES” OR “BOARD” MEANS THE BOARD OF TRUSTEES ESTABLISHED BY
24 THIS ARTICLE.

25 (E) *CITY OF BALTIMORE; CITY.*

26 “CITY OF BALTIMORE” OR “CITY” MEANS THE MAYOR AND CITY COUNCIL OF
27 BALTIMORE.

28 (F) *DEFERRED COMPENSATION PLAN.*

29 “DEFERRED COMPENSATION PLAN” MEANS THE CITY OF BALTIMORE DEFERRED
30 COMPENSATION PLAN.

Council Bill 13-0247

1 (G) *EARNABLE COMPENSATION.*

2 (1) *IN GENERAL.*

3 “EARNABLE COMPENSATION” MEANS THE ANNUAL SALARY AUTHORIZED FOR A
4 MEMBER.

5 (2) *EXCLUSIONS.*

6 “EARNABLE COMPENSATION” DOES NOT INCLUDE OVERTIME PAY, DIFFERENTIAL PAY,
7 ENVIRONMENTAL PAY, HAZARDOUS DUTY PAY, PAY FOR CONVERSION OF LEAVE OR
8 OTHER FRINGE BENEFITS, OR ANY LIKE ADDITIONAL PAYMENTS.

9 (H) *EMPLOYEE.*

10 (1) *IN GENERAL.*

11 “EMPLOYEE” MEANS ANY OF THE FOLLOWING, IF IN A JOB CLASSIFICATION THAT
12 REQUIRES AT LEAST 500 HOURS PER YEAR:

13 (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY
14 PERMANENT OFFICER OR EMPLOYEE OF THE MAYOR AND CITY COUNCIL OF
15 BALTIMORE, INCLUDING ANY OFFICER OR EMPLOYEE OF AN AGENCY,
16 DEPARTMENT, UNIT, SUBDIVISION, OR INSTRUMENTALITY OF THE MAYOR AND
17 CITY COUNCIL; AND

18 (II) ANY EMPLOYEE OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM WHO IS NOT
19 ELIGIBLE TO PARTICIPATE IN THE MARYLAND STATE RETIREMENT AND
20 PENSION SYSTEM.

21 (2) *EXCLUSIONS.*

22 “EMPLOYEE” DOES NOT INCLUDE:

23 (I) ANY “ELECTED OFFICIAL”, AS DEFINED IN CITY CODE ARTICLE 22, § 17A(2),
24 FOR PURPOSES OF MEMBERSHIP IN THE ELECTED OFFICIALS’ RETIREMENT
25 SYSTEM OF THE CITY OF BALTIMORE; OR

26 (II) ANY “EMPLOYEE”, AS DEFINED IN CITY CODE ARTICLE 22, § 30(2), FOR
27 PURPOSES OF MEMBERSHIP IN THE FIRE AND POLICE EMPLOYEES’ RETIREMENT
28 SYSTEM OF THE CITY OF BALTIMORE.

29 (3) *IN CASE OF DOUBT.*

30 (I) IN ALL CASES OF DOUBT, THE BOARD OF TRUSTEES DETERMINES WHO IS AN
31 “EMPLOYEE” UNDER THIS ARTICLE.

32 (II) A DETERMINATION BY THE BOARD UNDER THIS PARAGRAPH IS FINAL AND BINDING
33 ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17
34 {“ADMINISTRATIVE APPEAL”} AND § 2-18 {“JUDICIAL AND APPELLATE REVIEW”}
35 OF THIS ARTICLE.

Council Bill 13-0247

1 (I) HYBRID MEMBER.

2 “HYBRID MEMBER” MEANS AN EMPLOYEE WHO, UNDER CITY CODE ARTICLE 22, § 9.1,
3 HAS ELECTED TO BECOME BOTH A MEMBER OF THE RETIREMENT SAVINGS PLAN AND A
4 CLASS D MEMBER OF THE EMPLOYEES’ RETIREMENT SYSTEM.

5 (J) ~~(J)~~ INCLUDES; INCLUDING.

6 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
7 LIMITATION.

8 (K) ~~(K)~~ IRC.

9 “IRC” MEANS THE INTERNAL REVENUE CODE, AS AMENDED FROM TIME TO TIME.

10 (L) ~~(L)~~ MEMBER.

11 (1) IN GENERAL.

12 “MEMBER” MEANS AN EMPLOYEE WHO IS A MEMBER OF THE RETIREMENT SAVINGS
13 PLAN.

14 (2) INCLUSIONS.

15 “MEMBER” INCLUDES, EXCEPT AS OTHERWISE SPECIFICALLY LIMITED, ANY HYBRID
16 MEMBER OR NON-HYBRID MEMBER OF THE PLAN.

17 (M) ~~(M)~~ MILITARY SERVICE.

18 “MILITARY SERVICE” MEANS “SERVICE IN THE UNIFORMED SERVICES”, AS THAT PHRASE IS
19 DEFINED IN 38 U.S.C. § 4303(13) OR ANY SUCCESSOR LAW.

20 (N) NON-HYBRID MEMBER.

21 “NON-HYBRID MEMBER” MEANS AN EMPLOYEE WHO, UNDER CITY CODE ARTICLE 22,
22 § 9.1, HAS ELECTED TO BECOME A MEMBER OF THE RETIREMENT SAVINGS PLAN, BUT NOT
23 A CLASS D MEMBER OF THE EMPLOYEES’ RETIREMENT SYSTEM.

24 (O) ~~(O)~~ NORMAL RETIREMENT AGE.

25 “NORMAL RETIREMENT AGE” MEANS AGE 65.

26 (P) OTHER CITY RETIREMENT PLAN.

27 “OTHER CITY RETIREMENT PLAN” MEANS:

28 (1) THE EMPLOYEES’ RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

29 (2) THE FIRE AND POLICE EMPLOYEES’ RETIREMENT SYSTEM OF THE CITY OF
30 BALTIMORE; OR

Council Bill 13-0247

1 (3) THE ELECTED OFFICIALS' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE.

2 (Q) (~~N~~) PARTICIPATING EMPLOYER; EMPLOYER.

3 “PARTICIPATING EMPLOYER” OR “EMPLOYER” MEANS:

4 (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE; AND

5 (2) THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM.

6 (R) (~~O~~) PLAN YEAR.

7 “PLAN YEAR” MEANS THE 12-MONTH PERIOD BEGINNING ON JULY 1 OF EACH YEAR AND
8 ENDING ON JUNE 30 OF THE FOLLOWING YEAR, BOTH DATES INCLUSIVE.

9 (S) (~~P~~) RETIREMENT SAVINGS PLAN; PLAN.

10 “RETIREMENT SAVINGS PLAN” OR “PLAN” MEANS THE RETIREMENT SAVINGS PLAN OF
11 THE CITY OF BALTIMORE ESTABLISHED BY THIS ARTICLE.

12 (T) (~~S~~) SERVICE.

13 “SERVICE”, AS APPLIED TO AN EMPLOYEE’S SERVICE WITH A PARTICIPATING EMPLOYER,
14 HAS THE MEANING STATED IN § 4-1 {“ ‘SERVICE’ DEFINED”} OF THIS ARTICLE.

15 (U) (~~R~~) TRUSTEE.

16 “TRUSTEE” MEANS A MEMBER OF THE BOARD OF TRUSTEES.

17 (V) (~~S~~) USERRA.

18 “USERRA” MEANS THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT
19 RIGHTS ACT OF 1994, AS AMENDED, 38 U.S.C. § 4301 *ET SEQ.*

20 (W) (~~F~~) VALUE.

21 “VALUE”, AS APPLIED TO A MEMBER’S ACCOUNT OR SUB-ACCOUNT, MEANS THE TOTAL
22 VALUE OF THAT ACCOUNT OR SUB-ACCOUNT, AS DETERMINED UNDER § 6-3(B) {“VALUE
23 OF FUNDS AND ACCOUNTS”} OF THIS ARTICLE.

24 (X) (~~T~~) VESTED ACCOUNT.

25 “VESTED ACCOUNT” MEANS THE AGGREGATE OF THE FOLLOWING VESTED SUB-ACCOUNTS:

26 (1) A NON-HYBRID MEMBER’S MANDATORY EMPLOYEE CONTRIBUTION SUB-
27 ACCOUNT;

28 (2) A MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT, IF VESTED UNDER § 7-2
29 {“VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT”} OF THIS ARTICLE; AND

30 (3) IF APPLICABLE, A MEMBER’S ROLLOVER CONTRIBUTION SUB-ACCOUNT.

Council Bill 13-0247

1 **§ 1-2. RULES OF CONSTRUCTION.**

2 (A) *IN GENERAL.*

3 IN INTERPRETING AND APPLYING THIS ARTICLE, THE FOLLOWING RULES OF CONSTRUCTION
4 APPLY.

5 (B) *CAPTIONS OR HEADINGS.*

6 THE CAPTIONS OR HEADINGS OF THE VARIOUS SECTIONS AND SUBSECTIONS:

7 (1) ARE FOR CONVENIENCE OF REFERENCE ONLY, INTENDED TO SUMMARIZE THE
8 STATUTORY PROVISIONS THAT FOLLOW; AND

9 (2) ARE NOT LAW AND ARE NOT TO BE TAKEN AS AFFECTING THE MEANING OR EFFECT
10 OF THE LAW.

11 (C) *GENDER.*

12 WORDS DENOTING ONE GENDER INCLUDE AND APPLY TO THE OTHER GENDERS AS WELL.

13 (D) *MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.*

14 (1) *MANDATORY TERMS.*

15 “MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A
16 REQUIREMENT OR TO IMPOSE A DUTY.

17 (2) *PROHIBITORY TERMS.*

18 “MUST NOT”, “MAY NOT”, AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE TERMS
19 USED TO ESTABLISH A PROHIBITION.

20 (3) *PERMISSIVE TERMS.*

21 “MAY” IS PERMISSIVE.

22 (E) *NUMBER.*

23 THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA.

24 (F) *REFERENCES TO OTHER LAWS.*

25 WHENEVER A PROVISION OF THIS ARTICLE REFERS TO ANY PART OF THE CITY CODE OR TO
26 ANY OTHER LAW, THE REFERENCE APPLIES TO ANY SUBSEQUENT AMENDMENT OF THE LAW
27 REFERRED TO, UNLESS THE REFERRING PROVISION EXPRESSLY PROVIDES OTHERWISE.

28 (G) *SEVERABILITY.*

29 ALL PROVISIONS OF THIS ARTICLE ARE SEVERABLE. IF A COURT DETERMINES THAT A
30 WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER

Council Bill 13-0247

1 PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY
2 PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE
3 APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT
4 AFFECTED BY THAT DECISION.

5 (H) *TIME COMPUTATIONS.*

6 (1) *COMPUTATION OF TIME AFTER AN ACT, EVENT, OR DEFAULT.*

7 (I) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS ARTICLE, OR BY A RULE
8 OR REGULATION ADOPTED UNDER THIS ARTICLE, THE DAY OF THE ACT, EVENT, OR
9 DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME BEGINS TO RUN IS NOT
10 INCLUDED.

11 (II) IF THE PERIOD OF TIME ALLOWED IS MORE THAN 7 DAYS, INTERMEDIATE
12 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE COUNTED.

13 (III) IF THE PERIOD OF TIME ALLOWED IS 7 DAYS OR LESS, INTERMEDIATE SATURDAYS,
14 SUNDAYS, AND LEGAL HOLIDAYS ARE NOT COUNTED.

15 (IV) THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A
16 SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE PERIOD RUNS
17 UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL
18 HOLIDAY.

19 (2) *COMPUTATION OF TIME BEFORE A DAY, ACT, OR EVENT.*

20 (I) IN DETERMINING THE LATEST DAY FOR PERFORMING AN ACT THAT THIS ARTICLE,
21 OR A RULE OR REGULATION ADOPTED UNDER THIS ARTICLE, REQUIRES TO BE
22 PERFORMED A PRESCRIBED NUMBER OF DAYS BEFORE A CERTAIN DAY, ACT, OR
23 EVENT, ALL DAYS PRECEDING THAT DAY, INCLUDING INTERVENING SATURDAYS,
24 SUNDAYS, AND LEGAL HOLIDAYS, ARE COUNTED IN THE NUMBER OF DAYS SO
25 PRESCRIBED.

26 (II) THE LATEST DAY IS INCLUDED IN THE DETERMINATION UNLESS IT IS A SATURDAY,
27 SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE LATEST DAY IS THE FIRST
28 PRECEDING DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

29 **§ 1-3. {RESERVED}**

30 **§ 1-4. PLAN ESTABLISHED.**

31 THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE IS ESTABLISHED, EFFECTIVE AS
32 OF ~~JANUARY~~ JULY 1, 2014, FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS FOR
33 ELIGIBLE EMPLOYEES.

34 **§ 1-5. QUALIFICATION UNDER INTERNAL REVENUE CODE.**

35 (A) *IN GENERAL.*

36 THE RETIREMENT SAVINGS PLAN IS INTENDED TO BE:

Council Bill 13-0247

1 (1) QUALIFIED UNDER IRC § 401(A); AND

2 (2) A “GOVERNMENTAL PLAN” UNDER IRC § 414(D).

3 (B) *CONSTRUCTION OF ARTICLE.*

4 ACCORDINGLY, ANY PROVISION OF THIS ARTICLE THAT IS SUBJECT TO MORE THAN ONE
5 CONSTRUCTION OR INTERPRETATION MUST BE RESOLVED IN FAVOR OF THE CONSTRUCTION
6 OR INTERPRETATION THAT IS CONSISTENT WITH THE REQUIREMENTS OF IRC § 401(A) AND
7 § 414(D).

8 **§ 1-6. LIMITATIONS ON LIABILITY.**

9 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

10 (1) NO MEMBER IS, BY VIRTUE OF MEMBERSHIP IN THE RETIREMENT SAVINGS PLAN,
11 CONSIDERED TO HAVE ENTERED INTO A CONTRACT AT ANY TIME WITH THE MAYOR
12 AND CITY COUNCIL OF BALTIMORE;

13 (2) THE MAYOR AND CITY COUNCIL OF BALTIMORE DOES NOT GUARANTEE THE PAYMENT
14 OF ANY BENEFIT UNDER THE PLAN; AND

15 (3) ANY PERSON CLAIMING A BENEFIT UNDER THE PLAN MUST LOOK SOLELY TO PLAN
16 ASSETS.

17 **§ 1-7. EXCLUSIVE BENEFIT.**

18 (A) *IN GENERAL.*

19 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, OTHER THAN SUBSECTION
20 (B) OF THIS SECTION, NO PART OF THE ASSETS OF THE RETIREMENT SAVINGS PLAN MAY BE
21 USED FOR OR DIVERTED TO ANY PURPOSES OTHER THAN FOR THE EXCLUSIVE BENEFIT OF
22 MEMBERS AND BENEFICIARIES.

23 (B) *EXCEPTION FOR MISTAKE OF FACT.*

24 (1) AN EMPLOYER CONTRIBUTION MADE BY MISTAKE OF FACT MAY BE RETURNED TO THE
25 APPROPRIATE PARTICIPATING EMPLOYER WITHIN, BUT NOT LATER THAN, 1 YEAR AFTER
26 PAYMENT OF THE MISTAKEN CONTRIBUTION.

27 (2) THE AMOUNT RETURNED:

28 (I) MUST BE REDUCED BY ITS PROPORTIONATE SHARE OF LOSSES AND EXPENSES;
29 AND

30 (II) MAY NOT BE INCREASED BY ANY GAINS.

Council Bill 13-0247

SUBTITLE 2. ADMINISTRATION

§ 2-1. BOARD ESTABLISHED.

THERE IS A BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN.

§ 2-2. BOARD COMPOSITION.

(A) *IN GENERAL.*

(1) THE BOARD CONSISTS OF 12 TRUSTEES.

(2) OF THESE:

(I) 9 TRUSTEES SERVE WITH VOTING PRIVILEGES (“VOTING TRUSTEES”); AND

(II) 3 TRUSTEES SERVE IN AN ADVISORY CAPACITY ONLY, WITHOUT VOTING PRIVILEGES (“NON-VOTING TRUSTEES”).

(B) *VOTING TRUSTEES.*

(1) *IN GENERAL.*

THE 9 VOTING TRUSTEES ARE:

(I) THE DIRECTOR OF FINANCE OR THE DIRECTOR’S DESIGNATED REPRESENTATIVE, WHO MUST BE EITHER THE DEPUTY DIRECTOR OF FINANCE OR THE BUDGET DIRECTOR;

(II) THE CITY COMPTROLLER;

(III) THE DIRECTOR OF HUMAN RESOURCES;

(IV) THE CITY LABOR COMMISSIONER;

(V) THE EXECUTIVE DIRECTOR OF THE EMPLOYEES’ RETIREMENT SYSTEM OF THE CITY OF BALTIMORE; AND

(VI) 4 RESIDENTS AND REGISTERED VOTERS OF THE CITY OF BALTIMORE, TO BE APPOINTED BY THE MAYOR IN ACCORDANCE WITH CITY CHARTER ARTICLE IV, § 6.

(2) *APPOINTED TRUSTEES – QUALIFICATIONS.*

(I) THE 4 VOTING TRUSTEES APPOINTED UNDER PARAGRAPH (1)(VI) OF THIS SUBSECTION MUST EACH HAVE AT LEAST 10 YEARS OF RELEVANT INSTITUTIONAL INVESTMENT MANAGEMENT EXPERTISE.

(II) NONE OF THESE APPOINTED TRUSTEES MAY BE AN OFFICIAL OR EMPLOYEE OF THE CITY AT THE TIME OF HIS OR HER APPOINTMENT OR DURING THE ENTIRE TERM OF OFFICE.

Council Bill 13-0247

1 (3) *APPOINTED TRUSTEES – TERM OF OFFICE.*

2 (I) EACH OF THE 4 TRUSTEES APPOINTED UNDER PARAGRAPH (1)(VI) OF THIS
3 SUBSECTION SERVES FOR A TERM OF 4 YEARS, CONCURRENT WITH THE TERM OF
4 THE MAYOR.

5 (II) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A
6 SUCCESSOR IS APPOINTED AND QUALIFIES.

7 (III) A TRUSTEE APPOINTED TO FILL A VACANCY IN AN UNEXPIRED TERM SERVES ONLY
8 FOR THE REMAINDER OF THAT TERM.

9 (C) *NON-VOTING TRUSTEES.*

10 THE 3 NON-VOTING TRUSTEES ARE:

11 (1) THE PRESIDENT OF AFSCME LOCAL 44;

12 (2) THE PRESIDENT OF THE CITY UNION OF BALTIMORE (“CUB”); AND

13 (3) THE PRESIDENT OF THE MANAGERIAL AND PROFESSIONAL SOCIETY OF
14 BALTIMORE, INC. (“MAPS”).

15 (D) *SERVICE WITHOUT REGARD TO POLITICAL AFFILIATION.*

16 NOTWITHSTANDING CITY CHARTER ARTICLE IV, § 8, TRUSTEES MAY BE APPOINTED OR
17 HOLD THEIR POSITIONS WITHOUT REGARD TO POLITICAL AFFILIATION.

18 **§ 2-3. BOARD FUNCTIONS.**

19 (A) *IN GENERAL.*

20 THE BOARD OF TRUSTEES SERVES BOTH:

21 (1) IN AN ADMINISTRATIVE CAPACITY, AS DESCRIBED IN SUBSECTION (B) OF THIS
22 SECTION; AND

23 (2) AS TRUSTEE OF PLAN ASSETS, AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

24 (B) *ADMINISTRATIVE CAPACITY.*

25 SUBJECT TO § 2-8 {“RETENTION OF SERVICES; RIGHT OF RELIANCE”} OF THIS SUBTITLE,
26 THE BOARD IS RESPONSIBLE FOR:

27 (1) THE GENERAL ADMINISTRATION AND PROPER OPERATION OF THE PLAN; AND

28 (2) EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

29 (C) *TRUSTEE OF PLAN ASSETS.*

30 (1) THE BOARD IS THE TRUSTEE OF THE PLAN ASSETS.

Council Bill 13-0247

1 (2) SUBJECT TO § 2-8 {“RETENTION OF SERVICES; RIGHT OF RELIANCE”} OF THIS
2 SUBTITLE, THE BOARD IS RESPONSIBLE FOR:

3 (I) DETERMINING THE MANNER OF INVESTING EMPLOYER CONTRIBUTION SUB-
4 ACCOUNTS THAT HAVE NOT VESTED UNDER § 7-2 {“VESTING: EMPLOYER
5 CONTRIBUTION SUB-ACCOUNT”} OF THIS ARTICLE;

6 (II) SELECTING INVESTMENT FUNDS (INCLUDING A DEFAULT INVESTMENT FUND)
7 UNDER § 6-2 {“ACCOUNTS: INVESTMENTS”} OF THIS ARTICLE;

8 (III) MONITORING THESE INVESTMENT FUNDS ON AN ONGOING BASIS; AND

9 (IV) ADDING OR REPLACING THESE INVESTMENT FUNDS AS THE BOARD CONSIDERS
10 PRUDENT.

11 **§ 2-4. {RESERVED}**

12 **§ 2-5. OATH OF OFFICE.**

13 EACH TRUSTEE MUST TAKE AN OATH OF OFFICE AS REQUIRED BY CITY CHARTER ARTICLE IV,
14 § 6(I), OR OTHER APPLICABLE LAW.

15 **§ 2-6. OFFICERS.**

16 (A) *CHAIR.*

17 THE DIRECTOR OF FINANCE (OR THE DIRECTOR’S DESIGNATED REPRESENTATIVE) SERVES
18 AS CHAIR OF THE BOARD.

19 (B) *VICE-CHAIR.*

20 THE VOTING TRUSTEES MAY ELECT A VOTING TRUSTEE TO SERVE AS VICE-CHAIR OF THE
21 BOARD.

22 (C) *SECRETARY.*

23 (1) IF AN EXECUTIVE DIRECTOR HAS BEEN APPOINTED BY THE BOARD UNDER § 2-8(A)
24 {“SERVICES”} OF THIS SUBTITLE, THE EXECUTIVE DIRECTOR SERVES AS THE BOARD’S
25 SECRETARY.

26 (2) IF NO EXECUTIVE DIRECTOR HAS BEEN APPOINTED, THE VOTING TRUSTEES MAY ELECT
27 A VOTING TRUSTEE TO SERVE AS THE BOARD’S SECRETARY.

28 **§ 2-7. MEETINGS; VOTING; RECORDS.**

29 (A) *MEETINGS.*

30 (1) THE BOARD OF TRUSTEES MUST MEET ONCE DURING EACH CALENDAR QUARTER,
31 UNLESS THE CHAIR DETERMINES THAT ADDITIONAL MEETINGS ARE REQUIRED.

Council Bill 13-0247

1 (2) ALL MEETINGS OF THE BOARD MUST BE CONDUCTED IN ACCORDANCE WITH THE
2 STATE OPEN MEETINGS ACT (STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 5).

3 (B) *VOTING.*

4 (1) EACH VOTING TRUSTEE IS ENTITLED TO 1 VOTE ON THE BOARD.

5 (2) 5 VOTING TRUSTEES CONSTITUTE A QUORUM.

6 (3) AN AFFIRMATIVE VOTE BY THE MAJORITY OF A QUORUM IS NEEDED FOR ANY ACTION
7 BY THE BOARD OF TRUSTEES.

8 (C) *RECORDS.*

9 (1) THE BOARD MUST KEEP A RECORD OF ALL OF ITS PROCEEDINGS.

10 (2) THESE RECORDS ARE OPEN TO PUBLIC INSPECTION IN ACCORDANCE WITH THE STATE
11 PUBLIC INFORMATION ACT (STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 6,
12 PART III).

13 **§ 2-8. RETENTION OF SERVICES; RIGHT OF RELIANCE.**

14 (A) *SERVICES.*

15 (1) FROM TIME TO TIME, AS THE BOARD OF TRUSTEES DETERMINES NECESSARY FOR THE
16 EFFICIENT ADMINISTRATION OF THE RETIREMENT SAVINGS PLAN, THE BOARD MAY:

17 (I) RETAIN THE SERVICES OF A THIRD-PARTY ADMINISTRATOR TO PROVIDE
18 ADMINISTRATIVE AND RECORDKEEPING SERVICES FOR THE PLAN;

19 (II) RETAIN THE SERVICES OF 1 OR MORE INVESTMENT ADVISORS TO PROVIDE
20 INVESTMENT ASSISTANCE AND ADVICE;

21 (III) RETAIN THE SERVICES OR SECURE THE ADVICE OF ANY OTHER PERSON OR
22 ENTITY; AND

23 (IV) APPOINT AN EXECUTIVE DIRECTOR FOR THE PLAN AND DELEGATE TO THE
24 EXECUTIVE DIRECTOR AND THE EXECUTIVE DIRECTOR'S STAFF ANY OF THE
25 BOARD'S DUTIES OR RESPONSIBILITIES UNDER THIS SUBTITLE.

26 (2) THE RETENTION OF THESE SERVICES IS SUBJECT TO THE APPROVAL OF THE BOARD OF
27 ESTIMATES IF THE FEES FOR THE SERVICES EXCEED THE DOLLAR THRESHOLD THAT
28 GENERALLY REQUIRES BOARD OF ESTIMATES APPROVAL.

29 (B) *RELIANCE.*

30 (1) THE BOARD OF TRUSTEES IS ENTITLED TO RELY CONCLUSIVELY ON, AND IS FULLY
31 PROTECTED IN ANY ACTION OR OMISSION TAKEN BY IT IN GOOD FAITH RELIANCE ON,
32 THE ADVICE OF ANY PERSON OR ENTITY.

Council Bill 13-0247

1 (2) THE BOARD IS NOT LIABLE FOR ANY ACT OR OMISSION OF ANY PERSON TO WHOM THE
2 BOARD HAS DELEGATED ANY OF ITS DUTIES OR RESPONSIBILITIES.

3 **§ 2-9. RULES AND REGULATIONS.**

4 SUBJECT TO ANY LIMITATIONS IMPOSED BY THIS ARTICLE, THE BOARD OF TRUSTEES MAY
5 ADOPT RULES AND REGULATIONS FOR THE EFFICIENT ADMINISTRATION OF THE RETIREMENT
6 SAVINGS PLAN.

7 **§ 2-10. COMPENSATION; EXPENSES.**

8 (A) *IN GENERAL.*

9 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH TRUSTEE SERVES
10 WITHOUT COMPENSATION.

11 (B) *STIPEND FOR APPOINTED TRUSTEES.*

12 (1) EACH TRUSTEE APPOINTED UNDER § 2-2(B)(1)(VI) OF THIS SUBTITLE IS ENTITLED TO A
13 STIPEND, IN AN AMOUNT DETERMINED BY THE BOARD OF ESTIMATES, FOR ATTENDING
14 MEETINGS OF THE BOARD OF TRUSTEES.

15 (2) THE BOARD OF TRUSTEES MAY ESTABLISH MEETING-ATTENDANCE STANDARDS THAT
16 APPOINTED TRUSTEES MUST SATISFY TO BE ELIGIBLE FOR THE STIPEND.

17 (C) *EXPENSES*

18 ALL VOTING AND NON-VOTING TRUSTEES ARE ENTITLED TO REIMBURSEMENT OF
19 REASONABLE AND NECESSARY EXPENSES INCURRED THROUGH THEIR SERVICE ON THE
20 BOARD.

21 **§ 2-11. LEGAL ADVISOR.**

22 THE CITY SOLICITOR IS THE LEGAL ADVISOR TO THE BOARD.

23 **§ 2-12. FIDUCIARY STANDARDS; INDEMNIFICATION; INSURANCE.**

24 (A) *“ACTING AS A FIDUCIARY ...” DEFINED.*

25 FOR PURPOSES OF THIS SECTION, A PERSON IS “ACTING AS A FIDUCIARY WITH RESPECT TO
26 THE PLAN” TO THE EXTENT THAT THE PERSON:

27 (1) EXERCISES ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL
28 RESPECTING MANAGEMENT OF THE RETIREMENT SAVINGS PLAN;

29 (2) EXERCISES ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL
30 RESPECTING MANAGEMENT OR DISPOSITION OF PLAN ASSETS; OR

31 (3) HAS ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY RESPONSIBILITY IN
32 ADMINISTERING THE PLAN.

Council Bill 13-0247

1 (B) *FIDUCIARY STANDARDS.*

2 THE TRUSTEES AND EVERY OTHER PERSON “ACTING AS A FIDUCIARY WITH RESPECT TO
3 THE PLAN” MUST DISCHARGE THEIR DUTIES WITH RESPECT TO THE PLAN:

4 (1) SOLELY IN THE INTEREST OF MEMBERS AND BENEFICIARIES AND FOR THE
5 EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO MEMBERS AND BENEFICIARIES
6 AND DEFRAYING REASONABLE EXPENSES OF ADMINISTERING THE PLAN;

7 (2) WITH THE CARE, SKILL, PRUDENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES
8 THEN PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND
9 FAMILIAR WITH THOSE MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE
10 OF A LIKE CHARACTER AND WITH LIKE AIMS; AND

11 (3) IN ACCORDANCE WITH THIS ARTICLE AND WITH THE DOCUMENTS AND
12 INSTRUMENTS GOVERNING THE PLAN.

13 (C) *INDEMNIFICATION.*

14 (1) TO THE EXTENT ALLOWABLE BY APPLICABLE LAW, THE CITY MAY INDEMNIFY EVERY
15 PERSON WHO IS MADE OR IS THREATENED TO BE MADE A PARTY TO ANY ACTION, SUIT,
16 OR PROCEEDING, INCLUDING ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING,
17 BY REASON OF “ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN”.

18 (2) THIS INDEMNIFICATION MAY COVER THOSE EXPENSES ACTUALLY AND REASONABLY
19 INCURRED IN CONNECTION WITH THE ACTION, SUIT, OR PROCEEDING, INCLUDING
20 ATTORNEY’S FEES, JUDGMENTS, FINES, AND AMOUNTS PAID IN SETTLEMENT.

21 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, INDEMNIFICATION
22 MAY NOT BE MADE WITH RESPECT TO:

23 (I) ANY ACTION, SUIT, OR PROCEEDING AS TO WHICH THE PERSON ACTED WITH
24 GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR

25 (II) AN INDEPENDENT CONTRACTOR PROVIDING SERVICES TO THE PLAN.

26 (D) *FIDUCIARY INSURANCE.*

27 THE CITY MAY PROVIDE INSURANCE OR SELF-INSURANCE TO COVER POTENTIAL LIABILITY
28 RESULTING FROM AN ACT OR FAILURE TO ACT ON THE PART OF ANY PERSON “ACTING AS A
29 FIDUCIARY WITH RESPECT TO THE PLAN”.

30 (E) *FAILURE TO INDEMNIFY OR ADEQUATELY INSURE.*

31 IF THE CITY FAILS TO INDEMNIFY OR PROVIDE ADEQUATE INSURANCE FOR ANY PERSON
32 “ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN”, THE CITY ASSUMES ALL LIABILITY
33 RESULTING FROM THAT PERSON’S ACT OR FAILURE TO ACT.

Council Bill 13-0247

§ 2-13. PLAN EXPENSES.

EXCEPT FOR INVESTMENT FUND FEES AND EXPENSES PAID UNDER § 6-2(E) {"INVESTMENTS: FUND FEES AND EXPENSES"} OF THIS ARTICLE, ALL EXPENSES INCURRED IN THE ADMINISTRATION OF THE RETIREMENT SAVINGS PLAN AND IN THE MANAGEMENT OF PLAN ASSETS MAY ONLY BE PAID AS FOLLOWS:

(1) FIRST, OUT OF FORFEITURES UNDER SUBTITLE 8 {"FORFEITURES"} OF THIS ARTICLE;
AND

(2) THEN, TO THE EXTENT EXPENSES REMAIN UNPAID, BY THE CITY.

§ 2-14. RECOVERY OF OVERPAYMENTS.

IF THE BOARD OF TRUSTEES DETERMINES THAT A MEMBER OR BENEFICIARY HAS RECEIVED FROM THE RETIREMENT SAVINGS PLAN A DISTRIBUTION THAT EXCEEDS THE AMOUNT TO WHICH THE MEMBER OR BENEFICIARY WAS ENTITLED, THE BOARD MUST TAKE ALL NECESSARY STEPS TO RECOVER THE OVERPAYMENT.

§§ 2-15 AND 2-16. {RESERVED}

§ 2-17. ADMINISTRATIVE APPEAL.

(A) *RIGHT OF APPEAL.*

ANY PERSON AGGRIEVED BY A DETERMINATION MADE OR ACTION TAKEN WITH RESPECT TO A PERSON'S ELIGIBILITY FOR MEMBERSHIP IN OR BENEFITS UNDER THE RETIREMENT SAVINGS PLAN MAY APPEAL THAT DETERMINATION OR ACTION TO THE BOARD OF TRUSTEES.

(B) *WHEN AND HOW TAKEN.*

A NOTICE OF APPEAL MUST BE FILED WITH THE BOARD WITHIN 1 YEAR OF THE DETERMINATION OR ACTION IN QUESTION.

(C) *HEARING.*

(1) ON RECEIPT OF A NOTICE OF APPEAL, THE BOARD MUST HOLD A HEARING ON THE APPEAL AS SOON AS ADMINISTRATIVELY PRACTICABLE.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR BY RULE OR REGULATION OF THE BOARD:

(I) THE HEARING MUST BE CONDUCTED IN AN ORDERLY BUT INFORMAL MANNER;
AND

(II) FORMAL RULES OF EVIDENCE AND TRIAL PROCEDURES DO NOT APPLY.

(D) *COUNSEL.*

(1) THE PERSON FILING THE APPEAL MAY BE REPRESENTED BY COUNSEL AT THE HEARING.

Council Bill 13-0247

1 (2) THE PLAN WILL BE REPRESENTED BY THE CITY SOLICITOR OR THE SOLICITOR'S
2 DESIGNEE.

3 (E) *WITNESSES.*

4 ALL WITNESSES TESTIFYING AT THE HEARING MUST DO SO UNDER OATH OR BY
5 AFFIRMATION, SUBJECT TO THE PENALTIES OF PERJURY.

6 (F) *DECISION.*

7 (1) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE HEARING, THE BOARD MUST
8 RENDER ITS DECISION AND NOTIFY THE PERSON FILING THE APPEAL OF THAT DECISION.

9 (2) IN ITS DECISION, THE BOARD MAY AFFIRM, MODIFY, OR REVERSE THE DETERMINATION
10 OR ACTION FROM WHICH THE APPEAL WAS TAKEN.

11 **§ 2-18. JUDICIAL AND APPELLATE REVIEW.**

12 (A) *JUDICIAL REVIEW.*

13 A PARTY AGGRIEVED BY A FINAL DECISION OF THE BOARD OF TRUSTEES UNDER § 2-17
14 {"ADMINISTRATIVE APPEAL"} OF THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF THAT
15 DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE
16 WITH THE MARYLAND RULES OF PROCEDURE.

17 (B) *APPELLATE REVIEW.*

18 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE
19 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
20 PROCEDURE.

21 **§ 2-19. {RESERVED}**

22 **§ 2-20. CONFLICTS OF INTEREST.**

23 (A) *APPLICATION OF CITY ETHICS CODE.*

24 (1) THE BOARD OF TRUSTEES IS AN "AGENCY" AND "BOARD" WITHIN THE MEANING OF
25 AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY
26 PUBLIC ETHICS LAW (CITY CODE ARTICLE 8).

