



Legislation Text

File #: 07-0601, **Version:** 0

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.
INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Employees' Retirement System)

A BILL ENTITLED

AN ORDINANCE concerning
Employees' and Elected Officials' Retirement Systems - Post-Retirement Benefit Increases

FOR the purpose of altering the process under which the frequency of the distribution of retirement benefits is determined; requiring retirement dates to be on a certain day of the month; recodifying certain provisions dealing with member contributions; consolidating and altering the accounting procedures for certain funds; providing for a sunset date for certain existing post-retirement benefit provisions; altering certain retirement payment options; altering certain post-retirement increases to periodic benefits; authorizing the Board, under certain circumstances, to serve in a fiduciary capacity for other City trust funds; making the provisions of this Ordinance severable; correcting, clarifying, and conforming certain language; and generally relating to the administration of retirement benefits.

BY renumbering
Article 22 - Retirement Systems
Section 8(a)(1) through (4)
to be
Section 6(a)(15)(i) through (iv)
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments
Article 22 - Retirement Systems
Sections 1(13a), 5(a), 5(r), 6(a)(1st par.), 6(a)(15),
6(c)(3), 6(e)(3), 8, 9(m)(7), 17(1st par.), and 17A(12)
Baltimore City Code
(Edition 2000)

BY repealing
Article 22 - Retirement Systems
Sections 1(23) and 3(f)
Baltimore City Code
(Edition 2000)

BY adding
Article 22 - Retirement Systems
Section 17.1
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That Article 22, § 8 (a)(1) through (4) be renumbered to be Article 22, § 6(a)(15)(i) through (iv).

SECTION 2. AND BE IT FURTHER ORDAINED, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 22. Retirement Systems

Subtitle - Employees' Retirement System

§ 1. Definitions.

(13a) (I) All retirement allowances or other benefits [which] THAT are calculated on an annual basis shall be payable for each [day] MONTH in a year. [in such] PAYMENTS SHALL BE MADE IN periodic installments, as [may be] determined from time to time by the Board of [Estimates] TRUSTEES [to be in conformance with prevailing payment practices for active municipal employees], and [such] THE [daily] MONTHLY allowance shall be computed by dividing the annual allowance by [365] 12.

(II) ALL RETIREMENT DATES FOR ALL CLASS A, B, AND C MEMBERS SHALL FALL ON THE 1ST OF A MONTH.

[(23) "Early retirement date" shall be for all Class C members the 1st day next following said member's having acquired 30 years of service, or the 1st day next following said member's attaining age 60, provided the member has acquired 5 years of service.]

§ 3. Membership.

[(f) Retirement.

The services of any employee, except an elected or appointed official whose term is fixed by law, who attains or has attained the age of 70, and who is not a member of this system shall terminate forthwith. Any member in service who has attained the age of 70, shall be retired forthwith or on the 1st day of the calendar month next succeeding that in which the said member shall have attained the age of 70 years. However, if the member is an elected or appointed official whose term is fixed by law, he may remain in service as a contributing member, subject to the

provisions of § 8(a), until he is not reelected or reappointed.]

§ 5. Administration; Board of Trustees.

(a) Responsibility vested in Board.

(1) The general administration and the responsibility for the proper operation of the Retirement System and for making effective the provisions of this subtitle, subject to the provisions contained in § 5, § 6, and § 9 of this subtitle, are [hereby] vested in a Board of Trustees, which shall be organized immediately after 3 of the trustees provided for in this section have qualified and taken the oath of office.

(2) (I) AT THE WRITTEN REQUEST OF THE FINANCE DIRECTOR AND ON A MAJORITY VOTE OF THE BOARD'S MEMBERS, THE BOARD MAY SERVE IN A FIDUCIARY CAPACITY FOR OTHER CITY TRUST FUNDS.

(II) THE BOARD MAY NOT UNREASONABLY WITHHOLD THE APPROVAL REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(II) FOR EACH CITY TRUST FUND THAT THE BOARD SERVES UNDER THIS PARAGRAPH (2), A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD AND THE DIRECTOR OF FINANCE MUST BE EXECUTED AND APPROVED BY THE BOARD OF ESTIMATES.