27 (2) EACH TRUSTEE IS A "PUBLIC SERVANT" AND AN "OFFICIAL" WITHIN THE MEANING OF
28 AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY
29 PUBLIC ETHICS LAW.

30 (3) EACH EMPLOYEE OF THE BOARD IS A "PUBLIC SERVANT" AND AN "EMPLOYEE" WITHIN
31 THE MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE
32 BALTIMORE CITY PUBLIC ETHICS LAW.

Council Bill 13-0247

1 (B) *ADDITIONAL STANDARDS AND REQUIREMENTS.*

2 (1) *IN GENERAL.*

3 IN ADDITION TO THE STANDARDS AND REQUIREMENTS CONTAINED IN THE BALTIMORE
4 CITY PUBLIC ETHICS LAW, TRUSTEES AND BOARD EMPLOYEES MAY NOT ENGAGE IN
5 ANY OF THE FOLLOWING ACTIVITIES OR HOLD ANY OF THE FOLLOWING INTERESTS, AS
6 THESE ACTIVITIES OR INTERESTS ARE DEFINED IN THE BALTIMORE CITY PUBLIC
7 ETHICS LAW.

8 (2) *BUSINESS WITH CITY BENEFIT PLAN.*

9 NO TRUSTEE OR BOARD EMPLOYEE MAY DO BUSINESS WITH ANY SYSTEM, PLAN, OR
10 TRUST ADMINISTERED BY ANY OF THE FOLLOWING (COLLECTIVELY, “THE CITY
11 BENEFIT PLANS”):

12 (I) THE BOARD OF TRUSTEES OF THE EMPLOYEES’ RETIREMENT SYSTEM OF THE
13 CITY OF BALTIMORE;

14 (II) THE BOARD OF TRUSTEES OF THE FIRE AND POLICE EMPLOYEES’ RETIREMENT
15 SYSTEM OF THE CITY OF BALTIMORE;

16 (III) THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS’ RETIREMENT SYSTEM
17 OF THE CITY OF BALTIMORE;

18 (IV) THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN OF THE CITY OF
19 BALTIMORE; AND

20 (V) THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION
21 PLAN.

22 (3) *EMPLOYMENT BY OR INTEREST IN PERSON SEEKING BUSINESS WITH CITY BENEFIT PLAN.*

23 NO TRUSTEE OR BOARD EMPLOYEE MAY BE EMPLOYED BY OR HAVE A FINANCIAL
24 INTEREST IN ANY PERSON OR ENTITY DOING BUSINESS OR SEEKING TO DO BUSINESS
25 WITH ANY CITY BENEFIT PLAN.

26 (4) *GIFTS, PAYMENTS, FREE ADMISSIONS, EXPENSE REIMBURSEMENTS.*

27 (I) NOTWITHSTANDING CITY CODE ARTICLE 8 {“ETHICS”}, § 6-28(3) {“GIFTS:
28 QUALIFIED EXEMPTIONS; TRAVEL, ETC., EXPENSES”} OR § 6-30 {“HONORIA”}, NO
29 TRUSTEE OR BOARD EMPLOYEE MAY ACCEPT ANY GIFT OR ANY PAYMENT, FREE
30 ADMISSION, OR EXPENSE REIMBURSEMENT FOR ATTENDANCE AT A CONFERENCE,
31 SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING, OR
32 ENTERTAINMENT, IF THE GIFT OR THE PAYMENT, FREE ADMISSION, OR
33 REIMBURSEMENT IS, DIRECTLY OR INDIRECTLY, FROM:

34 (A) ANY PERSON OR ENTITY ENGAGED IN AN ACTIVITY OR PROVIDING A
35 PRODUCT OR SERVICE THAT THE TRUSTEE KNOWS OR HAS REASON TO
36 KNOW HAS BEEN MARKETED TO A CITY BENEFIT PLAN OR IS OF A TYPE

Council Bill 13-0247

1 THAT THE TRUSTEE REASONABLY WOULD EXPECT TO BE MARKETED TO
2 A CITY BENEFIT PLAN; OR

3 (B) ANY TRADE, PROFESSIONAL, OR OTHER ASSOCIATION THAT HAS
4 MEMBERS ENGAGED IN AN ACTIVITY OR PROVIDING A PRODUCT OR
5 SERVICE THAT THE TRUSTEE KNOWS OR HAS REASON TO KNOW HAS
6 BEEN MARKETED TO A CITY BENEFIT PLAN OR IS OF A TYPE THAT THE
7 TRUSTEE REASONABLY WOULD EXPECT TO BE MARKETED TO A CITY
8 BENEFIT PLAN.

9 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH ~~(4)~~ DOES NOT PRECLUDE APPLICATION
10 OF THE QUALIFIED EXEMPTIONS CONTAINED IN CITY CODE ARTICLE 8,
11 § 6-28(1) {"FOOD OR BEVERAGES ... CONSUMED ... IN... PRESENCE ... OF
12 DONOR"}, § 6-28(2) {"GIFT ... [OF] INSIGNIFICANT VALUE"}, § 6-28(5) {"GIFT
13 ... [EXEMPTED BY] ETHICS BOARD"}, OR § 6-28(6) {"GIFT FROM A SPOUSE,
14 PARENT, CHILD, OR SIBLING"}, SUBJECT TO THE QUALIFICATIONS OF § 6-29
15 {"EXEMPTION LIMITATIONS"}.

16 (5) *USING PLAN ASSETS FOR CONFERENCES, ETC.*

17 NO ASSETS OF THE RETIREMENT SAVINGS PLAN OR OF ANY SYSTEM, PLAN, OR TRUST
18 ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PLAN MAY BE USED TO PAY FOR
19 THE ATTENDANCE OF A TRUSTEE OR BOARD EMPLOYEE AT ANY CONFERENCE,
20 SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING, OR
21 ENTERTAINMENT, UNLESS THAT ATTENDANCE HAS FIRST BEEN APPROVED BY THE
22 BOARD OF ESTIMATES IN ACCORDANCE WITH THE ADMINISTRATIVE MANUAL OF
23 BALTIMORE CITY, AM-240-3 {"BOARD OF ESTIMATES APPROVAL"}.

24 (6) *LOBBYING ACTIVITIES.*

25 NO TRUSTEE OR BOARD EMPLOYEE MAY ENGAGE IN ANY ACTIVITY THAT REQUIRES
26 REGISTRATION AS A LOBBYIST WITH THE CITY ETHICS BOARD.

27 (C) *ADMINISTRATION AND ENFORCEMENT.*

28 THE CITY ETHICS BOARD ADMINISTERS AND ENFORCES THIS SECTION IN ACCORDANCE
29 WITH THE ADMINISTRATIVE AND ENFORCEMENT PROVISIONS OF THE BALTIMORE CITY
30 PUBLIC ETHICS LAW.

31 **SUBTITLE 3. PLAN MEMBERSHIP**

32 **§ 3-1. MEMBERSHIP MANDATORY.**

33 ~~ANY EVERY~~ EMPLOYEE WHO IS INITIALLY EMPLOYED OR REEMPLOYED BY A PARTICIPATING
34 EMPLOYER ON OR AFTER ~~JANUARY~~ JULY 1, 2014, ~~IS A~~ MUST, AS A CONDITION OF THAT
35 EMPLOYMENT, BECOME EITHER A HYBRID MEMBER OR A NON-HYBRID MEMBER OF THE
36 RETIREMENT SAVINGS PLAN AS A CONDITION OF THAT EMPLOYMENT.

Council Bill 13-0247

1 § 3-2. COMMENCEMENT OF PARTICIPATION.

2 (A) *INITIAL EMPLOYMENT.*

3 AN EMPLOYEE INITIALLY EMPLOYED BY A PARTICIPATING EMPLOYER ON OR AFTER
4 JANUARY ~~JULY~~ 1, 2014, COMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON
5 WHICH THAT INITIAL EMPLOYMENT BEGINS MUST MAKE AN ELECTION UNDER CITY CODE
6 ARTICLE 22, § 9.1, AND, BASED ON THAT ELECTION, WILL COMMENCE PARTICIPATION AS A
7 HYBRID MEMBER OR A NON-HYBRID MEMBER OF THE PLAN ON THE 180TH DAY AFTER THE
8 DATE ON WHICH HIS OR HER INITIAL EMPLOYMENT BEGAN.

9 (B) *REEMPLOYMENT.*

10 AN EMPLOYEE WHO WAS EMPLOYED BY A PARTICIPATING EMPLOYER ON OR BEFORE
11 DECEMBER 31, 2013, AND WHO, AFTER HAVING TERMINATED THAT EMPLOYMENT, IS
12 REEMPLOYED BY THAT OR ANOTHER PARTICIPATING EMPLOYER ON OR AFTER JANUARY 1,
13 2014, COMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT
14 REEMPLOYMENT BEGINS MUST MAKE AN ELECTION UNDER CITY CODE ARTICLE 22, § 9.1,
15 AND, BASED ON THAT ELECTION, WILL COMMENCE PARTICIPATION AS A HYBRID MEMBER
16 OR A NON-HYBRID MEMBER OF THE PLAN ON THE 90TH DAY AFTER THE DATE ON WHICH
17 HER OR HIS REEMPLOYMENT BEGAN.

18 (1) *PRIOR EMPLOYMENT TERMINATED AFTER EARNING VESTED BENEFIT.*

19 AN EMPLOYEE WHO WAS EMPLOYED BY A PARTICIPATING EMPLOYER ON OR BEFORE
20 JUNE 30, 2014, AND WHO, AFTER HAVING TERMINATED THAT EMPLOYMENT AND
21 EARNING A VESTED BENEFIT UNDER A CITY RETIREMENT PLAN, IS REEMPLOYED BY
22 THAT OR ANOTHER PARTICIPATING EMPLOYER ON OR AFTER JULY 1, 2014,
23 AUTOMATICALLY COMMENCES PARTICIPATION IN THE PLAN AS A NON-HYBRID
24 MEMBER ON THE 30TH DAY AFTER THE DATE ON WHICH HIS OR HER REEMPLOYMENT
25 BEGAN.

26 (2) *PRIOR EMPLOYMENT TERMINATED BEFORE EARNING VESTED BENEFIT.*

27 AN EMPLOYEE WHO WAS EMPLOYED BY A PARTICIPATING EMPLOYER ON OR BEFORE
28 JUNE 30, 2014, AND WHO, AFTER HAVING TERMINATED THAT EMPLOYMENT BEFORE
29 EARNING A VESTED BENEFIT UNDER A CITY RETIREMENT PLAN, IS REEMPLOYED BY
30 THAT OR ANOTHER PARTICIPATING EMPLOYER ON OR AFTER JULY 1, 2014, MUST MAKE
31 AN ELECTION UNDER CITY CODE ARTICLE 22, § 9.1, AND, BASED ON THAT ELECTION,
32 WILL COMMENCE PARTICIPATION AS A HYBRID MEMBER OR A NON-HYBRID MEMBER OF
33 THE PLAN ON THE 180TH DAY AFTER THE DATE ON WHICH HIS OR HER REEMPLOYMENT
34 BEGAN.

35 (C) *BREAKS IN SERVICE.*

36 A PLAN MEMBER WHO TERMINATES EMPLOYMENT WITH A PARTICIPATING EMPLOYER AND
37 IS SUBSEQUENTLY REEMPLOYED BY THAT OR ANOTHER PARTICIPATING EMPLOYER
38 RECOMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT
39 REEMPLOYMENT BEGINS WILL RECOMMENCE PARTICIPATION IN THE PLAN AS A HYBRID
40 MEMBER OR A NON-HYBRID MEMBER, BASED ON HIS OR HER PREVIOUS ELECTION UNDER

Council Bill 13-0247

1 CITY CODE ARTICLE 22, § 9.1, ON THE 30TH DAY AFTER THE DATE ON WHICH HIS OR HER
2 REEMPLOYMENT BEGAN.

3 **§ 3-3. DUAL MEMBERSHIPS PRECLUDED.**

4 (A) IN GENERAL.

5 ~~EXCEPT FOR PARTICIPATION IN THE CITY'S DEFERRED COMPENSATION PLAN AS PROVIDED~~
6 ~~IN SUBSECTION (B) OF THIS SECTION, A MEMBER OF THE RETIREMENT SAVINGS PLAN MAY~~
7 ~~NOT, WHILE A MEMBER OF THE RETIREMENT SAVINGS PLAN, MAKE CONTRIBUTIONS TO,~~
8 ~~RECEIVE BENEFITS FROM, OR ACCRUE SERVICE CREDIT UNDER ANY OTHER CITY~~
9 ~~RETIREMENT SYSTEM SPONSORED BY THE CITY OF BALTIMORE PLAN.~~

10 (B) EXCEPTIONS.

11 SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO PARTICIPATION BY A HYBRID
12 MEMBER OF THE RETIREMENT SAVINGS PLAN AS A CLASS D MEMBER OF THE EMPLOYEES'
13 RETIREMENT SYSTEM.

14 (C) MEMBERSHIP IN PLAN AFTER PARTICIPATION IN OTHER CITY PLAN.

15 (1) SCOPE OF SUBSECTION.

16 THIS SUBSECTION APPLIES TO A PERSON WHO:

17 (I) AS A MEMBER OF ANY OTHER CITY RETIREMENT PLAN, BECOMES ELIGIBLE FOR
18 A RETIREMENT BENEFIT FROM THAT OTHER PLAN; AND

19 (II) EITHER:

20 (A) AFTER TERMINATING EMPLOYMENT OR EXITING ELECTED OFFICE AND
21 HAVING BEGUN TO RECEIVE THAT BENEFIT, BECOMES AN EMPLOYEE ON
22 OR AFTER JULY 1, 2014;

23 (B) AFTER TERMINATING ACTIVE MEMBERSHIP WITH THE OTHER CITY
24 RETIREMENT PLAN ON OR AFTER JULY 1, 2014, IMMEDIATELY BECOMES
25 AN EMPLOYEE THROUGH A TRANSFER OF EMPLOYMENT; OR

26 (C) AFTER TERMINATING EMPLOYMENT OR EXITING ELECTED OFFICE,
27 BECOMES AN EMPLOYEE ON OR AFTER JULY 1, 2014, BEFORE
28 BEGINNING TO RECEIVE THAT BENEFIT.

29 (2) SUSPENSION OR POSTPONEMENT.

30 (I) FOR A PERSON DESCRIBED IN PARAGRAPH (1)(II)(A) OF THIS SUBSECTION,
31 PAYMENT OF HIS OR HER BENEFIT FROM THE OTHER CITY RETIREMENT PLAN IS
32 SUSPENDED UNTIL THE MEMBER LATER TERMINATES EMPLOYMENT.

33 (II) FOR A PERSON DESCRIBED IN PARAGRAPH (1)(II)(B) OR (C) OF THIS SUBSECTION,
34 RECEIPT OF HER OR HIS BENEFIT FROM THE OTHER CITY RETIREMENT PLAN IS
35 POSTPONED UNTIL THE MEMBER LATER TERMINATES EMPLOYMENT.

Council Bill 13-0247

1 (3) DEATH BENEFITS.

2 IF A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DIES BEFORE LATER
3 TERMINATING EMPLOYMENT, THE FOLLOWING DEATH BENEFITS MUST BE PAID:

4 (I) THE DEATH BENEFIT PROVIDED FOR BY § 9-4 {“DISTRIBUTABLE EVENTS –
5 DEATH”} OF THIS ARTICLE; AND

6 (II) A DEATH BENEFIT FROM THE OTHER CITY RETIREMENT PLAN IN ACCORDANCE
7 WITH ARTICLE 22, § 48(E)(1)(II).

8 **§ 3-4. TERMINATION OF PARTICIPATION.**

9 A MEMBER’S PARTICIPATION IN THE RETIREMENT SAVINGS PLAN TERMINATES ON THE
10 COMPLETE DISTRIBUTION TO THE MEMBER OR THE MEMBER’S BENEFICIARY OF THE MEMBER’S
11 VESTED ACCOUNT.

12 **SUBTITLE 4. SERVICE**

13 **§ 4-1. “SERVICE” DEFINED.**

14 (A) *IN GENERAL.*

15 EXCEPT AS OTHERWISE PROVIDED IN ~~SUBSECTION (B) OF THIS SECTION~~, “SERVICE” MEANS
16 THE SUM OF EACH PERIOD OF A MEMBER’S EMPLOYMENT WITH A PARTICIPATING
17 EMPLOYER.

18 (B) *EXCLUSIONS.*

19 ~~“SERVICE”~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, “SERVICE” DOES
20 NOT INCLUDE ANY PERIOD THAT:

21 (1) HAS BEEN CREDITED AS SERVICE UNDER ANY OTHER CITY RETIREMENT ~~SYSTEM~~
22 ~~SPONSORED BY THE CITY OF BALTIMORE~~ PLAN; AND

23 (2) WAS USED BY THAT ~~SYSTEM~~ PLAN FOR CALCULATING A RETIREMENT BENEFIT OR A
24 DEFERRED VESTED RETIREMENT BENEFIT.

25 (C) *INCLUSIONS.*

26 NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, “SERVICE” INCLUDES ANY PERIOD
27 CREDITED TO A HYBRID MEMBER OF THE RETIREMENT SAVINGS PLAN FOR SERVICE AS A
28 CLASS D MEMBER OF THE EMPLOYEES’ RETIREMENT SYSTEM.

29 **§ 4-2. APPLICABILITY.**

30 A MEMBER’S SERVICE IS USED TO DETERMINE WHETHER THE MEMBER IS VESTED IN HIS OR HER
31 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

Council Bill 13-0247

§ 4-3. MILITARY SERVICE.

TO THE EXTENT REQUIRED BY USERRA, THE SERVICE OF A MEMBER RETURNING FROM AN UNPAID LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE INCLUDES THE PERIOD OF THE MEMBER'S LEAVE OF ABSENCE.

§ 4-4. DETERMINATION FINAL AND BINDING.

THE DETERMINATION OF A MEMBER'S SERVICE:

- (1) IS MADE BY THE BOARD OF TRUSTEES; AND
- (2) IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

SUBTITLE 5. CONTRIBUTIONS

§ 5-1. TYPES OF CONTRIBUTIONS.

THE FOLLOWING CONTRIBUTIONS ARE MADE TO THE RETIREMENT SAVINGS PLAN:

- (1) MANDATORY EMPLOYEE CONTRIBUTIONS MADE UNDER § 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS BY NON-HYBRID MEMBERS"} OF THIS SUBTITLE;
- (2) EMPLOYER CONTRIBUTIONS MADE UNDER § 5-3 {"EMPLOYER CONTRIBUTIONS"} OF THIS SUBTITLE; AND
- (3) ROLLOVER CONTRIBUTIONS MADE UNDER § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS SUBTITLE.

§ 5-2. MANDATORY EMPLOYEE CONTRIBUTIONS BY NON-HYBRID MEMBERS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO NON-HYBRID MEMBERS OF THE PLAN.

(B) ~~(A)~~ IN GENERAL.

BEGINNING WITH THE FIRST FULL PAYROLL PERIOD THAT STARTS ON OR AFTER THE DATE ON WHICH A NON-HYBRID MEMBER COMMENCES PARTICIPATION IN THE RETIREMENT SAVINGS PLAN AND CONTINUING THROUGH THE LAST FULL PAYROLL PERIOD ENDING ON OR BEFORE TERMINATION OF EMPLOYMENT WITH A PARTICIPATING EMPLOYER:

- (1) FOR EACH PAYROLL PERIOD, THE MEMBER MUST CONTRIBUTE TO THE PLAN 5% OF THE MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD;
- (2) FOR EACH PAYROLL PERIOD, THE DEPARTMENT OF FINANCE WILL CAUSE THE CONTRIBUTION TO BE DEDUCTED FROM THE MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD; AND

Council Bill 13-0247

1 (3) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE DEDUCTION IS TAKEN,
2 THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S MANDATORY
3 EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

4 (C) ~~(B)~~ "PICKED-UP" STATUS.

5 (1) (I) THE CONTRIBUTIONS DESCRIBED IN ~~SUBSECTION (A)~~ OF THIS SECTION ARE
6 INTENDED TO BE TREATED AS BEING "PICKED UP" BY THE PARTICIPATING
7 EMPLOYER WITHIN THE MEANING OF IRC § 414(H)(2).

8 (II) THE AMOUNT OF EACH MANDATORY EMPLOYEE CONTRIBUTION IS PAID BY THE
9 EMPLOYER IN LIEU OF CONTRIBUTIONS BY MEMBERS, AND MEMBERS MAY NOT
10 RECEIVE THOSE AMOUNTS DIRECTLY. BECAUSE THE MANDATORY EMPLOYEE
11 CONTRIBUTIONS ARE PAID BY THE EMPLOYER, THEY MUST BE TREATED AS
12 EMPLOYER CONTRIBUTIONS IN DETERMINING THEIR FEDERAL INCOME TAX
13 TREATMENT.

14 (2) THE PICKED-UP CONTRIBUTIONS MAY NOT BE EXCLUDED IN COMPUTING ANY OTHER
15 BENEFIT PAID IN CONNECTION WITH THE MEMBER'S EMPLOYMENT WITH A
16 PARTICIPATING EMPLOYER.

17 (3) (I) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER ENACTMENT OF THIS
18 ARTICLE, THE CITY WILL REQUEST A PRIVATE LETTER RULING FROM THE INTERNAL
19 REVENUE SERVICE TO THE EFFECT THAT THE CONTRIBUTIONS SO PICKED UP BY
20 THE EMPLOYER ON BEHALF OF MEMBERS WILL BE TREATED AS EMPLOYER
21 CONTRIBUTIONS UNDER IRC § 414(H)(2) AND WILL NOT BE INCLUDIBLE IN THE
22 MEMBER'S GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES FOR THE YEAR IN
23 WHICH THEY ARE CONTRIBUTED.

24 (II) IF THE INTERNAL REVENUE SERVICE RULES THAT THE PICK UP OF CONTRIBUTIONS
25 DOES NOT SATISFY THE REQUIREMENTS OF IRC § 414(H)(2), OR IF IRC § 414(H)(2)
26 IS REPEALED, THE CONTRIBUTIONS REQUIRED UNDER THIS SECTION WILL REMAIN
27 IN EFFECT, BUT THE CONTRIBUTIONS MAY NO LONGER BE TREATED AS PICKED UP
28 AND INSTEAD WILL BE TREATED AS PAID DIRECTLY BY THE MEMBER.

29 **§ 5-3. EMPLOYER CONTRIBUTIONS.**

30 (A) *IN GENERAL*

31 EMPLOYER CONTRIBUTIONS MUST BE MADE TO THE RETIREMENT SAVINGS PLAN AS
32 PROVIDED IN THIS SECTION.

33 (B) ~~ALL~~ NON-HYBRID MEMBERS.

34 (1) FOR EACH PAYROLL PERIOD IN WHICH A NON-HYBRID MEMBER MAKES A MANDATORY
35 EMPLOYEE CONTRIBUTION UNDER § 5-2 {"MANDATORY ~~EMPLOYEE~~ CONTRIBUTIONS
36 BY NON-HYBRID MEMBERS"} OF THIS SUBTITLE, THE MEMBER'S EMPLOYER MUST
37 CONTRIBUTE TO THE RETIREMENT SAVINGS PLAN AN AMOUNT EQUAL TO 4% OF THE
38 ~~EMPLOYEE'S~~ MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD.

Council Bill 13-0247

1 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EMPLOYER CONTRIBUTION
2 IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE NON-HYBRID MEMBER'S
3 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

4 (C) HYBRID MEMBERS.

5 (1) FOR EACH PAYROLL PERIOD IN WHICH A HYBRID MEMBER HAS EARNABLE
6 COMPENSATION AND THE CLASS D FUNDED STATUS IS 85% OR MORE, THE HYBRID
7 MEMBER'S EMPLOYER MUST CONTRIBUTE TO THE RETIREMENT SAVINGS PLAN 3% OF
8 THE MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD.

9 (2) FOR EACH PAYROLL PERIOD IN WHICH A HYBRID MEMBER HAS EARNABLE
10 COMPENSATION AND THE CLASS D FUNDED STATUS IS LESS THAN 85%, THE HYBRID
11 MEMBER'S EMPLOYER MUST CONTRIBUTE TO THE RETIREMENT SAVINGS PLAN 1.5%
12 OF THE MEMBERS'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD.

13 (3) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EMPLOYER CONTRIBUTION
14 IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE HYBRID MEMBER'S EMPLOYER
15 CONTRIBUTION SUB-ACCOUNT.

16 (4) (I) FOR PURPOSES OF PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE CLASS D
17 FUNDED STATUS FOR A PAYROLL PERIOD IS THE RATIO DESCRIBED IN
18 SUBPARAGRAPH (II) OF THIS PARAGRAPH AS OF JUNE 30 OF THE CALENDAR YEAR
19 IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE PAYROLL PERIOD
20 BEGINS.

21 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THE PARAGRAPH, THE CLASS D
22 FUNDED STATUS AS OF EACH JUNE 30 IS THE RATIO THAT THE EMPLOYEES'
23 RETIREMENT SYSTEM'S ASSETS ATTRIBUTABLE TO CLASS D MEMBERS ON THAT
24 DATE, DETERMINED ON AN "ADJUSTED MARKET VALUE BASIS", BEARS TO THE
25 EMPLOYEES' RETIREMENT SYSTEM'S LIABILITIES ATTRIBUTABLE TO CLASS D
26 MEMBERS ON THAT DATE. THE RATIO WILL BE DETERMINED BY THE ACTUARY OF
27 THE EMPLOYEES' RETIREMENT SYSTEM, USING A METHODOLOGY APPROVED
28 JOINTLY BY THE BOARDS OF THIS PLAN AND OF THE EMPLOYEES' RETIREMENT
29 SYSTEM.

30 (III) NOTWITHSTANDING SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CLASS D
31 FUNDED STATUS FOR PAYROLL PERIODS BEGINNING IN CALENDAR YEARS 2014 AND
32 2015 IS 100%.

33 (D) ~~(C)~~ MEMBERS NON-HYBRID MEMBERS ALSO CONTRIBUTING TO DEFERRED COMPENSATION
34 PLAN.

35 (1) FOR EACH PAYROLL PERIOD IN WHICH A NON-HYBRID MEMBER MAKES A VOLUNTARY
36 DEFERRAL TO THE CITY'S DEFERRED COMPENSATION PLAN, THE MEMBER'S
37 EMPLOYER MUST CONTRIBUTE TO THE RETIREMENT SAVINGS PLAN AN AMOUNT
38 EQUAL TO 50% OF THE FIRST 2% OF COMPENSATION DEFERRED BY THE MEMBER FOR
39 THAT PAYROLL PERIOD.

Council Bill 13-0247

1 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THIS EMPLOYER CONTRIBUTION
2 IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE NON-HYBRID MEMBER'S
3 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

4 **§ 5-4. ROLLOVER CONTRIBUTIONS.**

5 (A) *IN GENERAL.*

6 (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, A MEMBER MAY MAKE 1 OR MORE
7 ROLLOVER CONTRIBUTIONS TO THE RETIREMENT SAVINGS PLAN.

8 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER A ROLLOVER CONTRIBUTION IS
9 MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S ROLLOVER
10 CONTRIBUTION SUB-ACCOUNT.

11 (B) *REQUIRED SUBMISSIONS.*

12 A MEMBER WHO WISHES TO MAKE A ROLLOVER CONTRIBUTION MUST:

13 (1) FILE A REQUEST WITH THE BOARD OF TRUSTEES IN THE FORM REQUIRED BY THE
14 BOARD; AND

15 (2) ESTABLISH TO THE SATISFACTION OF THE BOARD THAT AMOUNTS INTENDED TO BE
16 ROLLED OVER SATISFY THE CONDITIONS OF SUBSECTION (C) OF THIS SECTION.

17 (C) *CONDITIONS OF ROLLOVER.*

18 EVERY ROLLOVER CONTRIBUTION MUST BE:

19 (1) AN "ELIGIBLE ROLLOVER DISTRIBUTION", AS DEFINED IN IRC § 402(F)(2)(A);

20 (2) MADE SOLELY IN CASH;

21 (3) DISTRIBUTED FROM:

22 (I) A QUALIFIED PLAN UNDER IRC § 401(A) OR §403(A), EXCEPT THAT
23 AMOUNTS ROLLED OVER MAY NOT INCLUDE NONDEDUCTIBLE OR AFTER-
24 TAX CONTRIBUTIONS;

25 (II) A TAX-SHELTERED ANNUITY UNDER IRC § 403(B);

26 (III) AN ELIGIBLE PLAN UNDER IRC § 457(B) THAT IS MAINTAINED BY A STATE,
27 A POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR
28 INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE; OR
29

30 (IV) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER IRC § 408(A) OR AN
31 INDIVIDUAL RETIREMENT ANNUITY UNDER IRC § 408(B), EXCEPT THAT
32 AMOUNTS ROLLED OVER MAY NOT INCLUDE NONDEDUCTIBLE OR AFTER-
33 TAX CONTRIBUTIONS; AND

Council Bill 13-0247

(4) EITHER TRANSFERRED DIRECTLY TO THE RETIREMENT SAVINGS PLAN OR, WITHIN 60 DAYS OF ITS RECEIPT, CONTRIBUTED TO THE PLAN BY THE MEMBER.

§ 5-5. MAKEUP CONTRIBUTIONS AFTER MILITARY LEAVE.

(A) NON-HYBRID MEMBERS – IN GENERAL.

(1) (I) TO THE EXTENT REQUIRED BY USERRA, A NON-HYBRID MEMBER RETURNING FROM AN UNPAID LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE MAY MAKE A 1-TIME IRREVOCABLE ELECTION TO MAKE UP ALL OR PART OF THE MANDATORY EMPLOYEE CONTRIBUTIONS THE MEMBER WOULD HAVE BEEN REQUIRED TO MAKE UNDER § 5-2 {“MANDATORY ~~EMPLOYEE~~ CONTRIBUTIONS BY NON-HYBRID MEMBERS”} OF THIS SUBTITLE HAD HE OR SHE REMAINED ACTIVELY EMPLOYED BY A PARTICIPATING EMPLOYER.

(II) THE NON-HYBRID MEMBER’S MAKEUP CONTRIBUTION IS BASED ON WHAT THE MEMBER’S EARNABLE COMPENSATION WOULD HAVE BEEN HAD THE MEMBER REMAINED ACTIVELY EMPLOYED.

(2) THE ELECTION MUST:

(I) BE MADE BY FILING WITH THE BOARD OF TRUSTEES IN THE FORM REQUIRED BY THE BOARD; AND

(II) INCLUDE THE AMOUNT OF MANDATORY EMPLOYEE CONTRIBUTIONS THAT THE NON-HYBRID MEMBER WISHES TO MAKE UP AND THE PERIOD (NOT TO EXCEED THE LESSER OF 3 TIMES THE LENGTH OF THE LEAVE OF ABSENCE OR 5 YEARS) OVER WHICH THE CONTRIBUTIONS WILL BE MADE.

(3) (I) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE BOARD RECEIVES THE NON-HYBRID MEMBER’S ELECTION, THE DEPARTMENT OF FINANCE WILL CAUSE THE AMOUNT OF MAKEUP CONTRIBUTIONS TO BE DEDUCTED FROM THE MEMBER’S EARNABLE COMPENSATION PRO-RATA FOR EACH PAYROLL PERIOD DURING THE PERIOD ELECTED (BUT NOT BEYOND THE LAST FULL PAYROLL PERIOD ENDING ON OR BEFORE THE MEMBER’S TERMINATION OF EMPLOYMENT WITH AN EMPLOYER).

(II) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER EACH AMOUNT IS DEDUCTED, THE AMOUNT WILL BE CREDITED TO THE MEMBER’S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

(4) MAKEUP CONTRIBUTIONS MADE UNDER THIS SUBSECTION WILL BE TREATED AS BEING “PICKED UP” TO THE SAME EXTENT AS MANDATORY EMPLOYEE CONTRIBUTIONS ARE TREATED AS BEING “PICKED UP” UNDER § 5-2(~~B~~)(C) {“MANDATORY ~~EMPLOYEE~~ CONTRIBUTIONS BY NON-HYBRID MEMBERS: ‘PICKED-UP’ STATUS”} OF THIS SUBTITLE.

(B) ~~ALL MEMBERS~~ NON-HYBRID MEMBERS – EMPLOYER’S CONTRIBUTION.

(1) FOR EACH PAYROLL PERIOD IN WHICH A NON-HYBRID MEMBER ELECTS TO MAKE UP MANDATORY EMPLOYEE CONTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION, THE MEMBER’S EMPLOYER MUST MAKE A CORRESPONDING CONTRIBUTION TO THE PLAN IN AN AMOUNT EQUAL TO 80% OF THE EMPLOYEE’S MANDATORY EMPLOYEE

Council Bill 13-0247

1 CONTRIBUTION FOR THAT PAYROLL PERIOD (AS DETERMINED UNDER SUBSECTION (A)
2 OF THIS SECTION).

3 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE CORRESPONDING
4 CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER’S
5 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

6 (C) ~~MEMBERS ALSO~~ NON-HYBRID MEMBERS – ALSO CONTRIBUTING TO DEFERRED
7 COMPENSATION PLAN.

8 (1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER ELECTS TO MAKE UP VOLUNTARY
9 DEFERRALS TO THE CITY’S DEFERRED COMPENSATION PLAN, THE MEMBER’S
10 EMPLOYER MUST MAKE A CORRESPONDING CONTRIBUTION TO THE PLAN IN AN
11 AMOUNT EQUAL TO 50% OF THE FIRST 2% OF COMPENSATION DEFERRED BY THE
12 MEMBER AS A MAKEUP CONTRIBUTION FOR THAT PAYROLL PERIOD.

13 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THIS CORRESPONDING
14 CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER’S
15 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

16 (D) HYBRID MEMBERS.

17 (1) TO THE EXTENT REQUIRED BY USERRA, THE EMPLOYER OF A HYBRID MEMBER
18 RETURNING FROM AN UNPAID LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE
19 MUST MAKE AN EMPLOYER CONTRIBUTION TO THIS PLAN IN AN AMOUNT EQUAL TO
20 THE AMOUNT THE EMPLOYER WOULD HAVE BEEN REQUIRED TO MAKE, UNDER § 5-3(C)
21 {“EMPLOYER CONTRIBUTIONS: HYBRID MEMBERS”} OF THIS SUBTITLE, HAD THE
22 RETIRING MEMBER REMAINED ACTIVELY EMPLOYED BY A PARTICIPATING EMPLOYER.

23 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE CONTRIBUTION IS MADE,
24 THE CONTRIBUTION WILL BE CREDITED TO THE HYBRID MEMBER’S EMPLOYER
25 CONTRIBUTION SUB-ACCOUNT.

26 **§ 5-6. MAXIMUM ANNUAL ADDITIONS.**

27 (A) *DEFINITIONS.*

28 (1) *IN GENERAL.*

29 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

30 (2) *“ANNUAL ADDITIONS”.*

31 (i) *IN GENERAL.*

32 “ANNUAL ADDITIONS” MEANS THE SUM OF THE FOLLOWING AMOUNTS CREDITED
33 TO A MEMBER’S ACCOUNT FOR THE LIMITATION YEAR:

34 (A) MANDATORY EMPLOYEE CONTRIBUTIONS MADE UNDER § 5-2
35 {“~~MANDATORY EMPLOYEE CONTRIBUTIONS~~ CONTRIBUTIONS BY NON-
36 HYBRID MEMBERS”} OF THIS SUBTITLE; AND

Council Bill 13-0247

1 (B) EMPLOYER CONTRIBUTIONS MADE UNDER § 5-3 {"EMPLOYER
2 CONTRIBUTIONS"} OF THIS SUBTITLE.

3 (II) *INCLUSIONS.*

4 "ANNUAL ADDITIONS" INCLUDES MAKEUP CONTRIBUTIONS MADE UNDER § 5-5
5 {"MAKEUP CONTRIBUTIONS AFTER MILITARY LEAVE"} OF THIS SUBTITLE FOR THE
6 LIMITATION YEAR TO WHICH THE CONTRIBUTIONS RELATE (NOT FOR THE
7 LIMITATION YEAR IN WHICH THE CONTRIBUTIONS ARE MADE).

8 (III) *EXCLUSIONS.*

9 "ANNUAL ADDITIONS" DOES NOT INCLUDE ROLLOVER CONTRIBUTIONS MADE
10 UNDER § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS SUBTITLE.

11 (3) "*LIMITATION YEAR*".

12 "LIMITATION YEAR" MEANS A CALENDAR YEAR.

13 (4) "*SECTION 415 COMPENSATION*".

14 (I) *IN GENERAL.*

15 (A) "SECTION 415 COMPENSATION" MEANS WAGES, WITHIN THE MEANING OF IRC
16 § 3401, PLUS AMOUNTS THAT WOULD BE INCLUDED IN WAGES BUT FOR AN
17 ELECTION UNDER IRC § 125, § 132(F)(4), § 402(E)(3), § 402(H)(1)(B),
18 § 402(K), OR § 457(B), AND ALL OTHER PAYMENTS OF COMPENSATION TO AN
19 EMPLOYEE BY A PARTICIPATING EMPLOYER FOR WHICH THE EMPLOYER IS
20 REQUIRED TO FURNISH THE EMPLOYEE A WRITTEN STATEMENT UNDER IRC
21 § 6041(D), § 6051(A)(3), OR § 6052.

22 (B) SECTION 415 COMPENSATION MUST BE DETERMINED WITHOUT REGARD TO ANY
23 RULES UNDER IRC § 3401 THAT LIMIT THE REMUNERATION INCLUDED IN
24 WAGES BASED ON THE NATURE OR LOCATION OF THE EMPLOYMENT OR THE
25 SERVICES PERFORMED (SUCH AS THE EXCEPTION FOR AGRICULTURAL LABOR IN
26 IRC § 3401(A)(2)).

27 (C) SECTION 415 COMPENSATION FOR A LIMITATION YEAR IS THE SECTION 415
28 COMPENSATION ACTUALLY PAID OR MADE AVAILABLE IN GROSS INCOME FOR
29 THAT LIMITATION YEAR.

30 (II) *INCLUSIONS.*

31 "SECTION 415 COMPENSATION" INCLUDES THE FOLLOWING AMOUNTS PAID AFTER
32 AN EMPLOYEE'S SEVERANCE FROM EMPLOYMENT WITH A PARTICIPATING
33 EMPLOYER, IF THOSE AMOUNTS WOULD HAVE BEEN INCLUDED IN SUBPARAGRAPH
34 (I) OF THIS PARAGRAPH (~~4~~) HAD THEY BEEN PAID BEFORE SEVERANCE AND IF
35 THOSE AMOUNTS ARE PAID TO THE EMPLOYEE BEFORE THE LATER OF 2½ MONTHS
36 AFTER SEVERANCE OR THE END OF THE CALENDAR YEAR IN WHICH THE SEVERANCE
37 BECOMES EFFECTIVE:

Council Bill 13-0247

1 (A) REGULAR PAYMENTS MADE AFTER SEVERANCE, IF:

2 1. THE PAYMENTS ARE:

3 A. COMPENSATION FOR SERVICES DURING THE EMPLOYEE'S
4 REGULAR WORKING HOURS;

5 B. COMPENSATION FOR SERVICES OUTSIDE THE EMPLOYEE'S
6 REGULAR WORKING HOURS (SUCH AS OVERTIME OR SHIFT
7 DIFFERENTIAL); OR

8 C. COMMISSIONS, BONUSES, OR OTHER SIMILAR PAYMENTS;
9 AND

10 2. THE PAYMENTS WOULD HAVE BEEN PAID TO THE EMPLOYEE BEFORE
11 SEVERANCE HAD THE EMPLOYEE CONTINUED TO BE EMPLOYED BY
12 THE EMPLOYER; AND

13 (B) PAYMENTS MADE AFTER SEVERANCE FOR ACCRUED AND UNUSED BONA
14 FIDE SICK, VACATION, OR OTHER LEAVE, IF THE EMPLOYEE WOULD HAVE
15 BEEN ABLE TO USE THAT LEAVE HAD THE EMPLOYEE CONTINUED TO BE
16 EMPLOYED BY THE EMPLOYER.

17 (III) *EXCLUSIONS.*

18 "SECTION 415 COMPENSATION" FOR A LIMITATION YEAR DOES NOT INCLUDE
19 COMPENSATION IN EXCESS OF THE COMPENSATION LIMIT APPLICABLE TO THAT
20 LIMITATION YEAR UNDER IRC § 401(A)(17).

21 (B) *LIMITATION ON ANNUAL ADDITIONS.*

22 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TO THE EXTENT REQUIRED
23 UNDER THE INTERNAL REVENUE CODE, THE ANNUAL ADDITIONS THAT ARE CREDITED TO
24 THE ACCOUNT OF ANY MEMBER IN ANY LIMITATION YEAR MAY NOT EXCEED THE LESSER
25 OF:

26 (1) \$40,000, AS ADJUSTED BY COST-OF-LIVING INCREASES UNDER IRC § 415(D); OR

27 (2) 100% OF THE MEMBER'S SECTION 415 COMPENSATION FOR THE LIMITATION YEAR.

28 (C) *CORRECTING EXCESS ANNUAL ADDITIONS.*

29 IF, FOR ANY LIMITATION YEAR, THE ANNUAL ADDITIONS THAT ARE CREDITED TO THE
30 ACCOUNT OF A MEMBER EXCEED THE LIMITATION SET FORTH IN SUBSECTION (B) OF THIS
31 SECTION, THE CITY MUST FOLLOW ANY APPLICABLE CORRECTION METHODOLOGY
32 AUTHORIZED BY THE INTERNAL REVENUE SERVICE UNDER THE EMPLOYEE PLANS
33 COMPLIANCE RESOLUTION SYSTEM ("EPCRS") OR OTHERWISE.

Council Bill 13-0247

1 § 5-7. COMPENSATION LIMIT.

2 PURSUANT TO IRC § 401(A)(17) AND THE REGULATIONS ADOPTED UNDER THAT SECTION,
3 THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT IN DETERMINING THE
4 AMOUNT OF CONTRIBUTIONS UNDER THE RETIREMENT SAVINGS PLAN MAY NOT EXCEED
5 \$200,000, AS ADJUSTED BY COST-OF-LIVING INCREASES UNDER IRC § 415(D).

6 SUBTITLE 6. ACCOUNTS

7 § 6-1. ESTABLISHMENT.

8 (A) *IN GENERAL.*

9 (1) A SEPARATE ACCOUNT ON BEHALF OF EACH MEMBER WILL BE ESTABLISHED AND
10 MAINTAINED UNDER THE RETIREMENT SAVINGS PLAN.

11 (2) THE ESTABLISHMENT AND MAINTENANCE OF AN ACCOUNT IS FOR BOOKKEEPING
12 PURPOSES ONLY AND DOES NOT REQUIRE OR PERMIT ASSETS HELD IN ANY ACCOUNT TO
13 BE SEGREGATED FOR INVESTMENT PURPOSES.

14 (B) *SUB-ACCOUNTS.*

15 (1) A MEMBER'S ACCOUNT CONSISTS OF THE FOLLOWING SUB-ACCOUNTS:

16 (I) IF APPLICABLE, A MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-
17 ACCOUNT;

18 (II) AN EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND

19 (III) IF APPLICABLE, A ROLLOVER CONTRIBUTION SUB-ACCOUNT.

20 (2) TO EACH OF THESE SUB-ACCOUNTS:

21 (I) CONTRIBUTIONS ARE CREDITED UNDER § 5-2 {"MANDATORY ~~EMPLOYEE~~
22 CONTRIBUTIONS BY NON-HYBRID MEMBERS"}, § 5-3 {"EMPLOYER
23 CONTRIBUTIONS"}, OR § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS ARTICLE,
24 RESPECTIVELY;

25 (II) GAINS AND LOSSES ARE ALLOCATED UNDER § 6-2(D) {"INVESTMENTS: FUND
26 GAINS AND LOSSES"} OF THIS SUBTITLE; AND

27 (III) FEES AND EXPENSES ARE CHARGED UNDER § 6-2(E) {"INVESTMENTS: FUND
28 FEES AND EXPENSES"} OF THIS SUBTITLE.

29 § 6-2. INVESTMENTS.

30 (A) *BOARD TO SELECT AVAILABLE INVESTMENT FUNDS.*

31 (1) THE BOARD OF TRUSTEES MUST SELECT:

Council Bill 13-0247

1 (I) 1 OR MORE SEPARATE INVESTMENT FUNDS IN WHICH A MEMBER MAY ELECT TO
2 HAVE THE MEMBER'S VESTED ACCOUNT INVESTED; AND

3 (II) A DEFAULT INVESTMENT FUND FOR THE AUTOMATIC INVESTMENT OF THE
4 VESTED ACCOUNT OF A MEMBER WHO FAILS TO MAKE AN AFFIRMATIVE
5 INVESTMENT ELECTION UNDER SUBSECTION (B) OF THIS SECTION.

6 (2) FROM TIME TO TIME, THE BOARD MAY CHANGE ANY OR ALL OF THE INVESTMENT
7 FUNDS OR THE DEFAULT INVESTMENT FUND. ANY CHANGE MUST BE COMMUNICATED
8 TO MEMBERS BEFORE ITS EFFECTIVE DATE.

9 (B) *MEMBERS' INVESTMENT ELECTIONS.*

10 (1) EACH MEMBER WILL BE PROVIDED A LIST THAT IDENTIFIES THE AVAILABLE
11 INVESTMENT FUNDS (INCLUDING THE DEFAULT INVESTMENT FUND) WHEN
12 COMMENCING PARTICIPATION IN THE RETIREMENT SAVINGS PLAN.

13 (2) IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, EACH MEMBER
14 MAY AFFIRMATIVELY ELECT TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED IN
15 1 OR MORE OF THE LISTED INVESTMENT FUNDS.

16 (3) AN AFFIRMATIVE INVESTMENT ELECTION REMAINS IN EFFECT UNTIL THE MEMBER
17 CHANGES IT BY MAKING A NEW ELECTION IN ACCORDANCE WITH THE BOARD'S
18 PROCEDURES. A NEW ELECTION REVOKES ALL PRIOR ELECTIONS.

19 (4) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER A MEMBER'S AFFIRMATIVE
20 INVESTMENT ELECTION IS RECEIVED, THE MEMBER'S VESTED ACCOUNT MUST BE
21 INVESTED IN ACCORDANCE WITH THAT ELECTION.

22 (C) *DEFAULT INVESTMENTS.*

23 UNLESS AND UNTIL A MEMBER MAKES AN AFFIRMATIVE INVESTMENT ELECTION UNDER
24 SUBSECTION (B) OF THIS SECTION, THE MEMBER IS DEEMED TO HAVE MADE AN ELECTION
25 TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED AUTOMATICALLY IN THE DEFAULT
26 INVESTMENT FUND.

27 (D) *FUND GAINS AND LOSSES.*

28 ALL GAINS AND LOSSES OF AN INVESTMENT FUND IN WHICH A MEMBER'S VESTED
29 ACCOUNT IS INVESTED WILL BE ALLOCATED TO THAT ACCOUNT BASED ON ESTABLISHED
30 PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

31 (E) *FUND FEES AND EXPENSES.*

32 ALL FEES CHARGED AND EXPENSES INCURRED BY AN INVESTMENT FUND IN WHICH A
33 MEMBER'S VESTED ACCOUNT IS INVESTED, INCLUDING SERVICING FEES PAID BY THE
34 INVESTMENT FUND TO THE PLAN'S THIRD-PARTY ADMINISTRATOR, WILL BE CHARGED TO
35 THAT ACCOUNT BASED ON ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND
36 NONDISCRIMINATORY BASIS.

Council Bill 13-0247

1 (F) *NO LIABILITY FOR INVESTMENT ELECTIONS.*

2 NEITHER THE CITY NOR THE BOARD OF TRUSTEES IS LIABLE TO A MEMBER, A
3 BENEFICIARY, OR ANY OTHER PERSON FOR ANY LOSS RESULTING FROM:

4 (1) A MEMBER'S AFFIRMATIVE INVESTMENT ELECTION;

5 (2) A MEMBER'S FAILURE TO MAKE AN AFFIRMATIVE INVESTMENT ELECTION;

6 (3) A REASONABLE DELAY IN IMPLEMENTING AN AFFIRMATIVE INVESTMENT
7 ELECTION; OR

8 (4) A REASONABLE DELAY IN IMPLEMENTING A DEFAULT INVESTMENT UNDER
9 SUBSECTION (C) OF THIS SECTION.

10 (G) *APPLICABILITY TO DEFERRED COMPENSATION PLAN.*

11 VOLUNTARY DEFERRALS MADE BY A MEMBER TO THE CITY'S DEFERRED COMPENSATION
12 PLAN WILL BE INVESTED IN ACCORDANCE WITH THE MEMBER'S AFFIRMATIVE INVESTMENT
13 ELECTION UNDER SUBSECTION (B) OF THIS SECTION OR THE MEMBER'S DEFAULT
14 INVESTMENT UNDER SUBSECTION (C) OF THIS SECTION.

15 (H) *NON-VESTED EMPLOYER CONTRIBUTION SUB-ACCOUNTS.*

16 EMPLOYER CONTRIBUTION SUB-ACCOUNTS THAT HAVE NOT VESTED UNDER § 7-2
17 {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE WILL BE
18 INVESTED AS THE BOARD OF TRUSTEES, IN ITS SOLE DISCRETION, DETERMINES.

19 **§ 6-3. VALUATIONS.**

20 (A) *"VALUATION DATE" DEFINED.*

21 IN THIS SECTION, "VALUATION DATE" MEANS THE DATE, NO LESS FREQUENTLY THAN THE
22 LAST DAY OF EACH CALENDAR QUARTER, FOR DETERMINING:

23 (1) THE FAIR MARKET VALUE OF EACH INVESTMENT FUND (INCLUDING THE DEFAULT
24 INVESTMENT FUND);

25 (2) THE PORTION OF EACH MEMBER'S ACCOUNT INVESTED IN THAT FUND; AND

26 (3) THE TOTAL VALUE OF EACH MEMBER'S ACCOUNT.

27 (B) *VALUE OF FUNDS AND ACCOUNTS.*

28 THE FAIR MARKET VALUE OF EACH INVESTMENT FUND, THE PORTION OF EACH MEMBER'S
29 ACCOUNT INVESTED IN THAT FUND, AND THE TOTAL VALUE OF EACH MEMBER'S ACCOUNT
30 WILL BE DETERMINED AS OF EACH VALUATION DATE, BASED ON ESTABLISHED
31 PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

Council Bill 13-0247

1 (C) *VALUE OF ACCOUNT ON DISTRIBUTABLE EVENT.*

2 THE DATE AS OF WHICH A MEMBER'S ACCOUNT IS VALUED ON A DISTRIBUTABLE EVENT
3 UNDER SUBTITLE 9 {"DISTRIBUTIONS"} OF THIS ARTICLE WILL BE DETERMINED ON THE
4 BASIS OF ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY
5 BASIS.

6 **§ 6-4. PERIODIC STATEMENTS.**

7 ON A PERIODIC BASIS, BUT NO LESS FREQUENTLY THAN QUARTERLY, A STATEMENT SHOWING
8 THE VALUE OF A MEMBER'S ACCOUNT AS OF THE MOST RECENT VALUATION DATE WILL BE
9 MADE AVAILABLE TO EACH MEMBER.

10 **SUBTITLE 7. VESTING**

11 **§ 7-1. MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.**

12 A MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT IS IMMEDIATELY AND
13 AT ALL TIMES 100% VESTED AND NON-FORFEITABLE.

14 **§ 7-2. EMPLOYER CONTRIBUTION SUB-ACCOUNT.**

15 A MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT BECOMES 100% VESTED AND NON-
16 FORFEITABLE ON THE EARLIEST OF:

- 17 (1) THE MEMBER'S ATTAINMENT OF NORMAL RETIREMENT AGE;
- 18 (2) THE MEMBER'S BEING CREDITED WITH 5 YEARS OF SERVICE;
- 19 (3) THE MEMBER'S PROVIDING THE BOARD OF TRUSTEES WITH AN SSA DETERMINATION
20 OF DISABILITY UNDER § 9-3 {"DISTRIBUTABLE EVENTS – DISABILITY"} OF THIS
21 ARTICLE;
- 22 (4) THE MEMBER'S DEATH WHILE AN EMPLOYEE;
- 23 (5) A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR PLAN TERMINATION UNDER
24 § 11-2 {"DISCONTINUANCE OF PAYMENTS; PLAN TERMINATION"} OF THIS ARTICLE; OR
- 25 (6) A "PARTIAL PLAN TERMINATION", AS DEFINED UNDER APPLICABLE LAW.

26 **§ 7-3. ROLLOVER CONTRIBUTION SUB-ACCOUNT.**

27 A MEMBER'S ROLLOVER CONTRIBUTION SUB-ACCOUNT IS IMMEDIATELY AND AT ALL TIMES
28 100% VESTED AND NON-FORFEITABLE.

29 **SUBTITLE 8. FORFEITURES**

30 **§ 8-1. FORFEITURE OF NON-VESTED EMPLOYER CONTRIBUTIONS.**

31 THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF A MEMBER WHO TERMINATES
32 EMPLOYMENT WITH A PARTICIPATING EMPLOYER BEFORE THAT SUB-ACCOUNT IS VESTED

Council Bill 13-0247

1 UNDER § 7-2 {“VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT”} OF THIS ARTICLE IS
2 FORFEITED AS OF THE DATE OF THE MEMBER’S TERMINATION OF EMPLOYMENT.

3 § 8-2. FORFEITURE ACCOUNT.

4 FORFEITURES UNDER THIS SUBTITLE WILL BE HELD IN A SEPARATE FORFEITURE ACCOUNT FOR
5 BOOKKEEPING PURPOSES.

6 § 8-3. RESTORATION.

7 (A) *IN GENERAL.*

8 IF, FOLLOWING FORFEITURE OF A MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT,
9 THE MEMBER PROVIDES THE BOARD WITH AN SSA DETERMINATION OF DISABILITY UNDER
10 § 9-3 {“DISTRIBUTABLE EVENTS – DISABILITY”} OF THIS ARTICLE, THE EMPLOYER
11 CONTRIBUTION SUB-ACCOUNT WILL BE RESTORED OUT OF THE FORFEITURE ACCOUNT
12 AND DISTRIBUTED, WITHOUT ANY ADJUSTMENT FOR EARNINGS OR LOSSES, TO THE
13 MEMBER.

14 (B) *EMPLOYER CONTRIBUTION.*

15 IF THE FORFEITURE ACCOUNT HAS INSUFFICIENT FUNDS TO FULLY RESTORE THE
16 EMPLOYER CONTRIBUTION SUB-ACCOUNT, THE APPROPRIATE EMPLOYER MUST MAKE A
17 CONTRIBUTION IN THE AMOUNT NECESSARY FOR FULL RESTORATION.

18 § 8-4. REMAINING AMOUNTS IN FORFEITURE ACCOUNT.

19 (A) *TO DEFRAY REASONABLE PLAN EXPENSES.*

20 AFTER THE END OF EACH PLAN YEAR, ANY AMOUNT REMAINING IN THE FORFEITURE
21 ACCOUNT AFTER ALL EMPLOYER CONTRIBUTION SUB-ACCOUNTS ARE RESTORED UNDER
22 § 8-3 {“RESTORATION”} OF THIS SUBTITLE WILL BE USED TO DEFRAY REASONABLE PLAN
23 ADMINISTRATIVE EXPENSES.

24 (B) *REDUCTION OF EMPLOYER CONTRIBUTION.*

25 ANY AMOUNT REMAINING IN THE FORFEITURE ACCOUNT AFTER ALL REASONABLE PLAN
26 ADMINISTRATIVE EXPENSES ARE DEFRAYED WILL BE USED TO REDUCE THE EMPLOYER
27 CONTRIBUTION REQUIRED UNDER § 5-3 {“EMPLOYER CONTRIBUTIONS”} OF THIS ARTICLE
28 FOR THE PLAN YEAR IN WHICH THE FORFEITURE OCCURRED.

29 SUBTITLE 9. DISTRIBUTIONS

30 § 9-1. FORM AND COMMENCEMENT OF PAYMENT.

31 ~~DISTRIBUTIONS FROM THE RETIREMENT SAVINGS PLAN MAY ONLY BE MADE IN 1 LUMP-SUM~~
32 ~~CASH PAYMENT.~~

Council Bill 13-0247

1 (A) IN GENERAL.

2 (1) ON A DISTRIBUTABLE EVENT UNDER § 9-2 {"DISTRIBUTABLE EVENTS –
3 RETIREMENT"}, § 9-3 {"DISTRIBUTABLE EVENTS – DISABILITY"}, OR § 9-5
4 {"DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT"} OF THIS
5 SUBTITLE, A MEMBER MAY ELECT TO HAVE HIS OR HER VESTED ACCOUNT DISTRIBUTED
6 UNDER 1 OF THE OPTIONS DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

7 (2) THE ELECTION SHALL BE MADE BY WRITTEN NOTICE FILED WITH THE BOARD.

8 (3) SUBJECT TO § 9-8 {"MINIMUM DISTRIBUTION RULES"} OF THIS SUBTITLE,
9 DISTRIBUTION OF A MEMBER'S VESTED ACCOUNT BALANCE SHALL BE PAID (IN THE
10 CASE OF A LUMP-SUM CASH PAYMENT UNDER SUBSECTION (B)(1) OF THIS SECTION) OR
11 COMMENCE (IN THE CASE OF INSTALLMENT PAYMENTS OR AN ANNUITY CONTRACT
12 UNDER SUBSECTIONS (B)(2) OR (3) OF THIS SECTION) AS SOON AS ADMINISTRATIVELY
13 PRACTICABLE AFTER RECEIPT OF THE WRITTEN NOTICE REQUIRED BY PARAGRAPH (2)
14 OF THIS SUBSECTION.

15 (B) OPTIONS.

16 DISTRIBUTIONS WILL BE MADE IN ANY 1 OF THE FOLLOWING FORMS, AS ELECTED BY THE
17 MEMBER:

18 (1) A LUMP-SUM CASH PAYMENT.

19 (2) (i) PERIODIC INSTALLMENT PAYMENTS (MONTHLY, QUARTERLY, OR ANNUALLY)
20 OVER A FIXED PERIOD OF YEARS, AS ELECTED BY THE MEMBER.

21 (ii) SUBJECT TO § 9-8 {"MINIMUM DISTRIBUTION RULES"} OF THIS SUBTITLE, THE
22 AMOUNT PAYABLE EACH YEAR UNDER THIS OPTION IS:

23 (A) THE BALANCE OF THE MEMBER'S VESTED ACCOUNT AT THE END OF THE
24 PRECEDING YEAR, MULTIPLIED BY

25 (B) A FRACTION, THE NUMERATOR OF WHICH IS 1 AND THE DENOMINATOR
26 OF WHICH IS THE NUMBER OF YEARS REMAINING IN THE INSTALLMENT
27 PAYMENT PERIOD.

28 (3) PURCHASE OF A SINGLE-PREMIUM, NONTRANSFERABLE, IMMEDIATE OR DEFERRED
29 ANNUITY CONTRACT THAT PROVIDES ONE OF THE FOLLOWING PAYMENT OPTIONS:

30 (i) A SINGLE-LIFE ANNUITY UNDER WHICH:

31 (A) THE MEMBER WILL RECEIVE EQUAL MONTHLY PAYMENTS DURING
32 HIS OR HER LIFETIME; AND

33 (B) NO FURTHER BENEFITS WILL BE PAID AFTER THE MEMBER'S DEATH;

34 (ii) A JOINT AND SURVIVOR ANNUITY UNDER WHICH:

Council Bill 13-0247

1 (A) THE MEMBER WILL RECEIVE EQUAL MONTHLY PAYMENTS DURING
2 HIS OR HER LIFETIME; AND

3 (B) ON THE MEMBER'S DEATH, MONTHLY PAYMENTS WILL BE MADE TO
4 THE MEMBER'S DESIGNATED BENEFICIARY DURING THE
5 BENEFICIARY'S LIFETIME, IF THE BENEFICIARY SURVIVED THE
6 MEMBER; OR

7 (III) A GUARANTEED ANNUITY UNDER WHICH:

8 (A) THE MEMBER WILL RECEIVE EQUAL MONTHLY PAYMENTS DURING
9 HIS OR HER LIFETIME; AND

10 (B) ON THE MEMBER'S DEATH:

11 1. IF THE MEMBER DIES BEFORE RECEIVING MONTHLY
12 PAYMENTS FOR A GUARANTEED PERIOD OF 5, 10, OR 15
13 YEARS, AS ELECTED BY THE MEMBER, THE MEMBER'S
14 DESIGNATED BENEFICIARY WILL CONTINUE TO RECEIVE
15 MONTHLY PAYMENTS FOR THE REMAINDER OF THE
16 GUARANTEED PERIOD; AND

17 2. IF THE MEMBER DIES AFTER RECEIVING MONTHLY
18 PAYMENTS FOR AT LEAST THE GUARANTEED PERIOD, NO
19 FURTHER BENEFITS WILL BE PAID AFTER THE MEMBER'S
20 DEATH.

21 **§ 9-2. DISTRIBUTABLE EVENTS – RETIREMENT.**

22 A MEMBER WHO TERMINATES EMPLOYMENT ON OR AFTER THE MEMBER'S NORMAL
23 RETIREMENT AGE IS ENTITLED TO RECEIVE, ~~AS SOON AS ADMINISTRATIVELY PRACTICABLE~~
24 ~~AFTER THE TERMINATION~~, THE VALUE OF THE MEMBER'S:

25 (1) IF APPLICABLE, MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

26 (2) EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND

27 (3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

28 **§ 9-3. DISTRIBUTABLE EVENTS – DISABILITY.**

29 (A) *“SSA DETERMINATION OF DISABILITY” DEFINED.*

30 *“SSA DETERMINATION OF DISABILITY” MEANS A WRITTEN DETERMINATION, MADE BY A*
31 *SOCIAL SECURITY ADMINISTRATION'S DISABILITY DETERMINATION SERVICE, HEARING*
32 *OFFICER, OR ADMINISTRATIVE LAW JUDGE, THAT A MEMBER IS DISABLED UNDER THE*
33 *FEDERAL SOCIAL SECURITY ACT.*

Council Bill 13-0247

1 (B) *IN GENERAL.*

2 IF A MEMBER TERMINATES EMPLOYMENT AS A RESULT OF A DISABILITY INCURRED WHILE
3 AN EMPLOYEE AND PROVIDES THE BOARD OF TRUSTEES WITH THE SSA DETERMINATION
4 OF DISABILITY REQUIRED BY SUBSECTION (C) OF THIS SECTION, THE MEMBER IS ENTITLED
5 TO RECEIVE THE VALUE OF THE MEMBER’S:

6 ~~(1) IF APPLICABLE, THE VALUE OF THE MEMBER’S MANDATORY EMPLOYEE~~
7 ~~CONTRIBUTION SUB-ACCOUNT AND, IF APPLICABLE, ROLLOVER CONTRIBUTION~~
8 ~~SUB-ACCOUNT, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE~~
9 ~~TERMINATION; AND~~

10 ~~(2) THE VALUE OF THE MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT~~
11 ~~(DETERMINED AS OF THE DATE OF TERMINATION OF EMPLOYMENT), AS SOON AS~~
12 ~~ADMINISTRATIVELY PRACTICABLE AFTER THE MEMBER PROVIDES THE BOARD OF~~
13 ~~TRUSTEES WITH THE SSA DETERMINATION OF DISABILITY REQUIRED BY~~
14 ~~SUBSECTION (C) OF THIS SECTION.~~

15 (1) IF APPLICABLE, MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

16 (2) EMPLOYER CONTRIBUTION SUB-ACCOUNT (DETERMINED AS OF THE DATE THE
17 MEMBER TERMINATED EMPLOYMENT); AND

18 (3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

19 (C) *SSA DETERMINATION OF DISABILITY.*

20 (1) A MEMBER WHO SEEKS TO RECEIVE A DISTRIBUTION OF HIS OR HER EMPLOYER
21 CONTRIBUTION SUB-ACCOUNT AS A RESULT OF A DISABILITY MUST PROVIDE THE
22 BOARD OF TRUSTEES, IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE
23 BOARD, WITH AN SSA DETERMINATION OF DISABILITY NO LATER THAN 36 MONTHS
24 AFTER THE MEMBER’S TERMINATION.

25 (2) IF A DETERMINATION OF DISABILITY IS NOT PROVIDED BY THAT DEADLINE:

26 (I) THE MEMBER IS NOT ELIGIBLE TO RECEIVE THE DISTRIBUTION AS A RESULT OF A
27 DISABILITY; BUT

28 (II) THE MEMBER MIGHT STILL BE ELIGIBLE FOR A DISTRIBUTION OF THAT SUB-
29 ACCOUNT UNDER § 9-2 {“DISTRIBUTABLE EVENTS – RETIREMENT”} OR § 9-5
30 {“DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT”} OF THIS
31 SUBTITLE.

32 (D) *BOARD’S ADMINISTRATIVE DETERMINATION.*

33 THE FINAL DETERMINATION OF WHETHER A MEMBER IS ELIGIBLE TO RECEIVE A
34 DISTRIBUTION OF THE MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT AS A RESULT
35 OF A DISABILITY:

36 (1) IS MADE BY THE BOARD OF TRUSTEES; AND

Council Bill 13-0247

(2) IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

§ 9-4. DISTRIBUTABLE EVENTS – DEATH.

(A) *IN GENERAL.*

ON THE DEATH OF A MEMBER WHILE AN EMPLOYEE (OR BEFORE RECEIVING A DISTRIBUTION UNDER § 9-2 {"DISTRIBUTABLE EVENTS – RETIREMENT"}, § 9-3 {"DISTRIBUTABLE EVENTS – DISABILITY"}, OR § 9-5 {"DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT"} OF THIS SUBTITLE), THE MEMBER’S BENEFICIARY IS ENTITLED TO RECEIVE, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE BOARD OF TRUSTEES HAS DETERMINED THAT THE MEMBER HAS DIED, A LUMP-SUM CASH PAYMENT IN AN AMOUNT EQUAL TO THE VALUE OF THE MEMBER’S:

- (1) IF APPLICABLE, MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;
- (2) EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND
- (3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

(B) *DESIGNATION OF BENEFICIARY.*

- (1) IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, A MEMBER MAY DESIGNATE A BENEFICIARY TO RECEIVE DEATH BENEFITS FROM THE PLAN.
- (2) THE DESIGNATION REMAINS IN EFFECT UNTIL THE MEMBER CHANGES IT BY MAKING A NEW DESIGNATION IN ACCORDANCE WITH THE BOARD’S PROCEDURES. A NEW DESIGNATION REVOKES ALL PRIOR DESIGNATIONS.

(C) *BENEFICIARY TO ESTABLISH MEMBER’S DEATH.*

TO RECEIVE A DEATH BENEFIT UNDER THIS SECTION, THE MEMBER’S BENEFICIARY MUST ESTABLISH TO THE SATISFACTION OF THE BOARD THAT THE MEMBER HAS DIED.

(D) *FAILURE TO DESIGNATE BENEFICIARY.*

(1) IF THE BOARD DETERMINES THAT A MEMBER HAS DIED WITHOUT VALIDLY DESIGNATING A BENEFICIARY OR THAT NO VALIDLY-DESIGNATED BENEFICIARY IS STILL ALIVE, THE VALUE OF THE MEMBER’S ACCOUNT WILL BE PAID TO:

- (I) THE MEMBER’S SURVIVING SPOUSE;
- (II) IF THERE IS NO SURVIVING SPOUSE, TO THE MEMBER’S SURVIVING CHILDREN, IN EQUAL SHARES;
- (III) IF THERE ARE NO SURVIVING CHILDREN, TO THE MEMBER’S SURVIVING PARENTS, IN EQUAL SHARES; AND
- (IV) IF THERE ARE NO SURVIVING PARENTS, TO THE MEMBER’S ESTATE.

Council Bill 13-0247

1 (2) IF THE MEMBER’S ESTATE WOULD BE ENTITLED TO RECEIVE THE DEATH BENEFIT
2 UNDER PARAGRAPH (1) OF THIS SUBSECTION, BUT NO ESTATE IS OPENED WITHIN 1
3 YEAR OF THE MEMBER’S DEATH, THE AMOUNT OF THE DEATH BENEFIT IS FORFEITED
4 AND WILL BE APPLIED IN ACCORDANCE WITH SUBTITLE 8 {“FORFEITURES”} OF THIS
5 ARTICLE.

6 (E) *RESOLUTION OF DISPUTES.*

7 (1) IF ANY QUESTION OR DISPUTE ARISES REGARDING PAYMENT OF A DEATH BENEFIT
8 UNDER THIS SECTION, THE BOARD MAY:

9 (I) DISTRIBUTE THE DEATH BENEFIT TO THE MEMBER’S ESTATE;

10 (II) RETAIN THE DEATH BENEFIT UNTIL THE BOARD IS SATISFIED THAT THE RIGHT
11 TO PAYMENT HAS BEEN FINALLY DETERMINED; OR

12 (III) DEPOSIT THE AMOUNT OF THE DEATH BENEFIT INTO ANY COURT OF
13 COMPETENT JURISDICTION.

14 (2) A DETERMINATION BY THE BOARD UNDER THIS SECTION IS FINAL AND BINDING ON ALL
15 PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17
16 {“ADMINISTRATIVE APPEAL”} AND § 2-18 {“JUDICIAL AND APPELLATE REVIEW”} OF
17 THIS ARTICLE.

18 **§ 9-5. DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT.**

19 IF A MEMBER TERMINATES EMPLOYMENT BEFORE THE MEMBER’S NORMAL RETIREMENT AGE
20 AND NOT AS A RESULT OF DISABILITY OR DEATH, THE MEMBER IS ENTITLED TO RECEIVE THE
21 FOLLOWING, ~~AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION:~~

22 (1) ~~IF APPLICABLE,~~ THE VALUE OF THE MEMBER’S MANDATORY EMPLOYEE
23 CONTRIBUTION SUB-ACCOUNT AND, ~~IF APPLICABLE,~~ ROLLOVER CONTRIBUTION SUB-
24 ACCOUNT; AND

25 (2) IF VESTED UNDER § 7-2 {“VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT”} OF
26 THIS ARTICLE, THE VALUE OF THE MEMBER’S EMPLOYER CONTRIBUTION SUB-
27 ACCOUNT.

28 **§ 9-6. NO LOANS OR WITHDRAWALS.**

29 NO LOAN AGAINST NOR IN-SERVICE WITHDRAWAL FROM ANY PART OF A MEMBER’S ACCOUNT
30 IS PERMITTED.

31 **§ 9-7. DIRECT ROLLOVERS.**

32 (A) *DEFINITIONS.*

33 (1) *IN GENERAL.*

34 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

Council Bill 13-0247

1 (2) “*DISTRIBUTE*”.

2 “DISTRIBUTE” MEANS:

3 (I) AN EMPLOYEE OR FORMER EMPLOYEE;

4 (II) THE EMPLOYEE’S OR FORMER EMPLOYEE’S SPOUSE OR FORMER SPOUSE WHO IS
5 THE ALTERNATE PAYEE UNDER A QUALIFIED DOMESTIC RELATIONS ORDER, AS
6 DEFINED IN IRC § 414(P), WITH REGARD TO THE INTEREST OF THE SPOUSE OR
7 FORMER SPOUSE; OR

8 (III) THE EMPLOYEE’S OR FORMER EMPLOYEE’S NONSPOUSE DESIGNATED
9 BENEFICIARY, IF THE DIRECT ROLLOVER IS MADE TO AN INDIVIDUAL
10 RETIREMENT ACCOUNT OR ANNUITY (“IRA”) UNDER IRC § 408(A) OR § 408(B)
11 THAT:

12 (A) IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY; AND

13 (B) IS TREATED AS AN INHERITED IRA UNDER IRC § 402(C)(11).

14 (3) “*ELIGIBLE RETIREMENT PLAN*”.

15 “ELIGIBLE RETIREMENT PLAN” MEANS ANY OF THE FOLLOWING THAT ACCEPTS A
16 DISTRIBUTE’S ELIGIBLE ROLLOVER DISTRIBUTION:

17 (I) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER IRC § 408(A);

18 (II) AN INDIVIDUAL RETIREMENT ANNUITY UNDER IRC § 408(B);

19 (III) A QUALIFIED PLAN UNDER IRC § 401(A);

20 (IV) AN ANNUITY PLAN UNDER IRC § 403(A);

21 (V) AN ELIGIBLE DEFERRED COMPENSATION PLAN UNDER IRC § 457(B) THAT IS
22 MAINTAINED BY A STATE, A POLITICAL SUBDIVISION OF A STATE, OR ANY
23 AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A
24 STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS
25 TRANSFERRED FROM THE RETIREMENT SAVINGS PLAN;

26 (VI) AN ANNUITY CONTRACT DESCRIBED IN IRC § 403(B); AND

27 (VII) A ROTH IRA DESCRIBED IN IRC § 408A.

28 (4) “*ELIGIBLE ROLLOVER DISTRIBUTION*”.

29 (I) *IN GENERAL*.

30 “ELIGIBLE ROLLOVER DISTRIBUTION” MEANS ANY DISTRIBUTION OF ALL OR ANY
31 PORTION OF THE BALANCE TO THE CREDIT OF THE DISTRIBUTE.

Council Bill 13-0247

1 (II) *EXCLUSIONS.*

2 “ELIGIBLE ROLLOVER DISTRIBUTION” DOES NOT INCLUDE:

3 (A) ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL
4 PERIODIC PAYMENTS (NOT LESS FREQUENTLY THAN ANNUALLY) MADE FOR
5 THE LIFE (OR LIFE EXPECTANCY) OF THE DISTRIBUTEE OR THE JOINT LIVES
6 (OR JOINT LIFE EXPECTANCIES) OF THE DISTRIBUTEE AND THE
7 DISTRIBUTEE’S DESIGNATED BENEFICIARY, OR FOR A SPECIFIED PERIOD OF
8 10 YEARS OR MORE;

9 (B) ANY DISTRIBUTION TO THE EXTENT THAT IT IS REQUIRED UNDER IRC
10 § 401(A)(9);

11 (C) ANY DISTRIBUTION THAT IS MADE ON ACCOUNT OF HARDSHIP; AND

12 (D) SUBJECT TO SUBPARAGRAPH (III) OF THIS ~~SUBSECTION (A)(4)~~ PARAGRAPH,
13 THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDIBLE IN GROSS
14 INCOME.

15 (III) *QUALIFICATIONS FOR EXCLUSION UNDER SUBPARAGRAPH (II)(D).*

16 (A) NOTWITHSTANDING SUBPARAGRAPH (II)(D) OF THIS ~~SUBSECTION (A)(4)~~
17 PARAGRAPH, A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN
18 “ELIGIBLE ROLLOVER DISTRIBUTION” MERELY BECAUSE THE PORTION
19 CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT
20 INCLUDIBLE IN GROSS INCOME.

21 (B) SUB-SUBPARAGRAPH (A) OF THIS ~~SUBSECTION (A)(4)(II)~~ SUBPARAGRAPH
22 APPLIES ONLY IF THE PORTION IS TRANSFERRED TO:

23 1. A TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY
24 UNDER IRC § 408(A) OR § 408(B) OR A ROTH INDIVIDUAL RETIREMENT
25 ACCOUNT OR ANNUITY UNDER IRC § 408A; OR

26 2. A QUALIFIED PLAN UNDER IRC § 401(A) OR § 403(A) OR AN ANNUITY
27 CONTRACT UNDER IRC § 403(B), IF THE PLAN OR CONTRACT PROVIDES
28 FOR:

29 A. SEPARATE ACCOUNTS FOR AMOUNTS SO TRANSFERRED
30 (INCLUDING EARNINGS ON THE TRANSFERRED AMOUNTS); AND

31 B. SEPARATE ACCOUNTING FOR THE PORTION OF THE
32 DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE
33 PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

34 (B) *DIRECT ROLLOVERS.*

35 NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE THAT WOULD OTHERWISE LIMIT A
36 DISTRIBUTEE’S ELECTION UNDER THIS SECTION, A DISTRIBUTEE MAY ELECT, AT THE TIME

Council Bill 13-0247

1 AND IN THE MANNER DIRECTED BY THE BOARD OF TRUSTEES, TO HAVE ANY PORTION OF
2 AN ELIGIBLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN
3 SPECIFIED BY THE DISTRIBUTE IN A DIRECT ROLLOVER.

4 **§ 9-8. MINIMUM DISTRIBUTION RULES.**

5 (A) DEFINITIONS.

6 (1) IN GENERAL.

7 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

8 (2) DESIGNATED BENEFICIARY.

9 “DESIGNATED BENEFICIARY” MEANS THE INDIVIDUAL WHO IS DESIGNATED BY THE
10 MEMBER (OR THE MEMBER’S SURVIVING SPOUSE) AS THE BENEFICIARY OF THE
11 MEMBER’S INTEREST UNDER THE PLAN AND WHO IS THE DESIGNATED BENEFICIARY
12 UNDER IRC § 401(A)(9) AND 26 CFR § 1.401(A)(9)-4.

13 (3) DISTRIBUTION CALENDAR YEAR.

14 (I) “DISTRIBUTION CALENDAR YEAR” MEANS A CALENDAR YEAR FOR WHICH A
15 MINIMUM DISTRIBUTION IS REQUIRED.

16 (II) FOR DISTRIBUTIONS BEGINNING BEFORE THE MEMBER’S DEATH, THE FIRST
17 DISTRIBUTION CALENDAR YEAR IS THE CALENDAR YEAR IMMEDIATELY PRECEDING
18 THE CALENDAR YEAR THAT CONTAINS THE MEMBER’S REQUIRED BEGINNING DATE.

19 (III) THE REQUIRED MINIMUM DISTRIBUTION FOR THE MEMBER’S FIRST DISTRIBUTION
20 CALENDAR YEAR WILL BE MADE ON OR BEFORE THE MEMBER’S REQUIRED
21 BEGINNING DATE.

22 (IV) THE REQUIRED MINIMUM DISTRIBUTION FOR OTHER DISTRIBUTION CALENDAR
23 YEARS, INCLUDING THE REQUIRED MINIMUM DISTRIBUTION FOR THE DISTRIBUTION
24 CALENDAR YEAR IN WHICH THE MEMBER’S REQUIRED BEGINNING DATE OCCURS,
25 WILL BE MADE ON OR BEFORE DECEMBER 31 OF THAT DISTRIBUTION CALENDAR
26 YEAR.

27 (4) LIFE EXPECTANCY.

28 “LIFE EXPECTANCY” MEANS LIFE EXPECTANCY AS COMPUTED BY USE OF THE SINGLE
29 LIFE TABLE IN 26 CFR 1.401(A)(9)-9, Q&A-1.

30 (5) MEMBER’S ACCOUNT BALANCE.

31 (I) “MEMBER’S ACCOUNT BALANCE” MEANS:

32 (A) THE ACCOUNT BALANCE AS OF THE LAST VALUATION DATE IN THE
33 CALENDAR YEAR IMMEDIATELY PRECEDING THE DISTRIBUTION CALENDAR
34 YEAR (VALUATION CALENDAR YEAR), INCREASED BY

Council Bill 13-0247

1 (B) THE AMOUNT OF ANY CONTRIBUTIONS MADE AND ALLOCATED OR
2 FORFEITURES ALLOCATED TO THE ACCOUNT AS OF DATES IN THE
3 VALUATION CALENDAR YEAR AFTER THE VALUATION DATE, AND
4 DECREASED BY

5 (C) DISTRIBUTIONS MADE IN THE VALUATION CALENDAR YEAR AFTER THE
6 VALUATION DATE.

7 (II) THE ACCOUNT BALANCE FOR THE VALUATION CALENDAR YEAR INCLUDES ANY
8 AMOUNTS ROLLED OVER OR TRANSFERRED TO THE PLAN EITHER IN THE
9 VALUATION CALENDAR YEAR OR IN THE DISTRIBUTION CALENDAR YEAR IF
10 DISTRIBUTED OR TRANSFERRED IN THE VALUATION CALENDAR YEAR.

11 (6) REQUIRED BEGINNING DATE.

12 “REQUIRED BEGINNING DATE” MEANS APRIL 1 OF THE CALENDAR YEAR
13 FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS AGE 70½.

14 (B) ~~(A)~~ REASONABLE GOOD FAITH COMPLIANCE.

15 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, DISTRIBUTIONS UNDER THIS
16 ARTICLE MUST BE MADE IN ACCORDANCE WITH A REASONABLE GOOD FAITH
17 INTERPRETATION OF IRC § 401(A)(9), AS APPLICABLE TO THE RETIREMENT SAVINGS
18 PLAN.

19 (C) GENERAL RULE.

20 AS OF THE FIRST DISTRIBUTION CALENDAR YEAR, DISTRIBUTIONS TO A MEMBER, IF NOT
21 MADE IN A LUMP-SUM, MAY ONLY BE MADE OVER 1 OF THE FOLLOWING PERIODS:

22 (1) THE LIFE OF THE MEMBER;

23 (2) THE JOINT LIVES OF THE MEMBER AND A DESIGNATED BENEFICIARY;

24 (3) A PERIOD CERTAIN NOT EXTENDING BEYOND THE LIFE EXPECTANCY OF THE
25 MEMBER; OR

26 (4) A PERIOD CERTAIN NOT EXTENDING BEYOND THE JOINT LIFE AND LAST SURVIVOR
27 EXPECTANCY OF THE MEMBER AND A DESIGNATED BENEFICIARY.

28 (D) ~~(B)~~ TIME AND MANNER OF DISTRIBUTION.

29 (1) REQUIRED {LATEST} BEGINNING DATE.

30 THE MEMBER’S ENTIRE INTEREST MUST BE DISTRIBUTED TO THE MEMBER NO LATER
31 THAN THE APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

32 (I) THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS AGE 70½; OR

Council Bill 13-0247

1 (II) THE CALENDAR YEAR IN WHICH THE MEMBER TERMINATES EMPLOYMENT WITH
2 A PARTICIPATING EMPLOYER.

3 (2) DEATH OF MEMBER BEFORE DISTRIBUTION.

4 IF THE MEMBER DIES BEFORE DISTRIBUTION IS MADE, THE MEMBER'S ENTIRE INTEREST
5 MUST BE DISTRIBUTED NO LATER THAN DECEMBER 31 OF THE CALENDAR YEAR IN
6 WHICH THE 5TH ANNIVERSARY OF THE MEMBER'S DEATH OCCURS.

7 (3) FORMS OF DISTRIBUTION.

8 (I) AS OF THE FIRST DISTRIBUTION CALENDAR YEAR, UNLESS A MEMBER'S INTEREST IS
9 DISTRIBUTED ON OR BEFORE THE REQUIRED BEGINNING DATE IN THE FORM OF AN
10 ANNUITY PURCHASED FROM AN INSURANCE COMPANY OR IN A LUMP-SUM,
11 DISTRIBUTIONS MUST BE MADE IN ACCORDANCE WITH SUBSECTIONS (E) AND (F) OF
12 THIS SECTION.

13 (II) IF THE MEMBER'S INTEREST IS DISTRIBUTED IN THE FORM OF AN ANNUITY
14 PURCHASED FROM AN INSURANCE COMPANY, DISTRIBUTIONS UNDER THE ANNUITY
15 MUST BE MADE IN ACCORDANCE WITH A REASONABLE GOOD-FAITH
16 INTERPRETATION OF IRC § 401(A)(9).

17 (E) REQUIRED MINIMUM DISTRIBUTIONS DURING MEMBER'S LIFETIME.

18 (1) MINIMUM FOR EACH DISTRIBUTION CALENDAR YEAR.

19 DURING A MEMBER'S LIFETIME, THE MINIMUM AMOUNT THAT MUST BE DISTRIBUTED
20 FOR EACH CALENDAR YEAR IS THE LESSER OF:

21 (I) THE QUOTIENT OBTAINED BY DIVIDING THE MEMBER'S ACCOUNT BALANCE BY
22 THE DISTRIBUTION PERIOD IN THE UNIFORM LIFETIME TABLE SET FORTH IN 26
23 CFR § 1.401(A)(9)-9, Q&A-2, USING THE MEMBER'S AGE AS OF THE MEMBER'S
24 BIRTHDAY IN THE DISTRIBUTION CALENDAR YEAR; OR

25 (II) IF THE MEMBER'S SOLE DESIGNATED BENEFICIARY FOR THE DISTRIBUTION
26 CALENDAR YEAR IS THE MEMBER'S SPOUSE, THE QUOTIENT OBTAINED BY
27 DIVIDING THE MEMBER'S ACCOUNT BALANCE BY THE NUMBER IN THE JOINT
28 AND LAST SURVIVOR TABLE SET FORTH IN 26 CFR § 1.401(A)(9)-9, Q&A-3,
29 USING THE MEMBER'S AND SPOUSE'S ATTAINED AGES AS OF THE MEMBER'S
30 AND SPOUSE'S BIRTHDAYS IN THE DISTRIBUTION CALENDAR YEAR.

31 (2) CONTINUATION THROUGH YEAR OF MEMBER'S DEATH.

32 REQUIRED MINIMUM DISTRIBUTIONS MUST BE DETERMINED UNDER THIS SUBSECTION
33 BEGINNING WITH THE FIRST DISTRIBUTION CALENDAR YEAR AND CONTINUING UP TO,
34 AND INCLUDING, THE DISTRIBUTION CALENDAR YEAR THAT INCLUDES THE MEMBER'S
35 DATE OF DEATH.

Council Bill 13-0247

(F) REQUIRED MINIMUM DISTRIBUTIONS AFTER MEMBER’S DEATH.

(1) MEMBER SURVIVED BY DESIGNATED BENEFICIARY.

IF A MEMBER DIES ON OR AFTER THE DATE DISTRIBUTIONS BEGIN AND THERE IS A DESIGNATED BENEFICIARY, THE MINIMUM AMOUNT THAT MUST BE DISTRIBUTED FOR EACH DISTRIBUTION CALENDAR YEAR AFTER THE YEAR OF THE MEMBER’S DEATH IS THE QUOTIENT OBTAINED BY DIVIDING THE MEMBER’S ACCOUNT BALANCE BY THE LONGER OF THE REMAINING LIFE EXPECTANCY OF THE MEMBER OR THE REMAINING LIFE EXPECTANCY OF THE MEMBER’S DESIGNATED BENEFICIARY, DETERMINED AS FOLLOWS:

(i) THE MEMBER’S REMAINING LIFE EXPECTANCY IS CALCULATED BY USING THE AGE OF THE MEMBER IN THE YEAR OF DEATH, REDUCED BY ONE FOR EACH SUBSEQUENT YEAR.

(ii) IF THE MEMBER’S SURVIVING SPOUSE IS THE MEMBER’S SOLE DESIGNATED BENEFICIARY, THE REMAINING LIFE EXPECTANCY OF THE SURVIVING SPOUSE IS CALCULATED FOR EACH DISTRIBUTION CALENDAR YEAR AFTER THE YEAR OF THE MEMBER’S DEATH BY USING THE SURVIVING SPOUSE’S AGE AS OF THE SPOUSE’S BIRTHDAY IN THAT YEAR. FOR DISTRIBUTION CALENDAR YEARS AFTER THE YEAR OF THE SURVIVING SPOUSE’S DEATH, THE REMAINING LIFE EXPECTANCY OF THE SURVIVING SPOUSE IS CALCULATED BY USING THE AGE OF THE SURVIVING SPOUSE AS OF THE SPOUSE’S BIRTHDAY IN THE CALENDAR YEAR OF THE SPOUSE’S DEATH, REDUCED BY ONE FOR EACH SUBSEQUENT CALENDAR YEAR.

(iii) IF THE MEMBER’S SURVIVING SPOUSE IS NOT THE MEMBER’S SOLE DESIGNATED BENEFICIARY, THE DESIGNATED BENEFICIARY’S REMAINING LIFE EXPECTANCY IS CALCULATED USING THE AGE OF THE BENEFICIARY IN THE YEAR FOLLOWING THE YEAR OF THE MEMBER’S DEATH, REDUCED BY ONE FOR EACH SUBSEQUENT YEAR.

(2) NO DESIGNATED BENEFICIARY.

IF A MEMBER DIES ON OR AFTER THE DATE DISTRIBUTIONS BEGIN AND THERE IS NO DESIGNATED BENEFICIARY AS OF SEPTEMBER 30 OF THE YEAR AFTER THE YEAR OF THE MEMBER’S DEATH, THE MINIMUM AMOUNT THAT MUST BE DISTRIBUTED FOR EACH DISTRIBUTION CALENDAR YEAR AFTER THE YEAR OF THE MEMBER’S DEATH IS THE QUOTIENT OBTAINED BY DIVIDING THE MEMBER’S ACCOUNT BALANCE BY THE MEMBER’S REMAINING LIFE EXPECTANCY, CALCULATED BY USING THE AGE OF THE MEMBER IN THE YEAR OF DEATH, REDUCED BY ONE FOR EACH SUBSEQUENT YEAR.

SUBTITLE 10. ANTI-ALIENATION PROVISIONS

§ 10-1. PROHIBITED ASSIGNMENTS, ATTACHMENTS, ETC.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN §§ 10-3 {“EXCEPTIONS – GENERAL APPLICABILITY”} THROUGH 10-10 {“EXCEPTIONS – FUNERAL EXPENSES”} OF THIS SUBTITLE:

Council Bill 13-0247

1 (1) ALL CURRENT AND FUTURE BENEFITS PROVIDED UNDER THE RETIREMENT SAVINGS
2 PLAN AND ALL AMOUNTS THAT HAVE BEEN CREDITED TO A MEMBER’S ACCOUNT ARE
3 UNASSIGNABLE; AND

4 (2) NO PERSON MAY ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY CURRENT OR
5 FUTURE BENEFIT PROVIDED UNDER THE RETIREMENT SAVINGS PLAN OR ANY AMOUNT
6 THAT HAS BEEN CREDITED TO A MEMBER’S ACCOUNT.

7 **§ 10-2. {RESERVED}**

8 **§ 10-3. EXCEPTIONS – GENERAL APPLICABILITY.**

9 SUBJECT TO THE REQUIREMENTS OF § 10-12 {“EXCEPTIONS – NOTICE TO BOARD”} OF THIS
10 SUBTITLE, THE EXCEPTIONS PROVIDED IN §§ 10-4 {“EXCEPTIONS - COURT ORDERS”}
11 THROUGH 10-10 {“EXCEPTIONS – FUNERAL EXPENSES”} APPLY NOTWITHSTANDING § 10-1
12 {“PROHIBITED ASSIGNMENTS, ATTACHMENTS, ETC.”} OF THIS SUBTITLE.

13 **§ 10-4. EXCEPTIONS – COURT ORDERS.**

14 (A) *IN GENERAL.*

15 ALL OR ANY PORTION OF A MEMBER’S VESTED ACCOUNT MAY BE ASSIGNED PURSUANT TO:

16 (1) A DECREE OR ORDER OF ALIMONY OR CHILD SUPPORT ISSUED BY A COURT OF
17 COMPETENT JURISDICTION;

18 (2) A COURT ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION APPOINTING
19 THE ASSIGNEE AS GUARDIAN OVER THE PROPERTY OF THE MEMBER; OR

20 (3) A DOMESTIC RELATIONS ORDER, AS DEFINED IN SUBSECTION (B) OF THIS SECTION.

21 (B) *DOMESTIC RELATIONS ORDERS.*

22 (1) *“DOMESTIC RELATIONS ORDER” DEFINED.*

23 IN THIS SECTION, “DOMESTIC RELATIONS ORDER” MEANS EITHER OF THE FOLLOWING
24 THAT SATISFIES THE CONDITIONS OF PARAGRAPH (2) OF THIS SUBSECTION:

25 (I) A MEMBER’S COURT-APPROVED PROPERTY SETTLEMENT AGREEMENT INCIDENT
26 TO A DIVORCE DECREE; OR

27 (II) A DIVISION OF MARITAL PROPERTY PURSUANT TO A COURT ORDER THAT:

28 (A) CREATES THE RIGHT OR RECOGNIZES THE EXISTENCE OF THE RIGHT OF
29 AN ALTERNATE PAYEE (AS DEFINED IN IRC § 414(P)(8)) TO RECEIVE
30 ALL OR A PORTION OF A MEMBER’S BENEFIT UNDER THE RETIREMENT
31 SAVINGS PLAN; OR

32 (B) ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO RECEIVE ALL OR A
33 PORTION OF A MEMBER’S BENEFIT UNDER THE PLAN.

Council Bill 13-0247

(2) *CONDITIONS OF AGREEMENT OR ORDER.*

THE PROPERTY SETTLEMENT AGREEMENT OR COURT ORDER:

- (I) MAY NOT REQUIRE THE PLAN TO MAKE ANY DISTRIBUTION TO THE ALTERNATE PAYEE IN A FORM OF PAYMENT OTHER THAN AS REQUIRED BY § 9-1 {"FORM OF PAYMENT"} OF THIS ARTICLE;
- (II) MAY NOT REQUIRE THE PLAN TO PROVIDE TO THE ALTERNATE PAYEE AN AMOUNT GREATER THAN THE VALUE OF THE MEMBER'S VESTED ACCOUNT;
- (III) MAY NOT REQUIRE THE PAYMENT OF BENEFITS TO AN ALTERNATE PAYEE IF THE BENEFITS ARE REQUIRED TO BE PAID TO ANOTHER ALTERNATE PAYEE UNDER ANOTHER ORDER PREVIOUSLY ACCEPTED AS A DOMESTIC RELATIONS ORDER;
- (IV) MUST CLEARLY SPECIFY THE PERCENTAGE OR AMOUNT OF THE MEMBER'S VESTED ACCOUNT TO BE DISTRIBUTED TO THE ALTERNATE PAYEE OR THE MANNER IN WHICH THE PERCENTAGE OR AMOUNT IS TO BE DETERMINED; AND
- (V) MUST CLEARLY SPECIFY (OR, TO PROTECT THE PARTIES' PRIVACY, REQUIRE SUBMISSION BY SEPARATE WRITING OF) THE NAME, SOCIAL SECURITY NUMBER, BIRTH DATE, AND LAST KNOWN MAILING ADDRESS OF THE MEMBER AND THE ALTERNATE PAYEE.

(3) *IMPLEMENTATION OF AGREEMENT OR ORDER.*

FOLLOWING A DETERMINATION BY THE BOARD OF TRUSTEES THAT A PROPERTY SETTLEMENT AGREEMENT OR COURT ORDER IS A DOMESTIC RELATIONS ORDER:

- (I) A SEPARATE ACCOUNT MUST BE ESTABLISHED AND MAINTAINED ON BEHALF OF THE ALTERNATE PAYEE;
- (II) THE ALTERNATE PAYEE MUST BE AFFORDED THE SAME RIGHTS WITH RESPECT TO THE ACCOUNT AS A MEMBER HAS UNDER THIS ARTICLE, INCLUDING THE RIGHT TO MAKE AN INVESTMENT ELECTION UNDER § 6-2 {"INVESTMENTS"} OF THIS ARTICLE; AND
- (III) DISTRIBUTIONS TO THE ALTERNATE PAYEE MUST BE MADE AT THE TIME SPECIFIED IN THE DOMESTIC RELATIONS ORDER, WHICH MAY BE BEFORE THE MEMBER (TO WHOM THE DOMESTIC RELATIONS ORDER RELATES) HAS A DISTRIBUTABLE EVENT UNDER SUBTITLE 9 {"DISTRIBUTIONS"} OF THIS ARTICLE.

§ 10-5. EXCEPTIONS – TAX LIENS.

ALL OR ANY PORTION OF A MEMBER'S VESTED ACCOUNT MAY BE PAID IN SATISFACTION OF A FEDERAL OR STATE TAX LIEN.

Council Bill 13-0247

1 § 10-6. EXCEPTIONS – POWERS OF ATTORNEY.

2 THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER'S
3 OR BENEFICIARY'S ATTORNEY-IN-FACT, AS AGENT OF THE MEMBER OR BENEFICIARY, IF THE
4 MEMBER OR BENEFICIARY HAS PROPERLY DESIGNATED THE ATTORNEY-IN-FACT TO ACT AS
5 AGENT UNDER A DULY-EXECUTED DURABLE POWER OF ATTORNEY.

6 § 10-7. EXCEPTIONS – CUSTODIAN UNDER UNIFORM TRANSFERS TO MINORS ACT.

7 THE AMOUNT OTHERWISE DUE A MINOR BENEFICIARY MAY BE PAID TO A CUSTODIAN VALIDLY
8 APPOINTED FOR THE MINOR UNDER THE MARYLAND UNIFORM TRANSFERS TO MINORS ACT
9 (STATE ESTATES AND TRUSTS ARTICLE, TITLE 13, SUBTITLE 3) OR SIMILAR PROVISIONS OF
10 ANOTHER JURISDICTION.

11 § 10-8. EXCEPTIONS – TRUSTEE.

12 THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER'S
13 OR BENEFICIARY'S TRUSTEE, IF THE TRUSTEE WAS DESIGNATED TRUSTEE OF THE MEMBER OR
14 BENEFICIARY UNDER AN ENFORCEABLE *INTER VIVOS* OR TESTAMENTARY TRUST AGREEMENT.

15 § 10-9. EXCEPTIONS – REPRESENTATIVE PAYEE.

16 THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER'S
17 OR BENEFICIARY'S SOCIAL SECURITY "REPRESENTATIVE PAYEE" PURSUANT TO THE SOCIAL
18 SECURITY ACT, 42 U.S.C. § 405(j).

19 § 10-10. EXCEPTIONS – FUNERAL EXPENSES.

20 ALL OR ANY PORTION OF A MEMBER'S VESTED ACCOUNT THAT IS PAYABLE ON ACCOUNT OF A
21 MEMBER'S DEATH MAY BE PAID TO A FUNERAL ESTABLISHMENT PROVIDING FUNERAL
22 SERVICES TO THE DECEASED MEMBER, IF THE MEMBER'S BENEFICIARY FILES WITH THE BOARD
23 OF TRUSTEES, IN THE FORM REQUIRED BY THE BOARD, THE BENEFICIARY'S CONSENT TO THAT
24 PAYMENT.

25 § 10-11 {RESERVED}

26 § 10-12. EXCEPTIONS – NOTICE TO BOARD.

27 AN ASSIGNMENT UNDER §§ 10-4 {"EXCEPTIONS – COURT ORDERS"} THROUGH 10-10
28 {"EXCEPTIONS – FUNERAL EXPENSES"} OF THIS SUBTITLE MAY BE MADE ONLY AFTER THE
29 BOARD OF TRUSTEES RECEIVES:

- 30 (1) A COPY, AS APPROPRIATE, OF THE COURT ORDER OR DECREE, NOTICE OF TAX LIEN,
31 POWER OF ATTORNEY, CUSTODIAL DESIGNATION, TRUST DOCUMENT, CERTIFICATION
32 OF REPRESENTATIVE PAYEE, OR CONSENT TO ASSIGNMENT TO FUNERAL
33 ESTABLISHMENT; AND

- 34 (2) ANY ADDITIONAL DOCUMENTS OR INFORMATION THAT THE BOARD REQUIRES.

35 § 10-13. {RESERVED}

Council Bill 13-0247

§ 10-14. FRAUD OR MISUSE.

IF THE BOARD, THE SOCIAL SECURITY ADMINISTRATION, OR A COURT OF COMPETENT JURISDICTION DETERMINES THAT ANY AMOUNT PAID UNDER §§ 10-4 {"EXCEPTIONS – COURT ORDERS"} THROUGH 10-10 {"EXCEPTIONS – FUNERAL EXPENSES"} OF THIS SUBTITLE WAS OBTAINED BY FRAUD OR MISUSED, THE BOARD MUST TAKE ALL NECESSARY STEPS TO RECOVER THAT AMOUNT.

SUBTITLE 11. PLAN MODIFICATIONS

§ 11-1. PLAN AMENDMENT.

(A) *IN GENERAL.*

SUBJECT TO THE LIMITATIONS OF SUBSECTION (B) OF THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE RESERVES THE RIGHT, AT ANY TIME BY ORDINANCE, TO AMEND ANY PROVISION OF THIS ARTICLE.

(B) *LIMITATIONS.*

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, NO AMENDMENT MAY CAUSE ANY VESTED CONTRIBUTIONS MADE BEFORE THE AMENDMENT'S EFFECTIVE DATE TO BECOME FORFEITABLE.

§ 11-2. DISCONTINUANCE OF PAYMENTS; PLAN TERMINATION.

(A) *IN GENERAL.*

THE MAYOR AND CITY COUNCIL RESERVES THE RIGHT, AT ANY TIME BY ORDINANCE, TO PERMANENTLY DISCONTINUE CONTRIBUTIONS TO THE PLAN OR TO TERMINATE THE PLAN.

(B) *EFFECT OF DISCONTINUANCE OR TERMINATION.*

ON THE EFFECTIVE DATE OF A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR A PLAN TERMINATION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

(1) NO PERSON WHO IS NOT ALREADY A MEMBER MAY BECOME A MEMBER;

(2) NO FURTHER CONTRIBUTIONS MAY BE MADE TO THE PLAN; AND

(3) THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF ANY MEMBER THAT IS NOT ALREADY 100% VESTED AND NON-FORFEITABLE BECOMES 100% VESTED AND NON-FORFEITABLE.

(C) *DISTRIBUTION OF ACCOUNTS.*

AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EFFECTIVE DATE OF A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR A PLAN TERMINATION, THE VALUE OF EACH MEMBER'S ACCOUNT MUST BE PAID TO THE MEMBER IN A LUMP-SUM CASH PAYMENT.

Council Bill 13-0247

§ 11-3. PLAN MERGER, CONSOLIDATION, OR TRANSFER.

IN THE CASE OF A MERGER OR CONSOLIDATION OF THE RETIREMENT SAVINGS PLAN WITH, OR A TRANSFER OF PLAN ASSETS OR LIABILITIES TO, ANY OTHER PLAN, EACH MEMBER OF THE RETIREMENT SAVINGS PLAN IS ENTITLED TO RECEIVE, IMMEDIATELY AFTER THE MERGER, CONSOLIDATION, OR TRANSFER (AS IF THE OTHER PLAN HAD THEN TERMINATED), A BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT THE MEMBER WOULD HAVE BEEN ENTITLED TO RECEIVE IMMEDIATELY BEFORE THE MERGER, CONSOLIDATION, OR TRANSFER (AS IF THE RETIREMENT SAVINGS PLAN HAD THEN TERMINATED).

Article 22 - Retirements Systems

Subtitle – Employees’ Retirement System

§ 1. Definitions.

(2) (I) (A) “Employee” [shall mean] means:

- 1. any regular and permanent officer, agent, or employee of the City of Baltimore[.]; AND
- 2. [“Employee” shall also include] any regular and permanent officer, agent, servant or employee, by whatever authority appointed, whose salary or compensation is paid by the Mayor and City Council of Baltimore, except when the City of Baltimore acts only as an agent for the convenience of disbursing payroll funds.

(B) In all cases of doubt the Board of Trustees shall decide who is an employee within the meaning of this subtitle.

(II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR ANY PRIOR DETERMINATION OF THE BOARD OF TRUSTEES, EMPLOYEES OF THE BALTIMORE MUSEUM OF ART AND OF THE WALTERS ART MUSEUM WHO ARE EMPLOYED OR REEMPLOYED ON OR AFTER JULY 1, 2014, ARE NOT "EMPLOYEES" UNDER THIS SUBTITLE.

(9) (i) “Regular interest” means:

.....

(B) for the accumulation of Class C OR CLASS D member contributions, interest at 3% per year, compounded annually.

(13a) (ii) All retirement dates for all Class A, B, [and] C, AND D members shall fall on the 1st of a month.

Council Bill 13-0247

1 ~~§ 2. Name and date operative; NEW MEMBERS CUTOFF.~~

2 ~~(A) NAME AND DATE OPERATIVE.~~

3 ~~(1) A retirement system is hereby established and placed under the management of the~~
4 ~~Board of Trustees for the purpose of providing retirement allowances, pensions and~~
5 ~~other incidental benefits under the provisions of this subtitle for employees of the~~
6 ~~City of Baltimore who become members of this retirement system.~~

7 ~~(2) [It] THIS SYSTEM shall be known as the “Employees’ Retirement System of the City~~
8 ~~of Baltimore”.~~

9 ~~(3) The [Retirement System] SYSTEM so created [shall begin] BEGAN operation as of~~
10 ~~January 1, 1926.~~

11 ~~(B) NO NEW MEMBERS ON OR AFTER JANUARY 1, 2014.~~

12 ~~NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBTITLE:~~

13 ~~(1) NO PERSON WHO FIRST BECOMES AN EMPLOYEE ON OR AFTER JANUARY 1, 2014,~~
14 ~~MAY BECOME A MEMBER OF THIS SYSTEM; AND~~

15 ~~(2) NO FORMER ACTIVE MEMBER OF THIS SYSTEM WHO AGAIN BECOMES AN EMPLOYEE~~
16 ~~ON OR AFTER JANUARY 1, 2014, MAY AGAIN BECOME AN ACTIVE MEMBER OF THIS~~
17 ~~SYSTEM.~~

18 **§ 3. Membership.**

19 (g) Classes of membership.

20 (4) CLASS D MEMBERS SHALL BE ALL MEMBERS AS DEFINED IN § 9.2(A).

21 **§ 4. Service creditable.**

22 (b) Computation of service.

23 (4) THE SERVICE OF CLASS D MEMBERS SHALL BE COMPUTED AND CREDITED UNDER THE
24 PROVISIONS CONTAINED IN § 9.2(C).

25 **§ 5. Administration; Board of Trustees.**

26 (b) Members.

27 (5) (ii) In addition to the standards and requirements contained in the Baltimore City
28 Public Ethics Law, Trustees and Board employees may not engage in any of
29 the following activities or hold any of the following interests, as these
30 activities or interests are defined in the Baltimore City Public Ethics Law[:].

- 31 1. No Trustee or Board employee may do business with any system, plan,
32 or trust administered by [the City’s Deferred Compensation Plan, by

Council Bill 13-0247

the Board of Trustees of this System, by] ANY OF THE FOLLOWING
(COLLECTIVELY, THE “CITY BENEFIT PLANS”):

- A. the Board of Trustees of the Employees’ Retirement System OF THE CITY OF BALTIMORE[,]; [or by]
- B. the Board of Trustees of the [City’s] Fire and Police Employees’ Retirement System OF THE CITY OF BALTIMORE;
- C. THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS’ RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;
- D. THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE; AND
- E. THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

[(collectively, the “City Benefit Plans”).]

§ 8. Method of financing.

(d) Member contributions.

(1) CLASS C MEMBERS.

(i) Subject to subparagraph (ii) of this paragraph (1), and notwithstanding any other provision of this subtitle, effective with the 1st full payroll period that begins after the applicable effective date shown below, each Class C member shall contribute the percentage of his or her earnable compensation (as defined in § 1(11) of this subtitle) that corresponds to the effective date, these contributions to continue throughout the member’s remaining period of service:

<u>Effective date</u>	<u>Percentage of earnable compensation</u>
<u>July 1, 2013</u>	<u>1%</u>
<u>July 1, 2014</u>	<u>2%</u>
<u>July 1, 2015</u>	<u>3%</u>
<u>July 1, 2016</u>	<u>4%</u>
<u>July 1, 2017</u>	<u>5%</u>

(ii) (A) The scheduled increases in a member’s contribution, as provided for in subparagraph (i) of this paragraph (1), apply only for a fiscal year in which a minimum 2% raise (or in which a series of prior non-minimum annual raises, first effective after the immediately preceding contribution increase, reaches an aggregate of 2% (the “aggregate minimum”)):

- 1. has been subject to negotiation or meet-and-confer, as the case may be, with the certified employee organization or professional association representing that employee; and

Council Bill 13-0247

2. has become effective for that employee and for all other employees represented by that organization or association.

(B) For any fiscal year in which a member does not receive this minimum raise (or minimum aggregate), the scheduled increase in that member’s contribution is suspended and the schedule of increased contributions will resume only for the next fiscal year in which there is a minimum raise (or aggregate minimum).

(C) Notwithstanding City Code Article 12, § 5-8 {“Labor Negotiations: Time table”}, if a minimum raise (or minimum aggregate) only becomes effective after a fiscal year has begun, the contribution increase for that fiscal year is suspended until the date on which the minimum raise (or minimum aggregate) is effective and is then applied pro rata for the period from the effective date of the raise through the remainder of the fiscal year.

(D) For any fiscal year in which a raise (or aggregate of raises) exceeds 2%, the excess over 2% shall be calculated with all other subsequent raises for purposes of determining the next minimum aggregate requiring the next contribution increase.

(E) At all times, notwithstanding any suspension of a scheduled increase, a member’s then required contribution, as established in prior fiscal years, remains intact.

(2) CLASS D MEMBERS.

EFFECTIVE WITH THE 1ST FULL PAYROLL PERIOD THAT BEGINS AFTER AN EMPLOYEE BEGINS HER OR HIS CLASS D MEMBERSHIP, THE EMPLOYEE SHALL CONTRIBUTE 5% OF HIS OR HER EARNABLE COMPENSATION (AS DEFINED IN § 1(11) OF THIS SUBTITLE), THESE CONTRIBUTIONS TO CONTINUE THROUGHOUT THE MEMBER’S REMAINING PERIOD OF SERVICE.

(3) [(2)] “PICKED-UP” STATUS.

(i) The contributions described in [paragraph] PARAGRAPHS (1) AND (2) of this subsection shall be treated as being “picked up” by the City of Baltimore within the meaning of Internal Revenue Code (“IRC”) § 414(h)(2).

(ii) These picked-up contributions may not be excluded from “average final compensation” in computing the amount of any retirement allowance under this System or any other benefit paid or payable in connection with the member’s employment. Each member is at all times fully vested in these contributions.

(iii) As soon as administratively practicable, the City shall request a private letter ruling from the Internal Revenue Service to the effect that the contributions so picked up by the City on behalf of members of this System will be treated as employer contributions described in IRC § 414(h)(2) and will not be includible in the member’s gross income for federal income tax purposes for the year in which they are contributed. If the Internal Revenue Service rules that the City’s picked-up contributions do not satisfy the requirements of IRC § 414(h)(2), or if

Council Bill 13-0247

1 § 414(h)(2) is repealed, the contribution rates set forth in [paragraph]
2 PARAGRAPHS (1) AND (2) of this subsection will remain in effect, but the
3 contributions may no longer be treated as picked up by the City and shall be paid
4 instead directly by the member.

5
6 (iv) For each payroll period, the Department of Finance shall cause to be deducted
7 from the earnable compensation of each Class C AND CLASS D member the
8 percentage of contributions described in [paragraph] PARAGRAPHS (1) AND (2) of
9 this subsection. These deductions shall be paid into the Retirement System Fund
10 and credited, with regular interest (as defined in § 1(9)(i)(B) of this subtitle), on
11 behalf of the member from whose earnable compensation the deductions were
12 made.

13
14 (v) A member’s accumulated contributions that are withdrawn by the member, or
15 paid to the member’s estate or designated beneficiary in event of death as
16 provided in this subtitle, shall be paid from the Retirement System Fund.

17 **§ 9.1. ELECTION BETWEEN PLANS.**

18 (A) DEFINITIONS.

19 (1) IN GENERAL.

20 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

21 (2) CLASS D MEMBER.

22 “CLASS D MEMBER” MEANS A CLASS D MEMBER OF THIS SYSTEM, AS DESCRIBED IN
23 § 9.2 {“CLASS D MEMBERSHIP”} OF THIS SUBTITLE.

24 (3) HYBRID MEMBER.

25 “HYBRID MEMBER” HAS THE MEANING STATED IN CITY CODE ARTICLE 22A
26 {“RETIREMENT SAVINGS PLAN”}, § 1-1 {“DEFINITIONS”}.

27 (4) NON-HYBRID MEMBER.

28 “NON-HYBRID MEMBER” HAS THE MEANING STATED IN CITY CODE ARTICLE 22A
29 {“RETIREMENT SAVINGS PLAN”}, § 1-1 {“DEFINITIONS”}.

30 (5) RETIREMENT SAVINGS PLAN.

31 “RETIREMENT SAVINGS PLAN” MEANS THE RETIREMENT SAVINGS PLAN OF THE CITY
32 OF BALTIMORE, AS ESTABLISHED BY CITY CODE ARTICLE 22A {“RETIREMENT
33 SAVINGS PLAN”}.

34 (B) EMPLOYEE TO ELECT PLAN.

35 (1) AN EMPLOYEE WHO, ON OR AFTER JULY 1, 2014, IS INITIALLY EMPLOYED OR IS
36 REEMPLOYED UNDER § 9.2(L)(2)(II) OF THIS ARTICLE MUST, WITHIN 150 DAYS AFTER
37 THE DATE ON WHICH HIS OR HER EMPLOYMENT OR REEMPLOYMENT BEGAN, FILE A

Council Bill 13-0247

1 PLAN-ELECTION FORM WITH THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS
2 PLAN.

3 (2) THE FORM SHALL INDICATE WHETHER THE MEMBER ELECTS TO BECOME:

4 (I) BOTH A CLASS D MEMBER OF THIS SYSTEM AND A HYBRID MEMBER OF THE
5 RETIREMENT SAVINGS PLAN; OR

6 (II) A NON-HYBRID MEMBER OF THE RETIREMENT SAVINGS PLAN.

7 (3) DURING THIS 150-DAY PERIOD, THE MEMBER MAY FILE A NEW FORM TO MODIFY OR
8 REVOKE ANY PREVIOUS ELECTION. HOWEVER, THE FINAL ELECTION BECOMES
9 EFFECTIVE AND IRREVOCABLE ON THE 150TH DAY AFTER THE DATE OF EMPLOYMENT
10 OR REEMPLOYMENT.

11 (4) IF A MEMBER DOES NOT MAKE A WRITTEN ELECTION WITHIN 150 DAYS, THE MEMBER
12 WILL AUTOMATICALLY BECOME BOTH A CLASS D MEMBER OF THIS SYSTEM AND A
13 HYBRID MEMBER OF THE RETIREMENT SAVINGS PLAN.

14 **§ 9.2. CLASS D MEMBERSHIP.**

15 (A) DEFINITIONS; GENERAL PROVISIONS.

16 (1) DEFINITIONS.

17 (i) IN GENERAL.

18 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

19 (II) HYBRID MEMBER; NON-HYBRID MEMBER; RETIREMENT SAVINGS PLAN.

20 “HYBRID MEMBER”, “NON-HYBRID MEMBER”, AND “RETIREMENT SAVINGS PLAN”
21 HAVE THE MEANINGS STATED IN CITY CODE ARTICLE 22A {“RETIREMENT
22 SAVINGS PLAN”}, § 1-1 {“DEFINITIONS”}.

23 (III) OTHER CITY RETIREMENT PLAN.

24 “OTHER CITY RETIREMENT PLAN” MEANS:

25 (A) THE FIRE AND POLICE EMPLOYEES’ RETIREMENT SYSTEM OF THE CITY OF
26 BALTIMORE;

27 (B) THE ELECTED OFFICIALS’ RETIREMENT SYSTEM OF THE CITY OF
28 BALTIMORE; OR

29 (C) THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE.

30 (2) COMMENCEMENT OF MEMBERSHIP.

31 AN EMPLOYEE WHO, UNDER § 9.1 OF THIS SUBTITLE, ELECTS TO BECOME A CLASS D
32 MEMBER OF THIS SYSTEM, WILL BECOME A CLASS D MEMBER ON THE 1ST ANNUAL

Council Bill 13-0247

1 ANNIVERSARY OF THE DATE ON WHICH HER OR HIS EMPLOYMENT OR REEMPLOYMENT,
2 AS THE CASE MAY BE, BEGAN.

3 (3) NON-PARTICIPATION IN OTHER CITY PLANS – GENERAL.

4 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH OR
5 IN PARAGRAPH (4) OF THIS SUBSECTION, A CLASS D MEMBER MAY NOT MAKE
6 CONTRIBUTIONS TO, RECEIVE ANY PENSION OR RETIREMENT INCOME FROM, OR
7 ACCUE ANY SERVICE CREDIT IN ANY OTHER CITY RETIREMENT PLAN WHILE AT
8 THE SAME TIME ACCRUING SERVICE CREDIT IN THIS SYSTEM.

9 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO CONTRIBUTIONS
10 MADE TO OR BENEFITS RECEIVED FROM THE RETIREMENT SAVINGS PLAN BY A
11 HYBRID MEMBER OF THAT PLAN.

12 (4) NON-PARTICIPATION IN OTHER CITY PLANS – EXCEPTION.

13 NOTWITHSTANDING PARAGRAPH (3) OF THIS SUBSECTION, AND PURSUANT TO § 48 OF
14 THIS ARTICLE, THE FOLLOWING MAY BECOME CLASS D MEMBERS OF THIS SYSTEM AND
15 ACCUE SERVICE CREDIT IN THIS SYSTEM WHILE AN EMPLOYEE COVERED BY THIS
16 SYSTEM:

17 (I) MEMBERS OF ANOTHER CITY RETIREMENT PLAN WHO WERE ELIGIBLE TO BEGIN
18 RECEIVING RETIREMENT BENEFITS FROM THAT OTHER PLAN BUT POSTPONED
19 RECEIPT OF THOSE BENEFITS AFTER TRANSFERRING TO A POSITION COVERED BY
20 THIS SYSTEM; OR

21 (II) RETIREES WHO WERE RECEIVING RETIREMENT BENEFITS FROM ANOTHER CITY
22 RETIREMENT PLAN BUT SUSPENDED RECEIPT OF THOSE BENEFITS AFTER
23 REEMPLOYMENT IN A POSITION COVERED BY THIS SYSTEM.

24 (B) FORMS.

25 A CLASS D MEMBER SHALL EXECUTE THE FORM OR FORMS AND PROVIDE THE SUPPORTING
26 EVIDENCE THAT MAY BE REQUIRED FROM TIME TO TIME, AND MUST ANSWER TRUTHFULLY
27 ALL QUESTIONS PERTINENT TO ADMINISTRATION OF THIS SYSTEM.

28 (C) CLASS D SERVICE CREDIT.

29 (1) IN GENERAL.

30 ALL SERVICE IN A FISCAL YEAR AFTER THE DATE OF BECOMING A CLASS D MEMBER
31 SHALL BE CREDITED AS PROVIDED IN THIS SUBSECTION.

32 (2) JOB REQUIRING MORE THAN 1,000 HOURS PER YEAR.

33 (I) A CLASS D MEMBER WHO IS EMPLOYED BY THE CITY IN A JOB CLASSIFICATION
34 THAT REQUIRES MORE THAN 1,000 HOURS OF WORK IN A FISCAL YEAR SHALL
35 RECEIVE CREDIT FOR 1 YEAR OF SERVICE.

Council Bill 13-0247

1 (II) IF, HOWEVER, DURING THE 1ST OR FINAL FISCAL YEAR OF THE MEMBER'S SERVICE,
2 THE MEMBER WAS NOT IN PAY STATUS FOR EVERY PAYROLL PERIOD IN THE FISCAL
3 YEAR, OR FOR ANY OTHER FISCAL YEAR IN WHICH THE MEMBER WAS OUT OF PAY
4 STATUS FOR 7 OR MORE BI-WEEKLY PAYROLL PERIODS (OR AN EQUIVALENT
5 NUMBER OF WEEKLY OR MONTHLY PAYROLL PERIODS), SERVICE FOR THAT FISCAL
6 YEAR SHALL BE CREDITED PRO RATA, CALCULATED AS FOLLOWS:

7 (A) 1 YEAR'S SERVICE CREDIT, MULTIPLIED BY

8 (B) A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF PAYROLL
9 PERIODS IN THE FISCAL YEAR THAT THE MEMBER WAS IN PAY STATUS, AND
10 THE DENOMINATOR OF WHICH IS THE TOTAL NUMBER OF PAYROLL PERIODS
11 IN THE FISCAL YEAR FOR THE MEMBER'S JOB CLASSIFICATION.

12 (3) JOB REQUIRING 500-1,000 HOURS PER YEAR.

13 (I) A CLASS D MEMBER WHO IS EMPLOYED BY THE CITY IN A JOB CLASSIFICATION
14 THAT REQUIRES NOT LESS THAN 500 NOR MORE THAN 1,000 HOURS OF WORK IN A
15 FISCAL YEAR SHALL RECEIVE CREDIT FOR ½ YEAR OF SERVICE.

16 (II) IF, HOWEVER, DURING THE 1ST OR FINAL FISCAL YEAR OF A MEMBER'S SERVICE,
17 THE MEMBER WAS NOT IN PAY STATUS FOR EVERY PAYROLL PERIOD IN THE FISCAL
18 YEAR, OR FOR ANY OTHER FISCAL YEAR IN WHICH THE MEMBER WAS OUT OF PAY
19 STATUS FOR 7 OR MORE BI-WEEKLY PAYROLL PERIODS (OR AN EQUIVALENT
20 NUMBER OF WEEKLY OR MONTHLY PAYROLL PERIODS), SERVICE FOR THAT FISCAL
21 YEAR SHALL BE CREDITED PRO RATA, CALCULATED AS FOLLOWS:

22 (A) ½ YEAR'S SERVICE CREDIT, MULTIPLIED BY

23 (B) A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF
24 PAYROLL PERIODS IN THE FISCAL YEAR THAT THE MEMBER WAS IN
25 PAY STATUS, AND THE DENOMINATOR OF WHICH IS THE TOTAL
26 NUMBER OF PAYROLL PERIODS IN THE FISCAL YEAR FOR THE
27 MEMBER'S JOB CLASSIFICATION.

28 (4) JOB REQUIRING LESS THAN 500 HOURS PER YEAR.

29 A CLASS D MEMBER WHO IS EMPLOYED BY THE CITY IN A JOB CLASSIFICATION THAT
30 REQUIRES LESS THAN 500 HOURS OF WORK IN A FISCAL YEAR IS NOT ELIGIBLE TO
31 RECEIVE ANY SERVICE CREDIT FOR THAT EMPLOYMENT. HOWEVER, THE MEMBER
32 WILL BE CONSIDERED AN ACTIVE CLASS D MEMBER.

33 (5) PAY BASED ON LESS THAN 12-MONTH BASIS.

34 THE SERVICE OF A CLASS D MEMBER WHO IS PAID ON OTHER THAN A UNIFORM,
35 12-MONTH BASIS (E.G., A 10-MONTH EMPLOYEE OF THE BALTIMORE CITY PUBLIC
36 SCHOOL SYSTEM) MAY NOT BE PRO RATED UNDER THIS SUBSECTION BECAUSE OF THE
37 MEMBER'S BEING OUT OF PAY STATUS DURING THE PERIOD THAT THE MEMBER
38 ORDINARILY WOULD NOT BE PAID.

Council Bill 13-0247

1 (6) ADDITIONAL OPPORTUNITY TO PURCHASE CREDIT FOR SERVICE WITH CITY.

2 (I) A CLASS D MEMBER IS ENTITLED TO PURCHASE SERVICE CREDIT FOR ANY CITY
3 EMPLOYMENT, REGARDLESS OF RETIREMENT PLAN MEMBERSHIP, AS LONG AS:

4 (A) THE EMPLOYMENT DID NOT RESULT IN THE MEMBER'S BEING ENTITLED TO
5 ANY CURRENT OR FUTURE BENEFITS FOR THAT EMPLOYMENT IN ANY OTHER
6 CITY RETIREMENT PLAN; AND

7 (B) THE CLASS D MEMBER PAYS TO THE EMPLOYEES' RETIREMENT SYSTEM,
8 BY A SINGLE PAYMENT, AN AMOUNT EQUAL TO:

9 1. THE CURRENT SALARY OF THE EMPLOYEE IN THE YEAR OF
10 PURCHASE, MULTIPLIED BY

11 2. THE SUM OF THE EMPLOYER RATE FOR THE NORMAL COST AND THE
12 EMPLOYEE CONTRIBUTION RATE, COMPUTED UNDER §8(D)(1) OF
13 THIS SUBTITLE FOR THE YEAR OF PURCHASE, MULTIPLIED BY

14 3. THE NUMBER OF YEARS OR PART OF A YEAR BEING PURCHASED.

15 (II) IN ADDITION, A CLASS D MEMBER IS ENTITLED TO PURCHASE SERVICE CREDIT FOR
16 THE MEMBER'S 1ST YEAR OF SERVICE WITH THE CITY UNDER THE SAME CONDITIONS
17 AS PROVIDED IN SUBPARAGRAPH (I)(B) OF THIS PARAGRAPH.

18 (III) IF A MEMBER PURCHASES SERVICE CREDIT UNDER THIS PARAGRAPH AND LATER
19 DIES OR LEAVES CITY EMPLOYMENT FOR ANY REASON, WITH OR WITHOUT ANY
20 VESTED BENEFIT DUE TO THE MEMBER OR THE MEMBER'S BENEFICIARY UNDER
21 THIS SUBTITLE, THE MEMBER OR THE BENEFICIARY IS ENTITLED TO RECEIVE, IN
22 LIEU OF ANY OTHER BENEFIT UNDER THIS SYSTEM, A LUMP-SUM CASH PAYMENT
23 EQUAL TO THE TOTAL AMOUNT PAID BY THE MEMBER FOR THE PURCHASE, PLUS
24 INTEREST AT THE RATE EQUAL TO REGULAR INTEREST (AS DEFINED IN § 1(9)(I)(B)
25 OF THIS SUBTITLE).

26 (D) MILITARY PERSONNEL – CREDIT FOR MILITARY SERVICE DURING CITY EMPLOYMENT.

27 (1) "MILITARY SERVICE" DEFINED.

28 (I) IN THIS SUBSECTION, "MILITARY SERVICE" MEANS ANY:

29 (A) "SERVICE IN THE UNIFORMED SERVICES", AS DEFINED BY AND
30 INTERPRETED UNDER 38 U.S.C. § 4303(13); OR

31 (B) "MILITARY SERVICE", AS DEFINED BY AND INTERPRETED UNDER STATE
32 PERSONNEL AND PENSION ARTICLE § 38-101(D).

33 (II) "MILITARY SERVICE" INCLUDES ACTIVE DUTY, ACTIVE DUTY FOR TRAINING,
34 INITIAL ACTIVE DUTY FOR TRAINING, AND INACTIVE DUTY TRAINING (SUCH AS
35 DRILLS), UNDER COMPETENT AUTHORITY, ON A VOLUNTARY OR INVOLUNTARY
36 BASIS, IN THE ARMY, NAVY, MARINE CORPS, AIR FORCE, COAST GUARD, PUBLIC
37 HEALTH SERVICE COMMISSIONED CORPS, THE ARMY NATIONAL GUARD, THE AIR

Council Bill 13-0247

1 NATIONAL GUARD, THE MARYLAND NATIONAL GUARD, AS WELL AS THE RESERVE
2 COMPONENTS OF EACH OF THESE SERVICES, AND ANY OTHER CATEGORY OF
3 PERSONS DESIGNATED BY THE PRESIDENT OR THE GOVERNOR OF THE STATE OF
4 MARYLAND IN TIME OF WAR OR NATIONAL OR STATE EMERGENCY.

5 (2) SCOPE OF SUBSECTION.

6 THIS SUBSECTION APPLIES ONLY TO A MEMBER OF THIS SYSTEM WHO:

7 (I) ON ACCOUNT OF MILITARY SERVICE, IS ON LEAVE OF ABSENCE FROM CITY
8 EMPLOYMENT;

9 (II) IS ELIGIBLE FOR REEMPLOYMENT WITH THE CITY UNDER THE UNIFORMED
10 SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, AS
11 AMENDED, 38 U.S.C. §§ 4301-4344 (“USERRA”);

12 (III) IS REEMPLOYED BY THE CITY AS AN EMPLOYEE; AND

13 (IV) APPLIES FOR SERVICE CREDIT WITH THIS SYSTEM.

14 (3) SERVICE CREDIT.

15 (I) A MEMBER OF THIS SYSTEM SHALL RECEIVE SERVICE CREDIT FOR THE PERIOD OF
16 ABSENCE WHILE IN MILITARY SERVICE AS THOUGH HE OR SHE REMAINED
17 CONTINUOUSLY EMPLOYED AS AN EMPLOYEE.

18 (II) TO THE EXTENT REQUIRED UNDER USERRA, THIS SERVICE CREDIT SHALL INCLUDE
19 THE PERIOD, IF ANY, BETWEEN THE DATE THE MEMBER COMPLETES MILITARY
20 SERVICE AND THE DATE OF REEMPLOYMENT.

21 (4) TRANSFER OF SERVICE CREDIT.

22 A MEMBER OF THIS SYSTEM WHO RECEIVES SERVICE CREDIT FOR MILITARY SERVICE
23 UNDER THIS SUBSECTION MAY TRANSFER THE CREDIT TO ANOTHER STATE OR LOCAL
24 RETIREMENT OR PENSION SYSTEM WITHIN MARYLAND.

25 (5) BENEFITS PROHIBITED DURING ABSENCE.

26 A MEMBER OF THIS SYSTEM, THE MEMBER’S BENEFICIARY, OR THE MEMBER’S ESTATE
27 IS NOT ENTITLED TO LINE-OF-DUTY DISABILITY BENEFITS OR LINE-OF-DUTY DEATH
28 BENEFITS ARISING FROM THE MEMBER’S DEATH OR DISABILITY DURING A PERIOD THAT
29 THE MEMBER IS ABSENT FROM EMPLOYMENT FOR MILITARY SERVICE.

30 (6) MEMBER CONTRIBUTIONS.

31 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
32 MEMBER OF THIS SYSTEM WHO IS REEMPLOYED UNDER PARAGRAPH (2) OF THIS
33 SUBSECTION SHALL BE CREDITED WITH, AT THE CITY’S SOLE EXPENSE, THE
34 CONTRIBUTIONS THAT THE MEMBER OTHERWISE WOULD HAVE MADE UNDER
35 § 8(D)(2) HAD THE MEMBER NOT BEEN ABSENT, PLUS REGULAR INTEREST (AS
36 DEFINED IN § 1(9)(I)(B) OF THIS SUBTITLE) ON THOSE CONTRIBUTIONS.

Council Bill 13-0247

1 (II) (A) IF A MEMBER TERMINATES CITY EMPLOYMENT, OTHER THAN BY REASON OF
2 DEATH, BEFORE BECOMING ELIGIBLE FOR A RETIREMENT BENEFIT OR FOR A
3 DEFERRED VESTED PENSION BENEFIT UNDER THIS SECTION, THE MEMBER IS NOT
4 ENTITLED TO RECEIVE ANY PART OF THE CONTRIBUTIONS MADE ON HIS OR HER
5 BEHALF UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

6 (B) HOWEVER, THE CONTRIBUTIONS MADE ON BEHALF OF A MEMBER WILL BE USED
7 TO FUND A RETIREMENT BENEFIT OR A DEFERRED VESTED PENSION BENEFIT
8 PAYABLE TO THE MEMBER UNDER THIS SECTION.

9 (C) IN ADDITION, THE CONTRIBUTIONS MADE ON BEHALF OF A MEMBER:

- 10 1. WILL BE USED TO FUND A PERIODIC DEATH BENEFIT PAYABLE TO THE
11 MEMBER'S BENEFICIARY UNDER THIS SECTION; OR
- 12 2. IF THE MEMBER'S BENEFICIARY IS ENTITLED TO RECEIVE A LUMP-SUM
13 DEATH BENEFIT UNDER THIS SECTION, WILL BE PAID TO THE
14 BENEFICIARY.

15 (III) THE BOARD OF TRUSTEES SHALL REFUND TO A MEMBER ANY CONTRIBUTIONS
16 MADE TO THIS SYSTEM DURING A PERIOD OF ABSENCE FROM EMPLOYMENT FOR
17 MILITARY SERVICE WHILE THE MEMBER IS OTHERWISE EXEMPTED UNDER THIS
18 PARAGRAPH FROM PAYING CONTRIBUTIONS INTO THIS SYSTEM.

19 (E) MILITARY PERSONNEL – CREDIT FOR MILITARY SERVICE BEFORE CITY EMPLOYMENT.

20 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BUT NOTWITHSTANDING ANY OTHER
21 PROVISION OF THIS SUBTITLE, ON PROPER APPLICATION TO THIS SYSTEM, UP TO 3
22 YEARS OF CREDIT SHALL BE GRANTED FOR MILITARY SERVICE, AS DEFINED IN
23 SUBSECTION (D) OF THIS SECTION, TO ANY CLASS D MEMBER WHO:

24 (I) HAS SERVED IN THE MILITARY PRIOR TO EMPLOYMENT WITH THE CITY; AND

25 (II) HAS EITHER:

26 (A) ACQUIRED AT LEAST 10 YEARS OF SERVICE (DISREGARDING THIS
27 MILITARY SERVICE CREDIT) AND ATTAINED AGE 62; OR

28 (B) ACQUIRED AT LEAST 20 YEARS OF SERVICE (DISREGARDING THIS
29 MILITARY SERVICE CREDIT), REGARDLESS OF AGE.

30 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THE PARAGRAPH, THE MEMBER
31 MAY NOT RECEIVE CREDIT FOR A PERIOD OF MILITARY SERVICE IF, UNDER ANY
32 OTHER RETIREMENT SYSTEM (WHETHER A CITY RETIREMENT PLAN OR
33 OTHERWISE), THE MEMBER HAS RECEIVED CREDIT FOR THE SAME PERIOD OF
34 MILITARY SERVICE FOR WHICH RETIREMENT BENEFITS HAVE BEEN OR WILL BE
35 RECEIVED BY HIM OR HER.

36 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO:

Council Bill 13-0247

1 (A) ANY CREDIT FOR MILITARY SERVICE PROVIDED BY THE FEDERAL SOCIAL
2 SECURITY SYSTEM; OR

3 (B) ANY BENEFIT PROVIDED UNDER TITLE 10, CHAPTER 1223, § 12731
4 THROUGH § 12741 OF THE U.S. CODE.

5 (F) SERVICE RETIREMENT BENEFITS – APPLICATION AND FILING PERIOD.

6 A CLASS D MEMBER IN SERVICE MAY RETIRE UNDER SUBSECTION (G) OF THIS SECTION IF:

7 (1) THE MEMBER FILES THE APPROPRIATE APPLICATION WITH THE BOARD OF
8 TRUSTEES, IN THE FORM AND CONTAINING THE INFORMATION THAT THE BOARD
9 REQUIRES;

10 (2) THE MEMBER SPECIFIES ON THE FORM THE DATE ON WHICH THE MEMBER DESIRES
11 HIS OR HER BENEFITS TO COMMENCE;

12 (3) THE DATE SO SPECIFIED IS NOT LESS THAN 30 DAYS NOR MORE THAN 90 DAYS
13 AFTER THE DATE OF FILING THE APPLICATION; AND

14 (4) AS OF THE DATE SO SPECIFIED, THE MEMBER WILL HAVE COMPLIED WITH THE
15 APPLICABLE CONDITIONS OF THE RETIREMENT BENEFIT APPLIED FOR.

16 (G) SERVICE RETIREMENT – TYPES AND CONDITIONS.

17 (1) NORMAL RETIREMENT.

18 (i) A CLASS D MEMBER WHO RETIRES AT OR AFTER AGE 65 WITH AT LEAST 5 YEARS
19 OF SERVICE OR WHO, REGARDLESS OF AGE, RETIRES WITH AT LEAST 30 YEARS OF
20 SERVICE IS ENTITLED TO RECEIVE, COMMENCING ON THE 1ST DAY OF THE MONTH
21 IMMEDIATELY FOLLOWING HIS OR HER RETIREMENT, A NORMAL RETIREMENT
22 BENEFIT, CALCULATED AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

23 (ii) EXCEPT FOR A CLASS D MEMBER FOR WHOM AN ENHANCED BENEFIT IS PROVIDED
24 UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE NORMAL RETIREMENT BENEFIT IS
25 EQUAL TO 1.0% OF THE MEMBER’S AVERAGE FINAL COMPENSATION, MULTIPLIED
26 BY HIS OR HER YEARS OF SERVICE (AND FRACTIONS OF THOSE YEARS OF SERVICE).

27 (iii) EVERY 5 YEARS, THE BOARD OF TRUSTEES SHALL:

28 (A) REASSESS THE PERCENTAGE MULTIPLIER USED TO COMPUTE THE NORMAL
29 RETIREMENT BENEFIT; AND

30 (B) REPORT TO THE MAYOR AND THE CITY COUNCIL ITS FINDINGS AND
31 RECOMMENDATIONS.

32 (2) EARLY RETIREMENT.

33 (i) A CLASS D MEMBER WHO TERMINATES CITY EMPLOYMENT ON OR AFTER
34 ATTAINING AGE 55 WITH AT LEAST 5 YEARS OF SERVICE IS ENTITLED TO RECEIVE
35 AN EARLY RETIREMENT BENEFIT, CALCULATED AS PROVIDED IN PARAGRAPH (1)(II)

Council Bill 13-0247

1 OF THIS SUBSECTION BASED ON THE MEMBER'S AVERAGE FINAL COMPENSATION
2 AND YEARS OF SERVICE (AND FRACTIONS OF THOSE YEARS OF SERVICE) AS OF THE
3 DATE THE MEMBER TERMINATED EMPLOYMENT.

4 (II) (A) IF A MEMBER DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH ELECTS TO
5 HAVE HER OR HIS EARLY RETIREMENT BENEFIT COMMENCE BEFORE THE 1ST
6 DAY OF THE MONTH IMMEDIATELY FOLLOWING HER OR HIS 65TH BIRTHDAY, THE
7 AMOUNT OF THE BENEFIT SHALL BE REDUCED, UNLESS THE MEMBER
8 TERMINATED EMPLOYMENT WITH AT LEAST 30 YEARS OF SERVICE.

9 (B) THE AMOUNT OF THE REDUCTION SHALL BE:

10 1. 1/180 FOR EACH OF THE FIRST 60 MONTHS (OR FRACTION OF A MONTH)
11 BY WHICH COMMENCEMENT OF THE MEMBER'S PENSION PRECEDES THE
12 1ST DAY OF THE MONTH IMMEDIATELY FOLLOWING HER OR HIS 65TH
13 BIRTHDAY; AND

14 2. 1/360 FOR EACH ADDITIONAL MONTH (OR FRACTION OF A MONTH) BY
15 WHICH COMMENCEMENT OF THE MEMBER'S PENSION PRECEDES THE 1ST
16 DAY OF THE MONTH IMMEDIATELY FOLLOWING HER OR HIS 65TH
17 BIRTHDAY.

18 (3) DEFERRED VESTED PENSION.

19 (I) THIS PARAGRAPH APPLIES TO ANY CLASS D MEMBER WHO TERMINATES CITY
20 EMPLOYMENT:

21 (A) BEFORE ATTAINING AGE 55 AND AFTER ACQUIRING 10 YEARS OF SERVICE;
22 OR

23 (B) AFTER ATTAINING AGE 55 AND ACQUIRING 5 YEARS OF SERVICE, BUT
24 WITHOUT HAVING ELECTED AN IMMEDIATE EARLY RETIREMENT BENEFIT
25 UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

26 (II) A MEMBER DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IS ENTITLED TO
27 RECEIVE, COMMENCING ON THE 1ST DAY OF THE MONTH IMMEDIATELY FOLLOWING
28 HIS OR HER 65TH BIRTHDAY, A DEFERRED VESTED PENSION BENEFIT, CALCULATED
29 IN ACCORDANCE WITH THE FOLLOWING RULES:

30 (A) THE PENSION SHALL BE CALCULATED AS PROVIDED IN PARAGRAPH (1)(II)
31 OF THIS SUBSECTION BASED ON THE MEMBER'S AVERAGE FINAL
32 COMPENSATION AND YEARS OF SERVICE (AND FRACTIONS OF YEARS OF
33 SERVICE) AS OF THE DATE THE MEMBER TERMINATED EMPLOYMENT.

34 (B) THE MEMBER MAY ELECT TO HAVE PAYMENT OF THIS BENEFIT COMMENCE
35 AT ANYTIME AFTER THE MEMBER HAS ATTAINED AGE 55 AND BEFORE THE
36 1ST DAY OF THE MONTH IMMEDIATELY FOLLOWING THE MEMBER'S 65TH
37 BIRTHDAY. IF THE MEMBER DOES SO:

Council Bill 13-0247

- 1 1. THE BENEFIT SHALL BE ACTUARIALLY REDUCED IN ACCORDANCE
2 WITH THE SAME RULES APPLICABLE TO EARLY RETIREMENT
3 BENEFITS UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION; AND
- 4 2. IF THE MEMBER DIES BEFORE THE DEFERRED VESTED BENEFIT
5 COMMENCES, THEN NO BENEFITS ARE PAYABLE EXCEPT FOR THE
6 RETURN OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF
7 ANY.

8 (4) ENHANCED BENEFIT.

9 (I) THIS PARAGRAPH APPLIES TO ANY CLASS D MEMBER WHO, AT OR AFTER AGE 62
10 WITH AT LEAST 20 YEARS OF SERVICE:

11 (A) RETIRES AND IS ENTITLED TO 1 OF THE FOLLOWING BENEFITS, AS
12 OTHERWISE APPLICABLE TO THAT MEMBER:

- 13 1. A NORMAL RETIREMENT BENEFIT UNDER PARAGRAPH (1) OF THIS
14 SUBSECTION;
- 15 2. AN EARLY RETIREMENT BENEFIT UNDER PARAGRAPH (2) OF THIS
16 SUBSECTION;
- 17 3. A DEFERRED VESTED PENSION BENEFIT UNDER PARAGRAPH (3) OF
18 THIS SUBSECTION; OR
- 19 4. A NON-LINE-OF-DUTY DISABILITY RETIREMENT BENEFIT UNDER
20 SUBSECTION (H) OF THIS SECTION; OR

21 (B) DIES WHILE ACTIVELY EMPLOYED AND WHOSE BENEFICIARY IS ENTITLED
22 TO:

- 23 1. A 100% SURVIVORSHIP DEATH BENEFIT UNDER SUBSECTION (M)(3)
24 OF THIS SECTION; OR
- 25 2. A 40% SURVIVORSHIP DEATH BENEFIT UNDER SUBSECTION (M)(4)
26 OF THIS SECTION.

27 (II) FOR PURPOSES OF CALCULATING THE BENEFIT TO WHICH THE MEMBER OR
28 BENEFICIARY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IS
29 ENTITLED, THE PERCENTAGE MULTIPLIER DESCRIBED IN PARAGRAPH (1)(II) OF
30 THIS SUBSECTION SHALL BE 1.1% (INSTEAD OF THE 1.0% SPECIFIED IN THAT
31 PARAGRAPH).

32 (H) NON-LINE-OF-DUTY DISABILITY RETIREMENT.

33 (1) ELIGIBILITY REQUIREMENTS.

34 A CLASS D MEMBER IS ENTITLED TO RETIRE ON A NON-LINE-OF-DUTY DISABILITY
35 RETIREMENT IF:

Council Bill 13-0247

1 (I) THE MEMBER HAS ACQUIRED AT LEAST 5 YEARS OF SERVICE, AS DETERMINED
2 BY THE BOARD OF TRUSTEES; AND

3 (II) A HEARING EXAMINER DETERMINES THAT:

4 (A) THE MEMBER IS MENTALLY OR PHYSICALLY INCAPACITATED FROM THE
5 FURTHER PERFORMANCE OF THE DUTIES OF HER OR HIS CITY JOB
6 CLASSIFICATION; AND

7 (B) THE INCAPACITY IS LIKELY TO BE PERMANENT.

8 (2) APPLICATION AND FILING DEADLINE.

9 TO RETIRE UNDER THIS SUBSECTION, THE MEMBER MUST:

10 (I) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING THE
11 INFORMATION REQUIRED BY SUBSECTION (P)(4) OF THIS SECTION; AND

12 (II) SUBMIT THE APPLICATION TO THE BOARD NO LATER THAN 1 YEAR FOLLOWING
13 THE MEMBER'S LAST DAY OF CITY EMPLOYMENT.

14 (3) EFFECTIVE DATE OF RETIREMENT.

15 A NON-LINE-OF-DUTY DISABILITY RETIREMENT TAKES EFFECT AS FOLLOWS:

16 (I) IF THE MEMBER APPLIED FOR DISABILITY RETIREMENT BEFORE TERMINATING
17 CITY EMPLOYMENT, THE RETIREMENT IS EFFECTIVE AS OF THE 1ST DAY OF THE
18 MONTH IMMEDIATELY FOLLOWING THE MEMBER'S LAST DAY OF CITY
19 EMPLOYMENT; AND

20 (II) IF THE MEMBER APPLIED FOR DISABILITY RETIREMENT AFTER TERMINATING
21 CITY EMPLOYMENT, THE RETIREMENT IS EFFECTIVE AS OF THE 1ST DAY OF THE
22 MONTH IMMEDIATELY FOLLOWING THE 30TH DAY AFTER THE DATE ON WHICH
23 THE BOARD RECEIVED A COMPLETED APPLICATION.

24 (4) BENEFIT ON RETIREMENT.

25 ON RETIREMENT, THE CLASS D MEMBER IS ENTITLED TO RECEIVE A PENSION EQUAL TO
26 THE GREATER OF:

27 (I) THE MEMBER'S ACCRUED SERVICE RETIREMENT BENEFIT, AS CALCULATED
28 UNDER SUBSECTION (G)(1)(II) OR (4) OF THIS SECTION; OR

29 (II) 15% OF THE MEMBER'S AVERAGE FINAL COMPENSATION.

30 (5) OFFSETS FOR WORKERS' COMPENSATION BENEFITS.

31 WORKERS' COMPENSATION BENEFITS SHALL BE OFFSET AGAINST NON-LINE-OF-DUTY
32 DISABILITY BENEFITS, IN ACCORDANCE WITH SUBSECTION (O) OF THIS SECTION.

Council Bill 13-0247

1 (i) LINE-OF-DUTY DISABILITY RETIREMENT.

2 (1) ELIGIBILITY REQUIREMENTS.

3 A CLASS D MEMBER IS ENTITLED TO RETIRE ON A LINE-OF-DUTY DISABILITY
4 RETIREMENT IF A HEARING EXAMINER DETERMINES THAT:

5 (I) THE MEMBER IS PERMANENTLY INCAPACITATED FROM THE FURTHER
6 PERFORMANCE OF THE DUTIES OF HIS OR HER CITY JOB CLASSIFICATION DUE TO
7 1 OR MORE OF THE IMPAIRMENTS LISTED IN PARAGRAPH (5) OF THIS
8 SUBSECTION; AND

9 (II) THE MEMBER'S IMPAIRMENT:

10 (A) IS, INDEPENDENT OF ALL OTHER CAUSES AND INDEPENDENT OF ANY
11 PREEXISTING PHYSICAL OR MEDICAL CONDITIONS, WHETHER JOB-
12 RELATED OR OTHERWISE, THE DIRECT RESULT OF BODILY INJURY
13 ARISING THROUGH AN ACCIDENT; AND

14 (B) THE ACCIDENT OCCURRED:

15 1. WHILE THE MEMBER WAS IN THE ACTUAL PERFORMANCE OF HIS
16 OR HER CITY DUTIES AT SOME DEFINITE TIME AND PLACE; AND

17 2. WITHOUT WILLFUL NEGLIGENCE ON THE MEMBER'S PART.

18 (2) APPLICATION AND FILING DEADLINE.

19 TO RETIRE UNDER THIS SUBSECTION, THE MEMBER MUST:

20 (I) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING THE
21 INFORMATION REQUIRED BY SUBSECTION (P)(4) OF THIS SECTION; AND

22 (II) SUBMIT THE APPLICATION TO THE BOARD:

23 (A) NO LATER THAN 1 YEAR FOLLOWING THE MEMBER'S LAST DAY OF CITY
24 EMPLOYMENT; AND

25 (B) WITHIN 5 YEARS OF THE DATE OF THE ACCIDENT RESULTING IN THE
26 MEMBER'S IMPAIRMENT.

27 (3) EFFECTIVE DATE OF RETIREMENT.

28 A LINE-OF-DUTY DISABILITY RETIREMENT TAKES EFFECT AS FOLLOWS:

29 (I) IF THE MEMBER APPLIED FOR DISABILITY RETIREMENT BEFORE TERMINATING
30 CITY EMPLOYMENT, THE RETIREMENT IS EFFECTIVE AS OF THE 1ST DAY OF THE
31 MONTH IMMEDIATELY FOLLOWING THE MEMBER'S LAST DAY OF CITY
32 EMPLOYMENT; AND

Council Bill 13-0247

1 (II) IF THE MEMBER APPLIED FOR DISABILITY RETIREMENT AFTER TERMINATING
2 CITY EMPLOYMENT, THE RETIREMENT IS EFFECTIVE AS OF THE 1ST DAY OF THE
3 MONTH IMMEDIATELY FOLLOWING THE 30TH DAY AFTER THE DATE ON WHICH
4 THE BOARD RECEIVED A COMPLETED APPLICATION.

5 (4) BENEFIT ON RETIREMENT.

6 (I) ON RETIREMENT, THE CLASS D MEMBER IS ENTITLED TO RECEIVE A PENSION
7 EQUAL TO 66 $\frac{2}{3}$ % OF THE MEMBER'S AVERAGE FINAL COMPENSATION.

8 (II) IF A CLASS D MEMBER IS NOT ELIGIBLE FOR LINE-OF- DUTY DISABILITY
9 BENEFITS SOLELY BECAUSE THE DEGREE OF IMPAIRMENT DOES NOT MEET THE
10 CONDITIONS OF PARAGRAPH (5) OF THIS SUBSECTION, A NON-LINE-OF-DUTY
11 DISABILITY BENEFIT WILL BE PAID UNDER SUBSECTION (H) OF THIS SECTION AS
12 LONG AS THE MEMBER QUALIFIES FOR NON-LINE-OF-DUTY DISABILITY
13 RETIREMENT UNDER THAT SUBSECTION.

14 (5) DISABILITY LOSS REQUIREMENTS.

15 (I) THE AWARD OF A LINE-OF-DUTY DISABILITY RETIREMENT BENEFIT REQUIRES:

16 (A) A 50% ANATOMICAL LOSS OF THE USE OF ANY 1 IMPAIRMENT; OR

17 (B) A 25% OR MORE ANATOMICAL LOSS OF EACH OF 2 OR MORE OF THE
18 IMPAIRMENTS LISTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.

19 (II) THE SCHEDULE OF IMPAIRMENTS IS AS FOLLOWS:

20 1. SPEECH

21 2. SIGHT

22 3. NECK

23 4. BACK

24 5. VITAL BODILY ORGAN

25 6. A PART OF THE CENTRAL NERVOUS SYSTEM

26 7. ARM

27 8. LEG

28 9. SHOULDER

29 10. HEARING

30 11. MENTAL INCAPACITATION FOR WHICH A MEMBER HAS BEEN GRANTED A
31 DISABILITY BENEFIT UNDER THE FEDERAL SOCIAL SECURITY SYSTEM.

Council Bill 13-0247

1 (6) OFFSETS FOR WORKERS' COMPENSATION BENEFITS.

2 WORKERS' COMPENSATION BENEFITS SHALL BE OFFSET AGAINST LINE-OF-DUTY
3 DISABILITY BENEFITS, IN ACCORDANCE WITH SUBSECTION (O) OF THIS SECTION.

4 (J) DISMEMBERMENT DISABILITY RETIREMENT.

5 (1) ELIGIBILITY REQUIREMENTS.

6 A CLASS D MEMBER IS ENTITLED TO RETIRE ON A DISMEMBERMENT DISABILITY
7 RETIREMENT IF A HEARING EXAMINER DETERMINES THAT:

8 (I) THE MEMBER SUSTAINED ANY 1 OF THE LOSSES LISTED IN PARAGRAPH (5) OF
9 THIS SUBSECTION;

10 (II) THE MEMBER SUSTAINED THE LOSS, INDEPENDENT OF ALL OTHER CAUSES, AS
11 THE DIRECT RESULT OF BODILY INJURY ARISING THROUGH AN ACCIDENT; AND

12 (III) THE ACCIDENT OCCURRED:

13 (A) WHILE THE MEMBER WAS IN THE ACTUAL PERFORMANCE OF HIS OR HER
14 CITY DUTIES AT SOME DEFINITE TIME AND PLACE;

15 (B) WITHOUT WILLFUL NEGLIGENCE ON THE MEMBER'S PART; AND

16 (C) NOT MORE THAN 180 DAYS BEFORE THE DATE ON WHICH THE LOSS WAS
17 SUSTAINED.

18 (2) APPLICATION AND FILING DEADLINE.

19 TO RETIRE UNDER THIS SUBSECTION, THE MEMBER MUST:

20 (I) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING THE
21 INFORMATION REQUIRED BY SUBSECTION (P)(4) OF THIS SECTION; AND

22 (II) SUBMIT THE APPLICATION TO THE BOARD:

23 (A) NO LATER THAN 1 YEAR FOLLOWING THE MEMBER'S LAST DAY OF CITY
24 EMPLOYMENT; AND

25 (B) WITHIN 5 YEARS OF THE DATE OF THE ACCIDENT RESULTING IN THE
26 MEMBER'S LOSS.

27 (3) EFFECTIVE DATE OF RETIREMENT.

28 A DISMEMBERMENT DISABILITY RETIREMENT TAKES EFFECT AS FOLLOWS:

29 (I) IF THE MEMBER APPLIED FOR DISABILITY RETIREMENT BEFORE TERMINATING
30 CITY EMPLOYMENT, THE RETIREMENT IS EFFECTIVE AS OF THE 1ST DAY OF THE
31 MONTH IMMEDIATELY FOLLOWING THE MEMBER'S LAST DAY OF CITY
32 EMPLOYMENT; AND

Council Bill 13-0247

1 (II) IF THE MEMBER APPLIED FOR DISABILITY RETIREMENT AFTER TERMINATING
2 CITY EMPLOYMENT, THE RETIREMENT IS EFFECTIVE AS OF THE 1ST DAY OF THE
3 MONTH IMMEDIATELY FOLLOWING THE 30TH DAY AFTER THE DATE ON WHICH
4 THE BOARD RECEIVED A COMPLETED APPLICATION.

5 (4) BENEFIT ON RETIREMENT.

6 ON RETIREMENT, THE CLASS D MEMBER IS ENTITLED TO RECEIVE A PENSION EQUAL TO
7 100% OF THE MEMBER'S AVERAGE FINAL COMPENSATION. IN NO EVENT, HOWEVER,
8 WILL MORE THAN 100% OF AVERAGE FINAL COMPENSATION BE PAID FOR ALL LOSSES
9 SUSTAINED BY A MEMBER AS THE RESULT OF ANY ONE ACCIDENT.

10 (5) SCHEDULE OF LOSSES.

11 (i) LOSSES SPECIFIED.

12 THE SCHEDULE OF LOSSES IS AS FOLLOWS:

- 13 1. BOTH HANDS OR BOTH FEET
- 14 2. 1 HAND AND 1 FOOT
- 15 3. 1 HAND AND SIGHT OF 1 EYE
- 16 4. 1 FOOT AND SIGHT OF 1 EYE
- 17 5. SIGHT OF BOTH EYES

18 (II) "LOSS" DEFINED.

19 (A) WITH RESPECT TO HANDS OR FEET, "LOSS" MEANS DISMEMBERMENT BY
20 SEVERANCE AT OR ABOVE THE WRIST OR ANKLE JOINT.

21 (B) WITH RESPECT TO "SIGHT OF 1 EYE", "LOSS" MEANS CENTRAL VISUAL ACUITY
22 OF 20/200 OR LESS IN 1 EYE WITH THE USE OF CORRECTING LENSES, OR VISUAL
23 ACUITY OF GREATER THAN 20/200 IF ACCOMPANIED BY A LIMITATION IN THE
24 FIELD OF VISION SUCH THAT THE WIDEST DIAMETER OF THE VISUAL FIELD
25 SUBTENDS AN ANGLE NO GREATER THAN 20 DEGREES.

26 (C) WITH RESPECT TO "SIGHT OF BOTH EYES", "LOSS" MEANS CENTRAL VISUAL
27 ACUITY OF 20/200 OR LESS IN THE BETTER EYE WITH THE USE OF CORRECTING
28 LENSES, OR VISUAL ACUITY GREATER THAN 20/200 IF ACCOMPANIED BY A
29 LIMITATION IN THE FIELD OF VISION SUCH THAT THE WIDEST DIAMETER OF THE
30 VISUAL FIELD SUBTENDS AN ANGLE NO GREATER THAN 20 DEGREES.

31 (6) OFFSETS FOR WORKERS' COMPENSATION BENEFITS.

32 WORKERS' COMPENSATION BENEFITS SHALL BE OFFSET AGAINST DISMEMBERMENT
33 DISABILITY BENEFITS, IN ACCORDANCE WITH SUBSECTION (O) OF THIS SECTION.

Council Bill 13-0247

1 (K) METHOD OF PAYMENT.

2 (1) MAXIMUM RETIREMENT ALLOWANCE.

3 (i) A CLASS D MEMBER WHO IS ELIGIBLE TO RECEIVE A RETIREMENT BENEFIT UNDER
4 THIS SUBTITLE IS ENTITLED TO RECEIVE, WITHOUT ACTUARIAL MODIFICATION, THE
5 FULL BENEFIT FOR WHICH HE OR SHE IS QUALIFIED, PAYABLE IN PERIODIC
6 PAYMENTS DURING THE RETIRED MEMBER'S LIFETIME (THE "MAXIMUM
7 RETIREMENT ALLOWANCE").

8 (ii) AS OF THE 1ST DAY OF THE MONTH IMMEDIATELY AFTER THE DEATH OF A RETIRED
9 MEMBER WHO IS RECEIVING THIS MAXIMUM RETIREMENT ALLOWANCE, THE
10 FOLLOWING BENEFICIARIES ARE ENTITLED TO RECEIVE PERIODIC PAYMENTS IN AN
11 AMOUNT EQUAL TO 40% OF THE PERIODIC PAYMENT THAT THE RETIRED MEMBER
12 WAS RECEIVING AT THE TIME OF HIS OR HER DEATH:

13 (A) IF THE RETIRED MEMBER IS SURVIVED BY A SPOUSE TO WHOM THE RETIRED
14 MEMBER WAS MARRIED FOR AT LEAST 1 YEAR IMMEDIATELY BEFORE THE
15 MEMBER'S RETIREMENT DATE, THE BENEFIT SHALL BE PAID TO THE
16 SURVIVING SPOUSE, TO CONTINUE DURING THE SPOUSE'S LIFETIME OR
17 UNTIL HIS OR HER REMARRIAGE; OR

18 (B) IF THERE IS NO QUALIFYING SURVIVING SPOUSE OR IF THE SURVIVING
19 SPOUSE DIES OR REMARRIES, THEN THE BENEFIT SHALL BE PAID TO THE
20 RETIRED MEMBER'S MINOR CHILDREN, IN EQUAL SHARES, TO CONTINUE
21 UNTIL THE CHILDREN ARE NO LONGER MINORS, AS DEFINED IN § 47(H) OF
22 THIS ARTICLE.

23 (iii) FOR PURPOSES OF THIS PARAGRAPH, WHEN A RETIRED MEMBER'S CHILD IS NO
24 LONGER A MINOR AND CONSEQUENTLY CEASES TO RECEIVE BENEFITS UNDER THIS
25 PARAGRAPH, EACH REMAINING MINOR CHILD SHALL BEGIN TO RECEIVE, IN
26 ADDITION TO HIS OR HER EXISTING BENEFIT, AN EQUAL SHARE OF THE BENEFIT
27 FORMERLY PAID TO THE OTHER CHILD. THIS PROCESS CONTINUES UNTIL THE
28 YOUNGEST CHILD IS NO LONGER A MINOR.

29 (iv) IF A RETIRED MEMBER WHO IS RECEIVING THE MAXIMUM RETIREMENT
30 ALLOWANCE DIES BEFORE THE MEMBER HAS RECEIVED BENEFIT PAYMENTS IN A
31 SUM EQUAL TO THE AMOUNT OF HIS OR HER ACCUMULATED CONTRIBUTIONS AT
32 THE TIME OF RETIREMENT, AND IF THERE IS NO SURVIVING SPOUSE OR MINOR CHILD
33 ENTITLED TO RECEIVE BENEFITS ON THE MEMBER'S DEATH, THE DIFFERENCE
34 BETWEEN THE AMOUNT OF THE DECEASED MEMBER'S ACCUMULATED
35 CONTRIBUTIONS AND THE SUM OF THE BENEFIT PAYMENTS SHALL BE PAID IN THE
36 FORM OF A LUMP-SUM CASH PAYMENT AS FOLLOWS:

37 (A) TO THE DECEASED MEMBER'S DESIGNATED BENEFICIARY; OR

38 (B) IF NO BENEFICIARY HAS BEEN DESIGNATED OR IF THE DESIGNATED
39 BENEFICIARY PREDECEASES THE RETIRED MEMBER, TO THE DECEASED
40 MEMBER'S ESTATE.

Council Bill 13-0247

1 (2) BENEFIT OPTIONS.

2 (I) IN GENERAL.

3 (A) INSTEAD OF THE MAXIMUM RETIREMENT ALLOWANCE PROVIDED FOR IN
4 PARAGRAPH (1) OF THIS SUBSECTION, A CLASS D MEMBER WHO IS ENTITLED TO
5 RECEIVE A RETIREMENT BENEFIT FROM THIS SYSTEM MAY ELECT TO RECEIVE
6 THE BENEFIT IN THE FORM OF 1 OF THE OPTIONS SET FORTH IN SUBPARAGRAPHS
7 (II) THROUGH (V) OF THIS PARAGRAPH.

8 (B) A MEMBER WHO ELECTS TO RECEIVE 1 OF THESE OPTIONS WILL RECEIVE HIS OR
9 HER BENEFIT IN THE FORM OF PERIODIC PAYMENTS DURING HER OR HIS
10 LIFETIME.

11 (C) THE MEMBER'S BENEFIT SHALL BE IN AN AMOUNT THAT, WHEN COMBINED
12 WITH THE CORRESPONDING SURVIVORSHIP BENEFIT UNDER THE OPTION
13 ELECTED, WILL EQUAL THE ACTUARIAL EQUIVALENT OF THE RETIRED
14 MEMBER'S MAXIMUM RETIREMENT ALLOWANCE, COMPUTED AS OF HIS OR HER
15 RETIREMENT DATE.

16 (II) RESERVE GUARANTEE OPTION.

17 (A) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE DEATH OF A
18 RETIRED MEMBER WHO ELECTED THIS RESERVE GUARANTEE OPTION, THE
19 BALANCE OF THE RETIRED MEMBER'S ACTUARIAL RESERVE AT THE TIME OF
20 RETIREMENT, AFTER DEDUCTING THE TOTAL AMOUNT OF PERIODIC PAYMENTS
21 RECEIVED BY THE RETIRED MEMBER DURING HER OR HIS LIFETIME, SHALL BE
22 PAID IN THE FORM OF A LUMP-SUM CASH PAYMENT AS FOLLOWS:

- 23 1. TO THE RETIRED MEMBER'S DESIGNATED BENEFICIARY; OR
- 24 2. IF NO DESIGNATED BENEFICIARY HAS BEEN DESIGNATED OR IF THE
25 DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER, TO
26 THE RETIRED MEMBER'S ESTATE.

27 (B) A MEMBER WHO ELECTS THIS OPTION MAY CHANGE HIS OR HER DESIGNATED
28 BENEFICIARY AT ANY TIME THROUGHOUT THE MEMBER'S RETIREMENT.

29 (III) JOINT-AND-SURVIVOR OPTION.

30 (A) AS OF THE 1ST DAY OF THE MONTH IMMEDIATELY AFTER THE DEATH OF A
31 RETIRED MEMBER WHO ELECTED THIS JOINT-AND-SURVIVOR OPTION, THE
32 MEMBER'S DESIGNATED BENEFICIARY IS ENTITLED TO RECEIVE PERIODIC
33 PAYMENTS DURING THE BENEFICIARY'S LIFETIME IN EITHER OF THE
34 FOLLOWING AMOUNTS, AS ELECTED BY THE MEMBER:

- 35 1. 100% OF THE PERIODIC PAYMENT THAT THE RETIRED MEMBER WAS
36 RECEIVING AT THE TIME OF HER OR HIS DEATH; OR
- 37 2. 50% OF THE PERIODIC PAYMENT THAT THE RETIRED MEMBER WAS
38 RECEIVING AT THE TIME OF HER OR HIS DEATH.

Council Bill 13-0247

1 (B) A MEMBER WHO ELECTS THIS OPTION MAY CHANGE HER OR HIS DESIGNATED
2 BENEFICIARY WITHIN 30 DAYS AFTER THE MEMBER'S RETIREMENT DATE.

3 (C) IF THE DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER WITHIN
4 30 DAYS AFTER THE RETIREMENT DATE, THE RETIRED MEMBER MAY
5 DESIGNATE A NEW BENEFICIARY WITHIN 30 DAYS AFTER THE DESIGNATED
6 BENEFICIARY'S DEATH.

7 (D) IF THE DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER WITHIN
8 30 DAYS AFTER THE RETIREMENT DATE AND THE RETIRED MEMBER DOES NOT
9 DESIGNATE A NEW BENEFICIARY WITHIN 30 DAYS AFTER THE DESIGNATED
10 BENEFICIARY'S DEATH OR IF THE DESIGNATED BENEFICIARY DIES ON OR AFTER
11 THE 31ST DAY FOLLOWING THE RETIREMENT DATE:

12 1. THE RETIRED MEMBER CONTINUES DURING HER OR HIS LIFETIME TO
13 RECEIVE PERIODIC PAYMENTS IN THE SAME AMOUNT THAT THE
14 MEMBER HAS BEEN RECEIVING;

15 2. NO NEW BENEFICIARY MAY BE DESIGNATED; AND

16 3. ON THE RETIRED MEMBER'S DEATH, NO SURVIVORSHIP BENEFIT IS
17 PAYABLE.

18 (IV) "POP-UP" JOINT-AND-SURVIVOR OPTION.

19 (A) AS OF THE 1ST DAY OF THE MONTH IMMEDIATELY AFTER THE DEATH OF A
20 RETIRED MEMBER WHO ELECTED THIS "POP-UP" JOINT-AND-SURVIVOR OPTION,
21 THE MEMBER'S DESIGNATED BENEFICIARY IS ENTITLED TO RECEIVE PERIODIC
22 PAYMENTS DURING THE BENEFICIARY'S LIFETIME IN EITHER OF THE
23 FOLLOWING AMOUNTS, AS ELECTED BY THE MEMBER:

24 1. 100% OF THE PERIODIC PAYMENT THAT THE RETIRED MEMBER WAS
25 RECEIVING AT THE TIME OF HIS OR HER DEATH; OR

26 2. 50% OF THE PERIODIC PAYMENT THAT THE RETIRED MEMBER WAS
27 RECEIVING AT THE TIME OF HIS OR HER DEATH.

28 (B) A MEMBER WHO ELECTS THIS OPTION MAY CHANGE HIS OR HER DESIGNATED
29 BENEFICIARY WITHIN 30 DAYS AFTER THE MEMBER'S RETIREMENT DATE.

30 (C) IF THE DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER WITHIN
31 30 DAYS AFTER THE RETIREMENT DATE, THE RETIRED MEMBER MAY
32 DESIGNATE A NEW BENEFICIARY WITHIN 30 DAYS AFTER THE DESIGNATED
33 BENEFICIARY'S DEATH.

34 (D) IF THE DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER WITHIN
35 30 DAYS AFTER THE RETIREMENT DATE AND THE RETIRED MEMBER DOES NOT
36 DESIGNATE A NEW BENEFICIARY WITHIN 30 DAYS AFTER THE DESIGNATED
37 BENEFICIARY'S DEATH OR IF THE DESIGNATED BENEFICIARY DIES ON OR AFTER
38 THE 31ST DAY FOLLOWING THE RETIREMENT DATE:

Council Bill 13-0247

- 1 1. THE RETIRED MEMBER COMMENCES, AS OF THE 1ST DAY OF THE MONTH
2 IMMEDIATELY AFTER THE DESIGNATED BENEFICIARY'S DEATH, TO
3 RECEIVE THE MAXIMUM RETIREMENT ALLOWANCE, PAYABLE IN
4 PERIODIC PAYMENTS DURING THE RETIRED MEMBER'S LIFETIME;
- 5 2. NO OTHER BENEFICIARY MAY BE DESIGNATED; AND
- 6 3. ON THE RETIRED MEMBER'S DEATH, NO SURVIVORSHIP BENEFIT IS
7 PAYABLE, WHETHER UNDER THIS OPTION OR THE MAXIMUM
8 RETIREMENT ALLOWANCE.

9 (v) SPECIFIC BENEFIT OPTION.

10 (A) SUBJECT TO THE APPROVAL REQUIRED BY SUB-SUBPARAGRAPH (B) OF THIS
11 SUBPARAGRAPH, ON THE DEATH OF A RETIRED MEMBER WHO ELECTED THIS
12 SPECIFIC BENEFIT OPTION, THE MEMBER'S DESIGNATED BENEFICIARY IS
13 ENTITLED TO RECEIVE THE FOLLOWING, AS ELECTED BY THE MEMBER BEFORE
14 THE MEMBER'S RETIREMENT DATE:

- 15 1. A SPECIFIC LUMP-SUM CASH PAYMENT, PAYABLE AS SOON AS
16 ADMINISTRATIVELY PRACTICABLE AFTER THE RETIRED MEMBER'S
17 DEATH; OR
- 18 2. A SPECIFIC PERIODIC BENEFIT, PAYABLE TO THE DESIGNATED
19 BENEFICIARY DURING HER OR HIS LIFETIME, EFFECTIVE AS OF THE 1ST
20 DAY OF THE MONTH IMMEDIATELY AFTER THE RETIRED MEMBER'S
21 DEATH.

22 (B) THIS BENEFIT OPTION MUST BE APPROVED, AT THE TIME OF THE MEMBER'S
23 RETIREMENT, BY THE BOARD OF TRUSTEES PURSUANT TO THE
24 RECOMMENDATION OF THIS SYSTEM'S ACTUARY.

25 (C) A MEMBER WHO ELECTS THIS OPTION MAY CHANGE HIS OR HER DESIGNATED
26 BENEFICIARY WITHIN 30 DAYS AFTER THE MEMBER'S RETIREMENT DATE.

27 (D) IF THE DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER WITHIN
28 30 DAYS AFTER THE RETIREMENT DATE, THE RETIRED MEMBER MAY
29 DESIGNATE A NEW BENEFICIARY WITHIN 30 DAYS AFTER THE DESIGNATED
30 BENEFICIARY'S DEATH.

31 (E) IF THE DESIGNATED BENEFICIARY PREDECEASES THE RETIRED MEMBER WITHIN
32 30 DAYS AFTER THE RETIREMENT DATE AND THE RETIRED MEMBER DOES NOT
33 DESIGNATE A NEW BENEFICIARY WITHIN 30 DAYS AFTER THE DESIGNATED
34 BENEFICIARY'S DEATH OR IF THE DESIGNATED BENEFICIARY DIES ON OR AFTER
35 THE 31ST DAY AFTER THE RETIREMENT DATE:

- 36 1. THE RETIRED MEMBER CONTINUES DURING HIS OR HER LIFETIME TO
37 RECEIVE PERIODIC PAYMENTS IN THE SAME AMOUNT THAT THE
38 MEMBER HAS BEEN RECEIVING;

Council Bill 13-0247

1 2. NO OTHER BENEFICIARY MAY BE DESIGNATED; AND

2 3. ON THE RETIRED MEMBER'S DEATH, NO SURVIVORSHIP BENEFIT IS
3 PAYABLE.

4 (3) CHANGE OF ELECTION WITHIN 30 DAYS.

5 (I) A RETIRED MEMBER MAY ELECT TO MAKE THE CHANGES AUTHORIZED IN THIS
6 PARAGRAPH ON OR BEFORE THE LATER OF:

7 (A) THE 30TH DAY AFTER THE RETIRED MEMBER'S RETIREMENT DATE; OR

8 (B) IF THE RETIRED MEMBER'S DESIGNATED BENEFICIARY PREDECEASES THE
9 RETIRED MEMBER WITHIN 30 DAYS AFTER THE RETIREMENT DATE, THE 30TH
10 DAY AFTER THE DESIGNATED BENEFICIARY'S DEATH.

11 (II) WITHIN THE PERIODS SPECIFIED, THE RETIRED MEMBER MAY ELECT TO CHANGE:

12 (A) THE RETIRED MEMBER'S MAXIMUM RETIREMENT ALLOWANCE UNDER
13 PARAGRAPH (1) OF THIS SUBSECTION TO ANY ONE OF THE BENEFIT OPTIONS
14 PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

15 (B) THE RETIRED MEMBER'S ELECTION OF A BENEFIT OPTION UNDER
16 PARAGRAPH (2) OF THIS SUBSECTION TO THE MAXIMUM RETIREMENT
17 ALLOWANCE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

18 (C) THE RETIRED MEMBER'S ELECTION OF A BENEFIT OPTION UNDER
19 PARAGRAPH (2) OF THIS SUBSECTION TO ANY OTHER BENEFIT OPTION
20 PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

21 (III) ANY PAYMENTS MADE TO A RETIRED MEMBER UNDER THE ORIGINAL ELECTION
22 SHALL BE TAKEN INTO ACCOUNT IN COMPUTING THE BENEFIT TO BE PAID UNDER
23 THE SUBSEQUENT ELECTION.

24 (4) TRANSFERRED-IN ACCUMULATED CONTRIBUTIONS.

25 (I) IN ADDITION TO RECEIVING A MAXIMUM RETIREMENT ALLOWANCE OR A BENEFIT
26 OPTION AT RETIREMENT, A RETIRED CLASS D MEMBER WILL RECEIVE A REFUND,
27 WITH INTEREST, OF THE RETIRED MEMBER'S TRANSFERRED-IN ACCUMULATED
28 CONTRIBUTIONS THAT DID NOT RESULT IN ANY RETIREMENT BENEFIT FROM THIS
29 SYSTEM.

30 (II) THE BENEFITS UNDER THIS PARAGRAPH SHALL BE PAID IN THE FORM OF A LUMP-
31 SUM CASH PAYMENT OR AN ANNUITY, AS ELECTED BY THE MEMBER. IF THE
32 MEMBER ELECTS TO RECEIVE THE BENEFITS IN THE FORM OF AN ANNUITY, THE
33 METHOD OF PAYING THE ANNUITY SHALL BE CONSISTENT WITH THE METHOD OF
34 PAYING THE RETIRED MEMBER'S PRINCIPAL RETIREMENT BENEFIT UNDER
35 PARAGRAPH (1) OR (2) OF THIS SUBSECTION, AS THE CASE MAY BE.

Council Bill 13-0247

1 (5) ELECTION TO RECEIVE LUMP-SUM PAYMENT.

2 (I) A CLASS D MEMBER WHO TERMINATES CITY EMPLOYMENT MAY ELECT TO
3 RECEIVE THE PRESENT VALUE OF THE MEMBER'S TOTAL PENSION BENEFIT IN A
4 LUMP-SUM CASH PAYMENT, IF:

5 (A) THE MEMBER IS ENTITLED TO SERVICE RETIREMENT BENEFIT UNDER
6 SUBSECTION (G) OF THIS SECTION; AND

7 (B) THE PRESENT VALUE OF THE TOTAL PENSION BENEFIT IS NO MORE THAN
8 THE GREATER OF:

9 1. \$12,500; OR

10 2. AN AMOUNT THAT IS CALCULATED BY THIS SYSTEM'S ACTUARY TO
11 REFLECT ANY INCREASES IN THE AVERAGE SALARY OF ACTIVE
12 MEMBERS AND THAT IS APPROVED BY THE BOARD OF TRUSTEES.

13 (II) A MEMBER WHO RECEIVES A LUMP-SUM CASH PAYMENT UNDER THIS PARAGRAPH
14 CEASES TO BE ENTITLED TO ANY OTHER BENEFITS FROM THIS SYSTEM.

15 (III) IF A CLASS D MEMBER IS ENTITLED TO RECEIVE BOTH A SERVICE RETIREMENT
16 BENEFIT UNDER SUBSECTION (G) OF THIS SECTION AND A DISABILITY RETIREMENT
17 BENEFIT UNDER SUBSECTION (H), (I), OR (J) OF THIS SECTION, THE MEMBER MAY
18 WAIVE HIS OR HER RIGHTS TO THE DISABILITY BENEFIT AND ELECT TO RECEIVE A
19 LUMP-SUM CASH PAYMENT UNDER THIS PARAGRAPH.

20 (IV) THE PRESENT VALUE OF THE BENEFIT PAYABLE UNDER THIS PARAGRAPH SHALL BE
21 CALCULATED AS OF THE DATE THE MEMBER TERMINATES CITY EMPLOYMENT,
22 USING ACTUARIAL ASSUMPTIONS AS OF THAT DATE APPROVED BY THE BOARD OF
23 TRUSTEES PURSUANT TO THE RECOMMENDATION OF THIS SYSTEM'S ACTUARY.

24 (6) RETURN OF ACCUMULATED CONTRIBUTIONS.

25 (I) IF A CLASS D MEMBER TERMINATES CITY EMPLOYMENT, OTHER THAN BY REASON
26 OF DEATH, BEFORE BECOMING ELIGIBLE FOR A RETIREMENT BENEFIT OR A
27 DEFERRED VESTED PENSION BENEFIT UNDER THIS SECTION, THE MEMBER IS ONLY
28 ENTITLED TO RECEIVE THE VALUE OF HIS OR HER ACCUMULATED CONTRIBUTIONS,
29 PAYABLE IN THE FORM OF A LUMP-SUM CASH PAYMENT, AS SOON AS
30 ADMINISTRATIVELY PRACTICABLE FOLLOWING THE TERMINATION OF
31 EMPLOYMENT.

32 (II) IF A CLASS D MEMBER DIES WHILE ACTIVELY EMPLOYED, HIS OR HER
33 ACCUMULATED CONTRIBUTIONS WILL BE USED TO FUND A PERIODIC DEATH
34 BENEFIT PAYABLE TO THE MEMBER'S BENEFICIARY UNDER SUBSECTION (M) OR (N)
35 OF THIS SECTION OR WILL BE PAID TO THE MEMBER'S BENEFICIARY IF THE
36 BENEFICIARY IS ENTITLED TO RECEIVE A LUMP-SUM DEATH BENEFIT UNDER
37 SUBSECTION (M) OR (N) OF THIS SECTION.

Council Bill 13-0247

1 (L) REEMPLOYMENT.

2 (1) FOLLOWING TERMINATION OF CLASS D MEMBER.

3 (i) AFTER BECOMING ELIGIBLE FOR CERTAIN BENEFITS.

4 IF A CLASS D MEMBER TERMINATES CITY EMPLOYMENT AFTER BECOMING
5 ELIGIBLE FOR A RETIREMENT BENEFIT OR A DEFERRED VESTED PENSION BENEFIT
6 UNDER THIS SECTION AND IS SUBSEQUENTLY REEMPLOYED AS AN EMPLOYEE, THE
7 EMPLOYEE:

8 (A) MUST CEASE OR POSTPONE RECEIVING ANY RETIREMENT BENEFITS FROM
9 THIS SYSTEM; AND

10 (B) IMMEDIATELY ON REEMPLOYMENT:

11 1. WILL AGAIN BECOME A CLASS D MEMBER; AND

12 2. WILL BE CREDITED WITH HIS OR HER PRIOR CLASS D SERVICE.

13 (ii) BEFORE BECOMING ELIGIBLE FOR CERTAIN BENEFITS.

14 IF A CLASS D MEMBER TERMINATES CITY EMPLOYMENT BEFORE BECOMING
15 ELIGIBLE FOR A RETIREMENT BENEFIT OR A DEFERRED VESTED PENSION BENEFIT
16 UNDER THIS SECTION AND IS SUBSEQUENTLY REEMPLOYED AS AN EMPLOYEE, THE
17 EMPLOYEE:

18 (A) ON THE 1ST ANNUAL ANNIVERSARY OF HER OR HIS REEMPLOYMENT, WILL
19 AGAIN BECOME A CLASS D MEMBER; AND

20 (B) IMMEDIATELY ON REEMPLOYMENT, WILL BE CREDITED WITH HIS OR HER
21 PRIOR CLASS D SERVICE.

22 (2) FOLLOWING PRE-JULY 1, 2014, CITY EMPLOYMENT.

23 (i) TERMINATION AFTER EARNING VESTED BENEFIT.

24 (A) THIS SUBPARAGRAPH APPLIES TO ANY EMPLOYEE WHO:

25 1. WAS EMPLOYED BY THE CITY ON OR BEFORE JUNE 30, 2014;

26 2. TERMINATED THAT EMPLOYMENT AFTER EARNING A VESTED BENEFIT
27 UNDER THIS SYSTEM OR ANOTHER CITY RETIREMENT PLAN; AND

28 3. IS REEMPLOYED BY THE CITY ON OR AFTER JULY 1, 2014.

29 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN EMPLOYEE
30 DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH:

Council Bill 13-0247

- 1 1. SHALL, AS OF AFTER HIS OR HER REEMPLOYMENT WITH THE CITY,
2 CEASE OR POSTPONE RECEIVING ANY CITY RETIREMENT BENEFITS IN
3 ACCORDANCE WITH §48 {“CONTEMPORANEOUS BENEFITS FROM 2 OR
4 MORE CITY SYSTEMS”} OF THIS ARTICLE;

- 5 2. MAY NOT, AS OF HIS OR HER REEMPLOYMENT WITH THE CITY, AGAIN
6 BECOME A MEMBER OF THIS SYSTEM OR ANY OTHER CITY RETIREMENT
7 PLAN, EXCEPT AS PROVIDED IN ITEM 3 OF THIS SUB-SUBPARAGRAPH (B):
8 AND

- 9 3. AUTOMATICALLY BECOMES, ON THE 30TH DAY AFTER THE DATE ON
10 WHICH HIS OR HER REEMPLOYMENT BEGAN, A NON-HYBRID MEMBER OF
11 THE RETIREMENT SAVINGS PLAN.

12 (C) PRIOR SERVICE EARNED UNDER THIS SYSTEM OR ANY OTHER CITY
13 RETIREMENT PLAN IS NOT CREDITED UNDER THE RETIREMENT SAVINGS PLAN,
14 AND THE EMPLOYEE IS NOT ENTITLED TO ANY CONTRIBUTIONS UNDER THE
15 RETIREMENT SAVINGS PLAN WITH RESPECT TO THAT PRIOR SERVICE.

16 (II) TERMINATION BEFORE EARNING VESTED BENEFIT.

17 (A) THIS SUBPARAGRAPH APPLIES TO ANY EMPLOYEE WHO:

- 18 1. WAS EMPLOYED BY THE CITY ON OR BEFORE JUNE 30, 2014;

- 19 2. TERMINATED THAT EMPLOYMENT BEFORE EARNING A VESTED BENEFIT
20 UNDER THIS SYSTEM OR ANOTHER CITY RETIREMENT PLAN, AND;

- 21 3. IS REEMPLOYED BY THE CITY ON OR AFTER JULY 1, 2014.

22 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN EMPLOYEE
23 DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH:

- 24 1. SHALL MAKE AN ELECTION IN ACCORDANCE WITH § 9.1 OF THIS
25 SUBTITLE; AND

- 26 2. BASED ON THAT ELECTION, WILL BECOME EITHER:
 - 27 A. A CLASS D MEMBER OF THIS SYSTEM, COMMENCING ON THE 1ST
28 ANNUAL ANNIVERSARY OF HIS OR HER REEMPLOYMENT, AND A
29 HYBRID MEMBER OF THE RETIREMENT SAVINGS PLAN,
30 COMMENCING ON THE 180TH DAY AFTER THE DATE ON WHICH
31 HIS OR HER REEMPLOYMENT BEGAN; OR

 - 32 B. A NON-HYBRID MEMBER OF THE RETIREMENT SAVINGS PLAN,
33 COMMENCING ON THE 180TH DAY AFTER THE DATE ON WHICH
34 HIS OR HER REEMPLOYMENT BEGAN.

35 (C) ON COMMENCEMENT OF PARTICIPATION IN THE RETIREMENT SAVINGS PLAN
36 AND, IF APPLICABLE, AS A CLASS D MEMBER OF THIS SYSTEM, THE EMPLOYEE

Council Bill 13-0247

1 WILL BE CREDITED WITH THE PRIOR SERVICE THAT SHE OR HE EARNED UNDER
2 THIS SYSTEM OR ANOTHER CITY RETIREMENT PLAN.

3 (M) NON-LINE-OF-DUTY DEATH BENEFIT.

4 (1) SCOPE OF SUBSECTION.

5 THIS SUBSECTION APPLIES TO A MEMBER WHO DIES WHILE ACTIVELY EMPLOYED, BUT
6 WHOSE DEATH DOES NOT QUALIFY UNDER SUBSECTION (N) OF THIS SECTION AS A LINE-
7 OF-DUTY DEATH BENEFIT.

8 (2) LUMP-SUM DEATH BENEFIT.

9 (i) "BENEFICIARY" DEFINED.

10 IN THIS PARAGRAPH, "BENEFICIARY" MEANS THE MEMBER'S DESIGNATED
11 BENEFICIARY OR SURVIVING SPOUSE, MINOR CHILDREN, OR PARENTS, AS
12 QUALIFIED AND PRIORITIZED UNDER SUBPARAGRAPH (V)(A)-(D) OF THIS
13 PARAGRAPH.

14 (ii) ELIGIBILITY REQUIREMENTS.

15 THE BENEFICIARY IS ENTITLED TO A LUMP-SUM BENEFIT UNDER THIS PARAGRAPH
16 ONLY IF:

17 (A) THE MEMBER HAD ACQUIRED 1 OR MORE YEARS OF SERVICE; AND

18 (B) NO BENEFITS ARE PAID UNDER PARAGRAPH (3) OR (4) OF THIS SUBSECTION.

19 (iii) APPLICATION AND FILING DEADLINE.

20 TO RECEIVE THIS BENEFIT, THE BENEFICIARY MUST:

21 (A) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING
22 THE INFORMATION, INCLUDING PROOF OF DEATH, THAT THE BOARD
23 REQUIRES; AND

24 (B) SUBMIT THE APPLICATION TO THE BOARD ON OR BEFORE THE 60TH DAY
25 AFTER THE BOARD HAS PROVIDED A POST-DEATH NOTICE OF THIS BENEFIT
26 TO THE BENEFICIARY.

27 (iv) AMOUNT OF BENEFIT.

28 THE LUMP-SUM BENEFIT SHALL EQUAL:

29 (A) ANY ACCUMULATED CONTRIBUTIONS OF THE DECEASED MEMBER; AND

30 (B) 50% OF THE GREATER OF THE MEMBER'S CURRENT ANNUAL
31 COMPENSATION OR THE MEMBER'S AVERAGE FINAL COMPENSATION ON THE
32 DATE OF THE MEMBER'S DEATH.

Council Bill 13-0247

1 (V) QUALIFICATIONS AND PRIORITIES OF POTENTIAL BENEFICIARIES.

2 THE LUMP-SUM BENEFIT SHALL BE PAID AS FOLLOWS:

3 (A) TO THE MEMBER'S DESIGNATED BENEFICIARY;

4 (B) IF THERE IS NO DESIGNATED BENEFICIARY OR IF THE DESIGNATED
5 BENEFICIARY PREDECEASES THE MEMBER, TO THE MEMBER'S SURVIVING
6 SPOUSE;

7 (C) IF THERE IS NO DESIGNATED BENEFICIARY AND NO SURVIVING SPOUSE, TO
8 THE MEMBER'S CHILDREN, IN EQUAL SHARES;

9 (D) IF THERE IS NO DESIGNATED BENEFICIARY, SURVIVING SPOUSE, OR
10 SURVIVING CHILD, TO THE MEMBER'S SURVIVING PARENTS, IN EQUAL
11 SHARES; AND

12 (E) OTHERWISE, TO THE MEMBER'S ESTATE.

13 (3) 100% SURVIVORSHIP DEATH BENEFIT.

14 (I) DEFINITIONS.

15 (A) IN GENERAL.

16 IN THIS PARAGRAPH, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

17 (B) BENEFICIARY.

18 "BENEFICIARY" MEANS THE MEMBER'S SURVIVING SPOUSE OR PARENTS, AS
19 QUALIFIED AND PRIORITIZED UNDER SUBPARAGRAPH (V) OF THIS PARAGRAPH.

20 (C) SURVIVING SPOUSE.

21 "SURVIVING SPOUSE" MEANS A SURVIVING SPOUSE TO WHOM THE MEMBER
22 WAS MARRIED FOR AT LEAST 5 YEARS IMMEDIATELY BEFORE THE DATE OF THE
23 MEMBER'S DEATH.

24 (II) ELIGIBILITY REQUIREMENTS.

25 THE BENEFICIARY IS ENTITLED TO A 100% SURVIVORSHIP DEATH BENEFIT ONLY IF
26 THE MEMBER WOULD HAVE BEEN ELIGIBLE FOR A NORMAL SERVICE OR EARLY
27 SERVICE RETIREMENT BEFORE HIS OR HER DEATH OR WITHIN 90 DAYS AFTER THE
28 DATE OF HIS OR HER DEATH.

29 (III) APPLICATION AND FILING DEADLINE.

30 TO RECEIVE THIS BENEFIT, THE BENEFICIARY MUST:

Council Bill 13-0247

1 (A) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING
2 THE INFORMATION, INCLUDING PROOF OF DEATH, THAT THE BOARD
3 REQUIRES; AND

4 (B) SUBMIT THE APPLICATION TO THE BOARD ON OR BEFORE THE 60TH DAY
5 AFTER THE BOARD HAS PROVIDED A POST-DEATH NOTICE OF THIS BENEFIT
6 TO THE BENEFICIARY.

7 (IV) AMOUNT OF BENEFIT.

8 THE BENEFIT SHALL BE EQUAL TO THAT WHICH WOULD HAVE BEEN PAID TO A
9 SURVIVING BENEFICIARY UNDER THE JOINT AND SURVIVOR 100% BENEFIT OPTION
10 PROVIDED FOR IN SUBSECTION (K)(2)(III)(A)1. OF THIS SECTION HAD THE MEMBER
11 ELECTED THAT OPTION, DESIGNATED THAT BENEFICIARY, AND RETIRED AS OF THE
12 DATE OF DEATH.

13 (V) QUALIFICATIONS AND PRIORITIES OF POTENTIAL BENEFICIARIES.

14 (A) THE BENEFIT SHALL BE PAID AS FOLLOWS:

15 1. TO THE MEMBER'S DESIGNATED BENEFICIARY, TO CONTINUE DURING HIS
16 OR HER LIFETIME, IF THAT DESIGNATED BENEFICIARY IS:

17 A. THE MEMBER'S SURVIVING SPOUSE; OR

18 B. ONE OF THE MEMBER'S SURVIVING PARENTS; OR

19 2. IF THE DESIGNATED BENEFICIARY IS NOT ONE OF THE PERSONS LISTED IN
20 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH AND THAT BENEFICIARY
21 PREDECEASES THE MEMBER, OR IF THERE IS NO DESIGNATED BENEFICIARY,
22 THEN TO THE MEMBER'S SURVIVING SPOUSE, TO CONTINUE DURING HER OR
23 HIS LIFETIME.

24 (B) IF A MEMBER DESIGNATES A BENEFICIARY OTHER THAN ONE OF THE PERSONS
25 LISTED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH, AND IF THAT
26 BENEFICIARY DOES NOT PREDECEASE THE MEMBER, THE BENEFIT PROVIDED BY
27 THIS PARAGRAPH IS NOT PAYABLE.

28 (VI) BENEFIT INSTEAD OF ALL OTHERS UNDER SUBSECTION.

29 THE BENEFIT PROVIDED BY THIS PARAGRAPH IS IN PLACE OF ALL BENEFITS
30 PROVIDED UNDER PARAGRAPHS (2) AND (4) OF THIS SUBSECTION.

31 (4) 40% SURVIVORSHIP DEATH BENEFIT.

32 (i) DEFINITIONS.

33 (A) IN GENERAL.

34 IN THIS PARAGRAPH, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

Council Bill 13-0247

1 (B) BENEFICIARY.

2 “BENEFICIARY” MEANS THE MEMBER’S SURVIVING SPOUSE OR UNMARRIED
3 MINOR CHILDREN, AS QUALIFIED AND PRIORITIZED UNDER SUBPARAGRAPH (V)
4 OF THIS PARAGRAPH.

5 (C) SURVIVING SPOUSE.

6 “SURVIVING SPOUSE” MEANS A SURVIVING SPOUSE TO WHOM THE MEMBER
7 WAS MARRIED FOR AT LEAST 1 YEAR IMMEDIATELY BEFORE THE DATE OF THE
8 MEMBER’S DEATH.

9 (II) ELIGIBILITY REQUIREMENTS.

10 THE BENEFICIARY IS ENTITLED TO A 40% SURVIVORSHIP DEATH BENEFIT ONLY IF
11 THE MEMBER HAD AT LEAST 20 YEARS OF SERVICE AS OF THE DATE OF HIS OR HER
12 DEATH.

13 (III) APPLICATION AND FILING DEADLINE.

14 TO RECEIVE THIS BENEFIT, THE BENEFICIARY MUST:

15 (A) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING
16 THE INFORMATION, INCLUDING PROOF OF DEATH, THAT THE BOARD
17 REQUIRES; AND

18 (B) SUBMIT THE APPLICATION TO THE BOARD ON OR BEFORE THE 60TH DAY
19 AFTER THE BOARD HAS PROVIDED A POST-DEATH NOTICE OF THIS BENEFIT
20 TO THE BENEFICIARY.

21 (IV) AMOUNT OF BENEFIT.

22 (A) THE BENEFIT SHALL BE EQUAL TO 40% OF THE MEMBER’S ACCRUED SERVICE
23 RETIREMENT BENEFIT, CALCULATED AS PROVIDED IN SUBSECTION (G)(1)(II) OR
24 (4) OF THIS SECTION BASED ON THE MEMBER’S AVERAGE FINAL COMPENSATION
25 AND YEARS OF SERVICE (AND FRACTIONS OF THOSE YEARS) AS OF THE DATE OF
26 THE MEMBER’S DEATH.

27 (B) THE CALCULATION REQUIRED BY SUB-SUBPARAGRAPH (A) OF THIS
28 PARAGRAPH SHALL BE MADE WITH THE ASSUMPTION THAT THE MEMBER HAD
29 ATTAINED AGE 65 AS OF THE DATE OF HIS OR HER DEATH; ACCORDINGLY, THE
30 REDUCTION CONTAINED IN SUBSECTION (G)(2)(II) OF THIS SECTION DOES NOT
31 APPLY.

32 (V) QUALIFICATIONS AND PRIORITIES OF POTENTIAL BENEFICIARIES.

33 (A) THE BENEFIT SHALL BE PAID AS FOLLOWS:

Council Bill 13-0247

1 1. TO THE MEMBER'S DESIGNATED BENEFICIARY, IF THAT DESIGNATED
2 BENEFICIARY IS:

3 A. THE MEMBER'S SURVIVING SPOUSE, TO CONTINUE DURING THE
4 SPOUSE'S LIFETIME OR UNTIL HIS OR HER REMARRIAGE; OR

5 B. THE MEMBER'S UNMARRIED MINOR CHILDREN, TO BE PAID TO
6 EACH CHILD, IN EQUAL SHARES, UNTIL THAT CHILD MARRIES OR
7 IS NO LONGER A MINOR, AS DEFINED IN § 47(H) OF THIS
8 ARTICLE;

9 2. IF THE DESIGNATED BENEFICIARY IS NOT ONE OF THE PERSONS LISTED
10 IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH AND THAT
11 BENEFICIARY PREDECEASES THE MEMBER, OR IF THERE IS NO
12 DESIGNATED BENEFICIARY, THEN TO THE MEMBER'S SURVIVING
13 SPOUSE, TO CONTINUE DURING THE SPOUSE'S LIFETIME OR UNTIL HIS OR
14 HER REMARRIAGE; OR

15 3. IF THERE IS NO QUALIFYING SURVIVING SPOUSE UNDER SUB-
16 SUBPARAGRAPH (A) OR (B) OF THIS SUBPARAGRAPH, OR IF THE
17 SURVIVING SPOUSE DIES OR REMARRIES, THEN TO THE MEMBER'S
18 UNMARRIED MINOR CHILDREN, TO BE PAID TO EACH CHILD IN EQUAL
19 SHARES UNTIL THAT CHILD MARRIES OR IS NO LONGER A MINOR, AS
20 DEFINED IN § 47(H) OF THIS ARTICLE.

21 (B) IF A MEMBER DESIGNATES A BENEFICIARY OTHER THAN ONE OF THE PERSONS
22 LISTED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH, AND IF THAT
23 BENEFICIARY DOES NOT PREDECEASE THE MEMBER, THE BENEFIT PROVIDED BY
24 THIS PARAGRAPH IS NOT PAYABLE.

25 (VI) ALLOCATIONS AMONG CHILDREN.

26 FOR PURPOSES OF THIS PARAGRAPH, WHEN A MEMBER'S CHILD MARRIES OR IS NO
27 LONGER A MINOR AND, CONSEQUENTLY, CEASES TO RECEIVE BENEFITS UNDER THIS
28 PARAGRAPH, EACH REMAINING UNMARRIED MINOR CHILD WILL BEGIN TO RECEIVE,
29 IN ADDITION TO HIS OR HER EXISTING BENEFIT, AN EQUAL SHARE OF THE BENEFIT
30 FORMERLY PAID TO THE OTHER CHILD. THIS PROCESS CONTINUES UNTIL THE
31 MEMBER'S YOUNGEST CHILD MARRIES OR IS NO LONGER A MINOR.

32 (VII) RULES DEALING WITH 1ST YEAR OF EMPLOYMENT.

33 FOR PURPOSES OF THIS PARAGRAPH, THE DECEASED MEMBER'S 1ST YEAR OF
34 EMPLOYMENT:

35 (A) IS INCLUDED IN COMPUTING THE MINIMUM 20 YEARS OF SERVICE CREDIT
36 NEEDED TO BE ELIGIBLE TO RECEIVE THIS DEATH BENEFIT; BUT

37 (B) MAY NOT BE COUNTED AS SERVICE CREDIT FOR PURPOSE OF CALCULATING
38 THE AMOUNT OF THE DEATH BENEFIT, UNLESS PURCHASED AS SERVICE
39 CREDIT IN ACCORDANCE WITH SUBSECTION (C)(6) OF THIS SECTION.

Council Bill 13-0247

1 (VII) BENEFIT IN PLACE OF ALL OTHERS UNDER SUBSECTION.

2 THE BENEFIT PROVIDED BY THIS PARAGRAPH IS IN PLACE OF ALL BENEFITS
3 PROVIDED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

4 (5) DEATH WITHOUT BENEFICIARIES OR ESTATE.

5 THE AMOUNTS THAT WOULD HAVE BEEN PAID UNDER THIS SUBSECTION, EXCLUDING
6 ACCUMULATED CONTRIBUTIONS, FOREVER REMAIN ASSETS OF THIS SYSTEM IF:

7 (I) A MEMBER DIES WITHOUT DESIGNATING A BENEFICIARY;

8 (II) THAT MEMBER HAS NO BENEFICIARIES, AS ENUMERATED IN PARAGRAPHS
9 (2)(v), (3)(v), AND (4)(v) OF THIS SUBSECTION ; AND

10 (III) NO ESTATE FOR THAT MEMBER IS OPENED WITHIN 2 YEARS OF THE MEMBER'S
11 DEATH.

12 (6) DEATH OF RETIRED MEMBER WITHIN 30 DAYS OF RETIREMENT.

13 (i) SCOPE OF PARAGRAPH.

14 EXCEPT AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THIS
15 PARAGRAPH APPLIES TO:

16 (A) A RETIRED MEMBER WHO:

17 1. HAS BEEN GRANTED A SERVICE OR DISABILITY RETIREMENT
18 BENEFIT UNDER THIS SECTION; AND

19 2. DIES WITHIN 30 DAYS OF HIS OR HER RETIREMENT DATE; OR

20 (B) A RETIRED MEMBER WHO:

21 1. RETIREES BEFORE REACHING AGE 65;

22 2. ELECTS TO POSTPONE RECEIPT OF HIS OR HER RETIREMENT BENEFIT
23 UNTIL AGE 65; AND

24 3. DIES WITHIN 30 DAYS AFTER REACHING AGE 65.

25 (ii) EXCEPTION.

26 THIS PARAGRAPH DOES NOT APPLY TO A FORMER MEMBER WHO TERMINATES
27 EMPLOYMENT BEFORE REACHING AGE 65 WITHOUT IMMEDIATE ENTITLEMENT TO
28 RETIREMENT BENEFITS.

Council Bill 13-0247

1 (III) DEATH DEEMED TO BE DURING ACTIVE SERVICE.

2 A RETIRED MEMBER OR VESTED FORMER MEMBER DESCRIBED IN SUBPARAGRAPH
3 (I) OF THIS PARAGRAPH IS DEEMED TO HAVE DIED WHILE STILL EMPLOYED BY THE
4 CITY AND, INSTEAD OF ANY OTHER SERVICE OR DISABILITY BENEFITS UNDER THIS
5 SYSTEM, A NON-LINE-OF-DUTY DEATH BENEFIT WILL BE PAID AS IF HE OR SHE DIED
6 DURING ACTIVE SERVICE.

7 (IV) OFFSET OF PAYMENTS RECEIVED.

8 ANY PENSION BENEFITS PAID BY THIS SYSTEM AND RECEIVED BY THE RETIRED
9 MEMBER OR FORMER MEMBER BEFORE HE OR SHE DIED SHALL BE OFFSET AGAINST
10 THE DEATH BENEFITS PAYABLE UNDER THIS PARAGRAPH.

11 (N) LINE-OF-DUTY DEATH BENEFIT.

12 (1) "BENEFICIARY" DEFINED.

13 IN THIS SUBSECTION, "BENEFICIARY" MEANS THE MEMBER'S DESIGNATED
14 BENEFICIARY OR SURVIVING SPOUSE, CHILDREN, OR PARENTS, AS QUALIFIED AND
15 PRIORITIZED UNDER PARAGRAPH (4)(I)(A)-(D) OR PARAGRAPH (4)(II) OF THIS
16 SUBSECTION, AS THE CASE MAY BE.

17 (2) ELIGIBILITY REQUIREMENTS..

18 THIS SUBSECTION APPLIES ONLY:

19 (I) TO AN INDIVIDUAL WHO DIES WHILE A MEMBER OF THIS SYSTEM; AND

20 (II) IF A HEARING EXAMINER DETERMINES THAT:

21 (A) THE MEMBER'S DEATH WAS, INDEPENDENT OF ALL OTHER CAUSES AND
22 INDEPENDENT OF ANY PREEXISTING PHYSICAL OR MEDICAL
23 CONDITIONS, WHETHER JOB-RELATED OR OTHERWISE, THE DIRECT
24 RESULT OF BODILY INJURY ARISING THROUGH AN ACCIDENT; AND

25 (B) THE ACCIDENT OCCURRED:

26 1. WHILE THE MEMBER WAS IN THE ACTUAL PERFORMANCE OF HIS
27 OR HER CITY DUTIES AT SOME DEFINITE TIME AND PLACE; AND

28 2. WITHOUT WILLFUL NEGLIGENCE ON THE MEMBER'S PART.

29 (3) APPLICATION AND FILING DEADLINE.

30 TO RECEIVE THIS BENEFIT, THE BENEFICIARY MUST:

31 (I) COMPLETE THE APPROPRIATE APPLICATION, IN THE FORM AND CONTAINING THE
32 INFORMATION REQUIRED BY SUBSECTION (P)(6); AND

Council Bill 13-0247

1 (II) SUBMIT THE APPLICATION TO THE BOARD ON OR BEFORE THE 60TH DAY AFTER
2 THE BOARD HAS PROVIDED A POST-DEATH NOTICE OF THIS BENEFIT TO THE
3 BENEFICIARY.

4 (4) AMOUNT OF BENEFIT; QUALIFICATIONS AND PRIORITIES OF POTENTIAL BENEFICIARIES.

5 ON AN AWARD BY THE HEARING EXAMINER, THE BOARD OF TRUSTEES SHALL PAY:

6 (I) ANY ACCUMULATED CONTRIBUTIONS OF THE DECEASED MEMBER TO:

7 (A) THE MEMBER'S DESIGNATED BENEFICIARY;

8 (B) IF THERE IS NO DESIGNATED BENEFICIARY, OR IF THE DESIGNATED
9 BENEFICIARY PREDECEASES THE MEMBER, TO THE MEMBER'S
10 SURVIVING SPOUSE;

11 (C) IF THERE IS NO DESIGNATED BENEFICIARY AND NO SURVIVING SPOUSE,
12 TO THE MEMBER'S CHILDREN, IN EQUAL SHARES;

13 (D) IF THERE IS NO DESIGNATED BENEFICIARY, SURVIVING SPOUSE, OR
14 SURVIVING CHILD, TO THE MEMBER'S SURVIVING PARENTS, IN EQUAL
15 SHARES; AND

16 (E) OTHERWISE, TO THE MEMBER'S ESTATE; AND

17 (II) A PENSION OF 100% OF THE MEMBER'S CURRENT COMPENSATION TO:

18 (A) THE MEMBER'S SURVIVING SPOUSE, TO CONTINUE DURING THE
19 SPOUSE'S LIFETIME OR UNTIL HIS OR HER REMARRIAGE, UNLESS THE
20 MEMBER HAS DESIGNATED HIS OR HER CHILDREN AS BENEFICIARIES;

21 (B) THE MEMBER'S MINOR CHILDREN, TO BE PAID TO EACH CHILD IN EQUAL
22 SHARES UNTIL THAT CHILD IS NO LONGER A MINOR, AS DEFINED IN
23 § 47(H) OF THIS ARTICLE, IF:

24 1. THE MEMBER DESIGNATED HIS OR HER CHILDREN AS
25 BENEFICIARIES;

26 2. THERE IS NO SURVIVING SPOUSE ON THE DATE OF THE
27 MEMBER'S DEATH; OR

28 3. THE SURVIVING SPOUSE HAS DIED OR REMARRIED AFTER
29 HAVING RECEIVED BENEFITS PAYMENTS UNDER ITEM 1 OF THIS
30 SUB-SUBPARAGRAPH; OR

31 (C) THE MEMBER'S SURVIVING PARENTS IN EQUAL SHARES, TO CONTINUE
32 DURING THEIR LIFETIMES, IF:

33 1. THE MEMBER HAS NOT DESIGNATED HIS OR HER CHILDREN AS
34 BENEFICIARIES;

Council Bill 13-0247

1 2. THERE IS NO SURVIVING SPOUSE ON THE DATE OF THE
2 MEMBER'S DEATH; AND

3 3. THE MEMBER HAS NO MINOR CHILDREN AT THE DATE OF HIS OR
4 HER DEATH.

5 (5) ALLOCATIONS AMONG CHILDREN OR BETWEEN PARENTS.

6 (I) FOR PURPOSES OF THIS PARAGRAPH, WHEN A MEMBER'S CHILD IS NO LONGER A
7 MINOR AND, CONSEQUENTLY, CEASES TO RECEIVE A BENEFIT UNDER THIS
8 PARAGRAPH, EACH REMAINING MINOR CHILD SHALL THEN BEGIN TO RECEIVE, IN
9 ADDITION TO HIS OR HER EXISTING BENEFIT, AN EQUAL SHARE OF THE BENEFIT
10 FORMERLY PAID TO THE OTHER CHILD. THIS PROCESS CONTINUES UNTIL THE
11 MEMBER'S YOUNGEST CHILD IS NO LONGER A MINOR.

12 (II) FOR PURPOSES OF THIS PARAGRAPH, IF A MEMBER'S LINE-OF-DUTY DEATH BENEFIT
13 IS PAID TO BOTH OF THE MEMBER'S SURVIVING PARENTS AND ONE PARENT DIES,
14 THE REMAINING PARENT SHALL THEN BEGIN TO RECEIVE, IN ADDITION TO HIS OR
15 HER EXISTING BENEFIT, THE BENEFIT FORMERLY PAID TO THE DECEASED PARENT.

16 (6) IF NO BENEFICIARY ELIGIBLE.

17 IF NO BENEFICIARY IS ELIGIBLE FOR A LINE-OF-DUTY DEATH BENEFIT UNDER THIS
18 SUBSECTION, A NON-LINE-OF-DUTY DEATH BENEFIT WILL BE PAID UNDER EITHER
19 SUBSECTION (M)(2), (M)(3), OR (M)(4) OF THIS SECTION AS LONG AS THE MEMBER'S
20 BENEFICIARY QUALIFIES FOR A NON-LINE-OF-DUTY DEATH BENEFIT UNDER 1 OF THOSE
21 SUBSECTIONS.

22 (7) DEATH WITHOUT BENEFICIARIES OR ESTATE.

23 THE AMOUNTS THAT WOULD HAVE BEEN PAID UNDER THIS SUBSECTION, EXCLUDING
24 ACCUMULATED CONTRIBUTIONS, FOREVER REMAIN ASSETS OF THIS SYSTEM IF:

25 (I) A MEMBER DIES WITHOUT DESIGNATING A BENEFICIARY;

26 (II) THAT MEMBER HAS NO BENEFICIARIES, AS ENUMERATED IN PARAGRAPH (4) OF
27 THIS SUBSECTION; AND

28 (III) NO ESTATE FOR THAT MEMBER IS OPENED WITHIN 2 YEARS OF THE MEMBER'S
29 DEATH.

30 (O) WORKERS' COMPENSATION BENEFITS OFFSET AGAINST DISABILITY AND DEATH BENEFITS.

31 (1) SCOPE OF SUBSECTION.

32 THIS SUBSECTION APPLIES TO A MEMBER OR BENEFICIARIES OF A MEMBER:

33 (I) THE PAYMENT OF WHOSE RETIREMENT BENEFIT IS ON ACCOUNT A DISABILITY
34 RETIREMENT BENEFIT UNDER SUBSECTION (H), (I), OR (J) OF THIS SECTION; OR

Council Bill 13-0247

1 (II) WHO DIES AND IS AWARDED A DEATH BENEFIT UNDER SUBSECTION (M) OR (N)
2 OF THIS SECTION.

3 (2) OFFSET FOR WORKERS' COMPENSATION PAYMENTS.

4 THE BOARD OF TRUSTEES SHALL OFFSET THE AMOUNT OF A MEMBER'S WORKERS'
5 COMPENSATION AWARD PAID OR PAYABLE BY THE CITY AGAINST ANY DISABILITY OR
6 DEATH BENEFITS PAID OR PAYABLE BY THIS SYSTEM TO A MEMBER OR A MEMBER'S
7 BENEFICIARIES, IF:

8 (I) THE MEMBER OR BENEFICIARY WAS AWARDED WORKERS' COMPENSATION
9 BENEFITS UNDER THE STATE'S WORKERS' COMPENSATION LAW TO BE PAID OR
10 PAYABLE BY THE CITY;

11 (II) THE WORKERS' COMPENSATION AWARD WAS FOR PERMANENT PARTIAL OR
12 PERMANENT TOTAL DISABILITY OR FOR DEATH;

13 (III) THE WORKERS' COMPENSATION AWARD WAS AWARDED ON ACCOUNT OF THE
14 SAME DISABILITY OR DEATH THAT RESULTED IN THIS SYSTEM'S PAYMENT OF
15 DISABILITY OR DEATH BENEFITS; AND

16 (IV) THE WORKERS' COMPENSATION AWARD WAS AWARDED BY THE WORKERS'
17 COMPENSATION COMMISSION NO MORE THAN 5 YEARS BEFORE:

18 (A) THE EFFECTIVE DATE OF THE MEMBER'S RETIREMENT ON ACCOUNT OF
19 NON-LINE-OF- DUTY DISABILITY;

20 (B) THE DATE OF THE ACCIDENT QUALIFYING THE MEMBER FOR LINE-OF-
21 DUTY DISABILITY BENEFITS OR FOR DISMEMBERMENT DISABILITY
22 BENEFITS, OR

23 (C) THE DATE OF THE MEMBER'S DEATH QUALIFYING THE MEMBER'S
24 BENEFICIARIES TO RECEIVE A DEATH BENEFIT UNDER THIS SECTION.

25 (3) AMOUNTS NOT INCLUDED IN OFFSET.

26 THE AMOUNT OF WORKERS' COMPENSATION BENEFITS TO BE OFFSET DOES NOT
27 INCLUDE AMOUNTS ALLOCATED FOR THE PAYMENT OF LEGAL FEES, MEDICAL
28 EXPENSES, OR OTHER PAYMENTS AUTHORIZED BY THE WORKERS' COMPENSATION
29 COMMISSION TO BE MADE DIRECTLY TO THIRD PARTIES AND NOT TO THE MEMBER OR
30 THE MEMBER'S BENEFICIARY.

31 (4) METHOD OF OFFSET.

32 (I) NON-ACTUARIAL METHOD FOR LUMP-SUM PAYMENTS.

33 (A) THE BOARD OF TRUSTEES SHALL OFFSET THE AMOUNT OF A MEMBER'S
34 WORKERS' COMPENSATION AWARD, REDUCED BY THE AMOUNTS DESCRIBED IN
35 PARAGRAPH (3), AGAINST ANY LUMP-SUM DISABILITY OR DEATH BENEFIT PAID

Council Bill 13-0247

1 OR PAYABLE BY THIS SYSTEM TO A MEMBER OR A MEMBER'S BENEFICIARY IN
2 THE FOLLOWING MANNER.

3 (B) THE OFFSET SHALL BE MADE ON A NON-ACTUARIAL, DOLLAR-FOR-DOLLAR
4 BASIS AGAINST ANY LUMP-SUM BENEFIT UNTIL THE TOTAL AMOUNT OF THE
5 WORKERS' COMPENSATION BENEFITS HAS BEEN RECOVERED.

6 (C) IF THE AMOUNT OF THE WORKERS' COMPENSATION BENEFITS EXCEEDS THE
7 LUMP-SUM DISABILITY OR DEATH BENEFIT, THEN NO DISABILITY OR DEATH
8 BENEFIT MAY BE PAID, EXCEPT FOR THE RETURN OF THE MEMBER'S
9 ACCUMULATED CONTRIBUTIONS, IF ANY.

10 (II) ACTUARIAL METHOD FOR PERIODIC PAYMENTS.

11 (A) THE BOARD OF TRUSTEES SHALL OFFSET THE AMOUNT OF A MEMBER'S
12 WORKERS' COMPENSATION AWARD, REDUCED BY THE AMOUNTS DESCRIBED IN
13 PARAGRAPH (3), AGAINST ANY PERIODIC DISABILITY OR DEATH BENEFITS PAID
14 OR PAYABLE BY THIS SYSTEM TO A MEMBER OR A MEMBER'S BENEFICIARIES IN
15 THE FOLLOWING MANNER.

16 (B) THIS OFFSET SHALL BE CALCULATED ON AN ACTUARIAL BASIS BY ANNUITIZING
17 THE MEMBER'S WORKERS' COMPENSATION AWARD, REDUCED BY THE
18 AMOUNTS DESCRIBED IN PARAGRAPH (3), AND REDUCING THE MEMBER'S
19 PERIODIC DISABILITY OR DEATH BENEFIT BY THE ANNUITIZED AMOUNT UNTIL
20 THE TOTAL AMOUNT OF THE WORKERS' COMPENSATION BENEFITS HAVE BEEN
21 RECOVERED.

22 (C) THE ACTUARIAL AMOUNT SHALL BE CALCULATED BY USING AN ACTUARIAL
23 METHOD AND APPROPRIATE ANNUITY FACTORS RECOMMENDED BY THIS
24 SYSTEM'S ACTUARY AND APPROVED BY THE BOARD OF TRUSTEES.

25 (D) IF THE ANNUITIZED AMOUNT OF THE WORKERS' COMPENSATION BENEFITS
26 EXCEEDS THIS SYSTEM'S PERIODIC DISABILITY OR DEATH BENEFIT PAYMENT,
27 THEN NO DISABILITY OR DEATH BENEFIT MAY BE PAID, EXCEPT FOR THE
28 RETURN OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY.

29 (5) RESTORATION OF OFFSET AMOUNT AGAINST RETIREMENT BENEFITS.

30 (I) ON RECOVERING THE FULL AMOUNT OF THE MEMBER'S WORKERS'
31 COMPENSATION BENEFITS, THE REDUCED DISABILITY OR DEATH BENEFITS
32 PAYABLE TO THE MEMBER OR THE MEMBER'S BENEFICIARIES SHALL BE RESTORED
33 TO THE UNREDUCED AMOUNT OF THE DISABILITY OR DEATH BENEFITS PAYABLE TO
34 THE MEMBER OR BENEFICIARIES PRIOR TO THE OFFSET FOR WORKERS'
35 COMPENSATION.

36 (II) THE AMOUNT BY WHICH A REDUCED DISABILITY OR DEATH BENEFIT IS RESTORED
37 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT INCLUDE ANY POST-
38 RETIREMENT INCREASES THAT THE MEMBER OR THE MEMBER'S BENEFICIARIES
39 WOULD HAVE BEEN ELIGIBLE TO RECEIVE HAD THE MEMBER'S DISABILITY OR
40 DEATH BENEFITS NOT BEEN REDUCED.

Council Bill 13-0247

1 (P) PANEL OF HEARING EXAMINERS.

2 (1) PANEL ESTABLISHED.

3 THERE IS A PANEL OF HEARING EXAMINERS, TO BE COMPOSED OF PERSONS WITH A
4 DEMONSTRATED KNOWLEDGE AND COMPETENCE IN DISABILITY CLAIMS EVALUATION.

5 (2) APPOINTMENT OF PANEL MEMBERS.

6 (I) THE HEARING EXAMINERS SHALL BE APPOINTED ON A CONTRACT BASIS BY THE
7 BOARD OF ESTIMATES.

8 (II) THE BOARD OF ESTIMATES MAY DETERMINE, IN ITS SOLE DISCRETION:

9 (A) THE NUMBER AND COMPOSITION OF THE PANEL; AND

10 (B) THE FEES AND OTHER CONDITIONS OF THE HEARING EXAMINERS'
11 CONTRACTS.

12 (III) WHENEVER A VACANCY OCCURS ON THE PANEL, THE BOARD OF TRUSTEES HAS
13 THE RIGHT TO SUBMIT TO THE BOARD OF ESTIMATES A LIST OF RECOMMENDED
14 CANDIDATES TO FILL THE VACANCY.

15 (IV) IN ALL EVENTS, HOWEVER, THE BOARD OF ESTIMATES MAY MAKE ITS SELECTION
16 OF HEARING EXAMINERS WITHOUT REGARD TO THE BOARD OF TRUSTEES'
17 RECOMMENDATIONS.

18 (3) COMPENSATION OF PANEL MEMBERS; EXPENSES.

19 THE COMPENSATION OF THE PANEL MEMBERS, THE COMPENSATION OF ALL PERSONS
20 ENGAGED BY THE PANEL, AND ALL OTHER EXPENSES OF THE PANEL SHALL BE PAID AT
21 THE RATES AND IN THE AMOUNTS THAT THE BOARD OF ESTIMATES APPROVES.

22 (4) CLAIMS FOR DISABILITY BENEFIT – APPLICATIONS.

23 (I) APPLICATION TO BOARD.

24 A PERSON WHO SEEKS A NON-LINE-OF-DUTY DISABILITY BENEFIT, A LINE-OF-DUTY
25 DISABILITY BENEFIT, OR A DISMEMBERMENT DISABILITY BENEFIT MUST FIRST
26 APPLY TO THE BOARD OF TRUSTEES.

27 (II) REQUIRED CONTENTS.

28 THE APPLICATION MUST INCLUDE, IN THE FORM THAT THE BOARD REQUIRES:

29 (A) A MEDICAL CERTIFICATION OF DISABILITY;

30 (B) ALL SUPPORTING MEDICAL DOCUMENTATION;

Council Bill 13-0247

1 (C) A CONSENT FORM THAT AUTHORIZES THE BOARD TO OBTAIN ALL MEDICAL
2 RECORDS PERTAINING TO ANY ACCIDENTS OR ILLNESSES THAT THE
3 MEMBER MIGHT HAVE SUFFERED AT ANY TIME IN THE PAST; AND

4 (D) A STATEMENT IN WHICH THE MEMBER:

- 5 1. STATES THAT HE OR SHE HAS SUFFERED A DISABILITY;
6 2. STATES THAT THE DISABILITY PREVENTS HIM OR HER FROM
7 FURTHER PERFORMANCE OF THE DUTIES OF HIS OR HER JOB
8 CLASSIFICATION;
9 3. STATES THAT THE INCAPACITY IS LIKELY TO BE PERMANENT; AND
10 4. STATES, IN THE MANNER AND DETAIL THAT THE BOARD REQUIRES,
11 THE RELEVANT FACTS AND CIRCUMSTANCES UNDER WHICH THE
12 MEMBER CLAIMS TO BE ELIGIBLE FOR THE APPLICABLE BENEFIT.

13 (5) CLAIMS FOR DISABILITY BENEFITS – MEDICAL EXAMINATION.

14 (i) BOARD TO REFER.

15 ON RECEIPT OF A COMPLETED APPLICATION AND REQUIRED SUPPORTING
16 DOCUMENTATION, THE BOARD OF TRUSTEES SHALL HAVE THE MEMBER
17 MEDICALLY EXAMINED BY A PHYSICIAN SELECTED BY THE BOARD.

18 (ii) SCOPE OF EXAMINATION.

19 THE EXAMINATION SHALL INCLUDE WHATEVER TESTS AND ADDITIONAL
20 EXAMINATIONS THE PHYSICIAN FINDS NECESSARY OR APPROPRIATE.

21 (iii) REPORT TO BOARD.

22 ON COMPLETION OF THE EXAMINATION, THE PHYSICIAN SHALL SUBMIT A WRITTEN
23 REPORT TO THE BOARD OF TRUSTEES.

24 (6) CLAIMS FOR LINE-OF-DUTY DEATH BENEFITS.

25 (i) APPLICATION TO BOARD.

26 A PERSON WHO SEEKS A LINE-OF-DUTY DEATH BENEFIT MUST FIRST APPLY TO THE
27 BOARD OF TRUSTEES.

28 (ii) REQUIRED CONTENTS.

29 THE APPLICATION MUST INCLUDE, IN THE FORM THAT THE BOARD PRESCRIBES:

30 (A) A CONSENT FORM THAT AUTHORIZES THE BOARD TO OBTAIN ALL MEDICAL
31 RECORDS PERTAINING TO THE MEMBER'S DEATH AND TO ANY ACCIDENTS

Council Bill 13-0247

1 OR ILLNESSES THAT THE MEMBER MIGHT HAVE SUFFERED AT ANY TIME IN
2 THE PAST; AND

3 (B) A STATEMENT IN WHICH THE CLAIMANT:

4 1. STATES THAT THE MEMBER SUFFERED A LINE-OF-DUTY DEATH; AND

5 2. DESCRIBES, IN THE MANNER AND DETAIL THAT THE BOARD
6 REQUIRES, THE RELEVANT FACTS AND CIRCUMSTANCES UNDER
7 WHICH THE MEMBER'S DEATH OCCURRED.

8 (7) HEARINGS – IN GENERAL.

9 A HEARING EXAMINER SHALL CONDUCT HEARINGS ON ALL MATTERS INVOLVING NON-
10 LINE-OF-DUTY DISABILITY CLAIMS, DISMEMBERMENT DISABILITY CLAIMS, LINE-OF-
11 DUTY DISABILITY CLAIMS, LINE-OF-DUTY DEATH BENEFIT CLAIMS, AND ANY RELATED
12 MATTERS ARISING OUT OF THESE CLAIMS.

13 (8) HEARINGS - NATURE AND CONDUCT.

14 (I) EACH HEARING IS IN THE NATURE OF AN ADVERSARY PROCEEDING.

15 (II) 1 HEARING EXAMINER FROM THE PANEL SHALL HEAR A PARTICULAR CLAIM FOR
16 BENEFITS.

17 (III) THE HEARING EXAMINER SHALL CONDUCT THE HEARING:

18 (A) IN AN INFORMAL MANNER;

19 (B) WITH SUFFICIENT LATITUDE TO PROVIDE A FAIR AND IMPARTIAL HEARING
20 TO ALL OF THE PARTIES; AND

21 (C) WITHOUT REQUIRING STRICT COMPLIANCE WITH THE RULES OF EVIDENCE.

22 (IV) TESTIMONY AT THE HEARING SHALL BE UNDER OATH AND RECORDED.

23 (V) TO SECURE INFORMATION PERTINENT TO THE HEARING, THE HEARING EXAMINER
24 HAS THE POWER TO SUBPOENA AND REQUIRE THE ATTENDANCE OF WITNESSES AND
25 THE PRODUCTION OF PAPERS AND DOCUMENTS AND TO EXAMINE THEM.

26 (9) HEARINGS - COUNSEL.

27 AT THE HEARING:

28 (I) THE BOARD OF TRUSTEES SHALL BE REPRESENTED BY AN ATTORNEY FROM THE
29 CITY SOLICITOR'S OFFICE OR FROM THIS SYSTEM'S OFFICE OF LEGAL
30 AFFAIRS; AND

31 (II) THE MEMBER HAS THE RIGHT TO COUNSEL OF HIS OR HER OWN CHOOSING.

Council Bill 13-0247

1 (10) HEARINGS - BURDEN OF PROOF.

2 (i) DISABILITY BENEFIT.

3 AT THE HEARING ON A CLAIM FOR A DISABILITY BENEFIT, THE MEMBER HAS THE
4 BURDEN OF PROVING, BY A PREPONDERANCE OF THE EVIDENCE:

5 (A) THE NATURE AND EXTENT OF HER OR HIS DISABILITY;

6 (B) THAT THE DISABILITY PREVENTS HER OR HIM FROM THE FURTHER
7 PERFORMANCE OF THE DUTIES OF HER OR HIS JOB CLASSIFICATION; AND

8 (C) THAT, UNDER THE RELEVANT FACTS AND CIRCUMSTANCES, SHE OR HE
9 OTHERWISE MEETS ALL OF THE ELIGIBILITY REQUIREMENTS SET BY LAW
10 FOR THE APPLICABLE BENEFIT.

11 (ii) LINE-OF-DUTY DEATH BENEFIT.

12 AT THE HEARING ON A CLAIM FOR A LINE-OF-DUTY DEATH BENEFIT, THE
13 APPLICANT HAS THE BURDEN OF PROVING, BY A PREPONDERANCE OF THE
14 EVIDENCE:

15 (A) THAT THE MEMBER'S DEATH OCCURRED UNDER FACTS AND
16 CIRCUMSTANCES REQUIRED TO QUALIFY FOR THE BENEFIT UNDER THE
17 APPLICABLE PROVISIONS OF THIS SECTION; AND

18 (B) THAT THE APPLICANT OTHERWISE MEETS ALL OTHER REQUIREMENTS TO
19 QUALIFY FOR THE BENEFIT.

20 (11) HEARINGS - EXAMINER'S DETERMINATION.

21 (i) IN GENERAL.

22 THE HEARING EXAMINER SHALL:

23 (A) MAKE THE DETERMINATIONS SPECIFIED IN THIS PARAGRAPH (11); AND

24 (B) ISSUE WRITTEN FINDINGS OF FACT THAT SET FORTH THE REASONS FOR HIS
25 OR HER DETERMINATION.

26 (ii) NON-LINE-OF-DUTY DISABILITY BENEFIT.

27 IF THE CLAIM IS FOR NON-LINE-OF-DUTY DISABILITY BENEFITS, THE HEARING
28 EXAMINER SHALL DETERMINE WHETHER THE MEMBER'S DISABILITY QUALIFIES
29 UNDER SUBSECTION (H) OF THIS SECTION.

Council Bill 13-0247

1 (III) LINE-OF-DUTY DISABILITY BENEFIT.

2 IF THE CLAIM IS FOR LINE-OF-DUTY DISABILITY BENEFITS, THE HEARING EXAMINER
3 SHALL DETERMINE WHETHER THE MEMBER'S DISABILITY QUALIFIES UNDER
4 SUBSECTION (I) OF THIS SECTION.

5 (IV) DISMEMBERMENT DISABILITY BENEFIT.

6 IF THE CLAIM IS FOR DISMEMBERMENT DISABILITY BENEFITS, THE HEARING
7 EXAMINER SHALL DETERMINE WHETHER THE MEMBER'S DISABILITY QUALIFIES
8 UNDER SUBSECTION (J) OF THIS SECTION.

9 (V) LINE-OF-DUTY DEATH BENEFIT.

10 IF THE CLAIM IS FOR LINE-OF-DUTY DEATH BENEFITS, THE HEARING EXAMINER
11 SHALL DETERMINE WHETHER THE MEMBER'S DEATH QUALIFIES UNDER
12 SUBSECTION (N) OF THIS SECTION.

13 (12) HEARINGS – JUDICIAL AND APPELLATE REVIEW.

14 (I) IF EITHER PARTY TO THE HEARING IS AGGRIEVED BY THE HEARING EXAMINER'S
15 DETERMINATION, THAT PARTY MAY SEEK JUDICIAL REVIEW OF THAT
16 DETERMINATION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY.

17 (II) THE REVIEW SHALL BE SOUGHT AND HEARD AS PROVIDED IN THE MARYLAND
18 RULES OF PROCEDURE, EXCEPT THAT THE REVIEW SHALL BE HEARD ON A RIGHT-
19 OF-WAY BASIS.

20 (III) THE DETERMINATION OF THE HEARING EXAMINER IS PRESUMPTIVELY CORRECT
21 AND MAY NOT BE DISTURBED ON REVIEW UNLESS IT IS ARBITRARY, ILLEGAL,
22 CAPRICIOUS, OR DISCRIMINATORY.

23 (IV) A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT
24 TO THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND
25 RULES OF PROCEDURE.

26 (V) JUDICIAL REVIEW UNDER THIS PARAGRAPH DOES NOT STAY OR HOLD IN ABEYANCE
27 ANY PAYMENT AWARDED BY THE HEARING EXAMINER. IF A COURT REVERSES AN
28 AWARD OF BENEFITS, THE COURT'S DECISION OPERATES TO STOP PAYMENT OF ANY
29 BENEFITS BEING MADE TO THE CLAIMANT, PENDING ANY FURTHER APPEAL.

30 (13) HEARINGS – FINALITY OF DECISION.

31 IF NEITHER PARTY SEEKS JUDICIAL REVIEW WITHIN 30 DAYS AFTER MAILING OF THE
32 HEARING EXAMINER'S WRITTEN FINDING OF FACT, THE HEARING EXAMINER'S
33 DETERMINATION IS FINAL AND BINDING.

Council Bill 13-0247

1 § 17.3. POST-RETIREMENT BENEFIT INCREASES FOR CLASS D MEMBERS.

2 (A) SCOPE OF SUBSECTION.

3 THIS SECTION APPLIES TO RETIREMENT BENEFIT INCREASES FOR CLASS D MEMBERS.

4 (B) IN GENERAL.

5 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN ELIGIBLE RETIREE OR BENEFICIARY
6 IS ENTITLED TO RECEIVE A GUARANTEED INCREASE IN PERIODIC BENEFITS EQUAL TO THE
7 GREATER OF:

8 (1) 1.5%; OR

9 (2) THE AMOUNT OF ANY CORRESPONDING GUARANTEED POST-RETIREMENT BENEFIT
10 INCREASE PROVIDED BY THE FIRE AND POLICE EMPLOYEES' RETIREMENT SYSTEM
11 TO ITS MEMBERS.

12 (C) ELIGIBILITY.

13 A RETIREE OR BENEFICIARY IS ELIGIBLE FOR THE BENEFIT INCREASE SPECIFIED IN
14 SUBSECTION (B) OF THIS SECTION IF:

15 (1) AS OF A PARTICULAR JUNE 30, THE RETIREE AND THE BENEFICIARY, WHETHER
16 INDIVIDUALLY OR IN COMBINATION WITH THE OTHER, HAVE BEEN RECEIVING
17 PERIODIC BENEFIT PAYMENTS FOR AT LEAST 12 CONSECUTIVE MONTHS; AND

18 (2) AS OF THE PRECEDING JUNE 30, THE CLASS D FUNDED STATUS, AS DEFINED IN CITY
19 CODE ARTICLE 22A, § 5-3(C)(4)(II), IS 85% OR MORE.

20 (D) MODIFICATION OF RATE.

21 (1) IF THE CLASS D FUNDED STATUS AS OF THE PRECEDING JUNE 30 IS LESS THAN 85%,
22 BUT IS 70% OR MORE, THE GUARANTEED INCREASE IN PERIODIC BENEFITS UNDER
23 SUBSECTION (B) OF THIS SECTION WILL BE REDUCED TO 1% FOR ALL ELIGIBLE
24 RETIREES AND BENEFICIARIES UNTIL THE JUNE 30 FOLLOWING THE FIRST ENSUING
25 JUNE 30 AS OF WHICH THE CLASS D FUNDED STATUS IS 85% OR MORE.

26 (2) IF THE CLASS D FUNDED STATUS AS OF THE PRECEDING JUNE 30 IS LESS THAN 70%,
27 THE GUARANTEED INCREASE IN PERIODIC BENEFITS UNDER SUBSECTION (B) OF THIS
28 SECTION WILL BE REDUCED TO 0% FOR ALL ELIGIBLE RETIREES AND BENEFICIARIES
29 UNTIL THE JUNE 30 FOLLOWING THE FIRST ENSUING JUNE 30 AS OF WHICH THE CLASS
30 D FUNDED STATUS IS 70% OR MORE.

31 (E) DATE BENEFIT INCREASE BEGINS.

32 AN ELIGIBLE RETIREE OR BENEFICIARY WILL RECEIVE THE BENEFIT INCREASE BEGINNING
33 IN JANUARY OF THE YEAR FOLLOWING THE JUNE 30 ON WHICH HE OR SHE BECAME
34 ELIGIBLE.

Council Bill 13-0247

1 (F) ADMINISTRATION OF BENEFIT INCREASES.

2 (1) THE BENEFIT INCREASE PROVIDED BY THIS SECTION SHALL BE FUNDED BY THIS
3 SYSTEM AS A SINGLE-PREMIUM PAID-UP ANNUITY, REPRESENTING THE ACTUARIALLY
4 DETERMINED VALUE OF A PAYMENT STREAM FOR THE LIFE OF THE RETIREE.

5 (2) IT IS INTENDED THAT ANY BENEFIT INCREASE CONTINUE FOR THE LIFETIME OF THE
6 RETIREE AND ANY BENEFICIARY, CONSISTENT WITH THE OPTION IN EFFECT UNDER
7 § 9.2(K) {"METHOD OF PAYMENT"} OF THIS SUBTITLE.

8 (3) THE GUARANTEED BENEFIT INCREASE PROVIDED BY THIS SECTION IS EFFECTIVE AS OF
9 EACH JANUARY 1, REGARDLESS OF THE INVESTMENT PERFORMANCE OF THIS SYSTEM'S
10 INVESTMENT FUNDS.

11 (4) THE BENEFIT INCREASE PROVIDED BY THIS SECTION IS PAYABLE IN THE SAME FORM AS
12 THE POST-RETIREMENT BENEFIT PAYMENTS BEING RECEIVED BY THE ELIGIBLE RETIREE
13 OR BENEFICIARY.

14 (5) EXCEPT AS REQUIRED BY SUBSECTION (B)(2) OF THIS SECTION, EACH ELIGIBLE RETIREE
15 AND BENEFICIARY SHALL RECEIVE AN EQUAL PERCENTAGE BENEFIT INCREASE.

16 **Subtitle – Fire and Police Employees’ Retirement System**

17 **§ 33. Administration.**

18 (b) *Members.*

19 (9) (ii) In addition to the standards and requirements contained in the Baltimore City
20 Public Ethics Law, Trustees and Board employees may not engage in any of
21 the following activities or hold any of the following interests, as these
22 activities or interests are defined in the Baltimore City Public Ethics Law[:].

23 1. No Trustee or Board employee may do business with any system, plan,
24 or trust administered by [the City’s Deferred Compensation Plan, by
25 the Board of Trustees of this System, by] ANY OF THE FOLLOWING
26 (COLLECTIVELY, THE “CITY BENEFIT PLANS”):

27 A. the Board of Trustees of the [City’s] Employees’ Retirement
28 System OF THE CITY OF BALTIMORE[,]; [or by]

29 B. THE BOARD OF TRUSTEES OF THE FIRE AND POLICE
30 EMPLOYEES’ RETIREMENT SYSTEM OF THE CITY OF
31 BALTIMORE;

32 C. the Board of Trustees of the Elected Officials’ Retirement
33 System OF THE CITY OF BALTIMORE;

34 D. THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN
35 OF THE CITY OF BALTIMORE; AND

Council Bill 13-0247

E. THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED
COMPENSATION PLAN.

[(collectively, the “City Benefit Plans”).]

Subtitle – General Provisions

§ 46. Scope of subtitle.

This subtitle applies to:

- (1) the Employees’ Retirement System OF THE CITY OF BALTIMORE[.];
- (2) the Fire and Police Employees’ Retirement System OF THE CITY OF BALTIMORE[.];
[and]
- (3) the Elected Officials’ Retirement System OF THE CITY OF BALTIMORE[.]; AND
- (4) THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE.

§ 47. Definitions.

(b) System.

“System” means:

- (1) the Employees’ Retirement System OF THE CITY OF BALTIMORE[.];
- (2) the Fire and Police Employees’ Retirement System OF THE CITY OF
BALTIMORE[.]; [or]
- (3) the Elected Officials’ Retirement System OF THE CITY OF BALTIMORE[.]; OR
- (4) THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE.

(c) New system.

“New system” means the [City] system:

- (1) in which an employee becomes a member [on a change] THROUGH A TRANSFER OF
employment with the City, THROUGH REEMPLOYMENT WITH THE CITY, OR BY
ASSUMING AN ELECTED OFFICE; OR
- (2) IN WHICH AN ELECTED OFFICIAL BECOMES A MEMBER THROUGH EMPLOYMENT OR
REEMPLOYMENT WITH THE CITY.

(d) Previous system.

“Previous system” means the [City] system:

Council Bill 13-0247

1 (1) in which an employee was PREVIOUSLY a member [immediately] before [a
2 change] HIS OR HER TRANSFER of employment, EMPLOYMENT WITH THE CITY, OR
3 REEMPLOYMENT with the City; OR

4 (2) IN WHICH AN ELECTED OFFICIAL WAS PREVIOUSLY A MEMBER BEFORE ASSUMING
5 AN ELECTED OFFICE.

6 (J) ELECTED OFFICE.

7 “ELECTED OFFICE” MEANS THE OFFICE HELD BY AN ELECTED OFFICIAL.

8 (K) ELECTED OFFICIAL.

9 “ELECTED OFFICIAL” MEANS ANY OF THE FOLLOWING:

10 (1) THE MAYOR;

11 (2) THE CITY COMPTROLLER;

12 (3) THE CITY COUNCIL PRESIDENT; OR

13 (4) A MEMBER OF THE CITY COUNCIL.

14 **§ 48. Contemporaneous [membership in 1] BENEFITS FROM 2 or more City systems.**

15 (a) In general.

16 [City employees who are] IF A CITY EMPLOYEE OR ELECTED OFFICIAL IS eligible to retire
17 from 1 or more [City] systems or [who are] IS currently receiving benefits from 1 or more
18 [City] systems[, may]:

19 (1) THE EMPLOYEE OR OFFICIAL MUST join [another] THE APPROPRIATE NEW system on
20 beginning employment OR ASSUMING AN ELECTED OFFICE in a position covered by
21 [the] THAT new system[.];

22 (2) [while retaining] THE EMPLOYEE OR OFFICIAL RETAINS service credit in the
23 previous system OR SYSTEMS; AND

24 (3) [but postponing or suspending] THE receipt of benefits from the previous system
25 OR SYSTEMS IS POSTPONED OR SUSPENDED until the member [has terminated]
26 TERMINATES employment [with the City] OR EXITS ELECTED OFFICE.

27 (b) Receipt of benefits.

28 On terminating employment [with the City] OR EXITING ELECTED OFFICE, [any] A FORMER
29 employee OR ELECTED OFFICIAL may receive simultaneous retirement benefits from all
30 PREVIOUS systems [in which he or she has a current benefit, a vested benefit, or
31 suspended benefits that were earned while employed by the City] AND THE NEW SYSTEM.

Council Bill 13-0247

1 (c) Post-retirement increases.

2 On terminating employment [with the City] OR EXITING ELECTED OFFICE, a member's
3 retirement benefits that had been postponed or suspended from [the] A [member's]
4 previous system [will] SHALL be calculated to include all post-retirement increases that
5 the member would have been eligible to receive [as a retiree] had [retirement] THE
6 benefits not been postponed or suspended from [the member's] THAT previous system.

7 (d) Election of distribution of death benefits.

8 (1) Any member [electing to postpone] WHOSE receipt of retirement benefits from a
9 previous system HAS BEEN POSTPONED by joining a new system [shall] MAY file, [on a
10 form approved by] IN ACCORDANCE WITH THE PROCEDURES OF THE PREVIOUS
11 SYSTEM'S Board of Trustees, a tentative election to distribute death benefits.

12 (2) The member [shall] MAY:

13 (i) tentatively elect the payment mode of his or her retirement BENEFIT [pursuant
14 to] UNDER [§§] § 6(a)(5), [6(c)(3),] 9(m), 9.2(K), [22(c)] 22(E), [and] OR 34(k)
15 of this article; and

16 (ii) designate tentative beneficiaries to receive his or her retirement benefits in the
17 event he or she dies before terminating employment [with the City] OR
18 EXITING ELECTED OFFICE.

19 (3) The member may change this election, BY MAKING A NEW ELECTION IN ACCORDANCE
20 WITH THE PROCEDURES OF THE PREVIOUS SYSTEM'S BOARD OF TRUSTEES, at any time
21 before the member files a permanent application for retirement [on termination of
22 employment with the City].

23 (4) Members of the Employees' Retirement System who are entitled to deferred vested
24 retirement benefits and who join a new system before attaining age 55 [shall] MAY
25 file this tentative election on attaining age 55.

26 (e) Death benefits.

27 (1) Postponement or suspension of benefits in previous system.

28 The following death [benefit] BENEFITS shall be paid on behalf of any member who
29 had [postponed or suspended retirement] benefits POSTPONED OR SUSPENDED from a
30 previous system and who dies while in service in his or her new system [without
31 having terminated employment with the City]:

32 (i) [an ordinary, accidental or special] A death benefit from the member's new
33 system, [pursuant to] UNDER § 6(h), 6(i), [9(o)(1), 9(o)(2), 9(o)(3), 22(j),
34 22(k),] 9(O-1), 9(O-2), 9.2(M), 9.2(N), 22(F), 22(G), 34(h), or 34(i) OF THIS
35 ARTICLE OR § 9-4 OF ARTICLE 22A; and

36 (ii) a death benefit from the member's previous system, AS FOLLOWS:

Council Bill 13-0247

- 1 1. in the case of a [suspension] SUSPENDED BENEFIT, [pursuant to] IN
2 ACCORDANCE WITH the election of retirement benefits made at the time
3 of applying for retirement benefits from the previous system; [or]
- 4 2. in the case of [postponement, as chosen pursuant to] A POSTPONED
5 BENEFIT OF A MEMBER WHO MADE a tentative election [made] under
6 subsection (d) of this section, IN ACCORDANCE WITH THAT ELECTION;
7 AND
- 8 3. IN THE CASE OF A POSTPONED BENEFIT OF A MEMBER WHO DID NOT
9 MAKE A TENTATIVE ELECTION UNDER SUBSECTION (D) OF THIS
10 SECTION, AS IF THE MEMBER HAD ELECTED THE MAXIMUM RETIREMENT
11 ALLOWANCE FORM OF PAYMENT UNDER § 6(A)(14), 9(M)(1), 9.2(K)(1),
12 22(E)(1), OR 34(K)(3) - (6) OF THIS ARTICLE.

13 (2) Death of retiree receiving benefits from 2 or more systems.

14 If a retiree dies while receiving retirement benefits from 2 or more systems, a death
15 benefit shall be payable from each system, in accordance with the applicable
16 provisions of the respective systems and the elections made in the application for
17 retirement by the retiree at the time he or she retired from each system.

18 [(3) Death of member who failed to file tentative election.

19 The following death benefit shall be payable on behalf of any member who had
20 postponed retirement benefits from a previous system without filing a tentative
21 election under subsection (d) of this section and who dies while in service in his or
22 her new system without having terminated employment with the City:

- 23 (i) an ordinary, accidental or special death benefit from the member’s new
24 system, pursuant to § 6(h), 6(i), 9(o)(1), 9(o)(2), 9(o)(3), 22(j), 22(k), 34(h),
25 or § 34(i); and
- 26 (ii) a death benefit associated with the maximum retirement benefit allowance
27 from the member’s previous system, pursuant to § 6(a)(14), 9(m)(6), 9(m)(7),
28 22(b), or 34(k)(3) - (6).].

29 ~~SECTION 2. AND BE IT FURTHER ORDAINED, That the initial Plan Year under this Ordinance~~
30 ~~is the 6-month period commencing on January 1, 2014 and ending on June 30, 2014, both dates~~
31 ~~inclusive.~~

32 SECTION 2. AND BE IT FURTHER ORDAINED, That, if a person described in Article 22A,
33 § 3-2(b)(1), and Article 22, § 9.2(l)(2)(i), as enacted by this Ordinance, is reemployed by the
34 City during the period of July 1, 2014 through November 30, 2014, the phrase in those sections
35 stating that automatic participation as a non-hybrid member of the Retirement Savings Plan
36 begins “on the 30th day after the date on which his or her reemployment began” shall be
37 construed and applied to that person as reading “on January 1, 2015”.

Council Bill 13-0247

1 **SECTION 3. AND BE IT FURTHER ORDAINED**, That the catchlines contained in this Ordinance
2 are not law and may not be considered to have been enacted as a part of this or any prior
3 Ordinance.

4 **SECTION 4. AND BE IT FURTHER ORDAINED**, That this Ordinance takes effect on ~~the 30th day~~
5 ~~after the date it is enacted~~ July 1, 2014.

Council Bill 13-0247

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City