(r) Indemnification of persons serving in fiduciary capacity.

(1) Authorized.

The City shall indemnify every person who is made, or is threatened to be made, a party to any action, suit, or proceeding, including administrative and investigative proceedings, by reasons of his OR HER service in a fiduciary capacity to the Employees' Retirement System of Baltimore City, in accordance with and subject to the conditions [stated in] OF this section.

(2) "Service in a fiduciary capacity" defined.

(I) [The term] IN THIS SECTION, "service in a fiduciary capacity"[, as used in this section,] means:

(A) the exercise of any authority, [or] control, or [any] policy-making function, including acts of commission or omission, concerning the management or administration of the Employees' Retirement System of Baltimore City, [or]

(B) the exercise of any authority, [or] control, or [any] policy-making function, including acts of commission or omission, concerning the management or disposition of the assets of the [system] SYSTEM, OR

(C) THE EXERCISE OF ANY AUTHORITY, CONTROL, OR POLICY-MAKING FUNCTION, INCLUDING ACTS OF COMMISSION OR OMISSION, CONCERNING THE MANAGEMENT OR ADMINISTRATION OF ANY OTHER CITY TRUST FUND FOR WHICH THE BOARD SERVES AS A FIDUCIARY UNDER SUBSECTION (A)(2) OF THIS SECTION.

(II) [It] THE TERM includes:

- (A) membership on the Board of Trustees of the Employees' Retirement System of Baltimore City,
 - (B) membership on the advisory investment committee, [and]
 - (C) service as Administrator or Deputy Administrator of the Employees' Retirement System, [or]
 - (D) SERVICE as a staff member engaged in policy-making functions in the performance of HER OR his duties and responsibilities[;], and
 - (E) [it includes] SERVICE AS the Director of Finance, the custodian of the assets of the Employees' Retirement System of Baltimore City as named in the Baltimore City Charter.
- (3) Included expenses.

If, with respect to a civil, administrative, or investigative action, suit, or proceeding, the person acted in good faith and in a manner he OR SHE reasonably believed to be in or not opposed to the best interest of the Employees' Retirement System of Baltimore City OR OF ANY CITY TRUST FUND FOR WHICH THE PERSON SERVES AS A FIDUCIARY UNDER SUBSECTION (A)(2) OF THIS SECTION, and, with respect to a criminal action, had no reasonable cause to believe his OR HER conduct was unlawful, then indemnification shall be against those expenses, including reasonable attorneys' fees, judgments, fines, and accounts paid in settlement [which] THAT were actually and reasonably incurred by [him] THE PERSON in connection with the proceeding.

- (4) Effect of termination of any suit or proceeding.

The termination of any suit or proceeding, in any manner, does not[,] of itself[,] create a presumption that the person did not act in good faith and in a manner he OR SHE reasonably believed to be in or not opposed to the best interest of the Employees' Retirement System OR OF ANY CITY TRUST FUND FOR WHICH THE PERSON SERVES AS A FIDUCIARY UNDER SUBSECTION (A)(2) OF THIS SECTION, and with respect to a criminal action or proceeding, had reasonable cause to believe that his OR HER conduct was unlawful.

- (5) Exceptions to indemnification.

Indemnification may not be made:

- (i) with respect to any suit, claim, or matter as to which the person was adjudged to be liable for gross negligence or willful misconduct in the performance of his OR HER duty to the Employees' Retirement System OR TO ANY CITY TRUST FUND FOR WHICH THE PERSON SERVES AS A FIDUCIARY UNDER SUBSECTION (A)(2) OF THIS SECTION; [or]
- (ii) for an independent contractor furnishing services to the Employees' Retirement System; or
- (iii) with respect to any matter occurring prior to June 1, 1978.

- (6) Insurance provided.

The City shall provide insurance for every person eligible for indemnification under this section against any liability asserted against HER OR him or incurred by HER OR him arising out of [his] THE PERSON'S status as fiduciary. The City may provide self-insurance for this purpose, in whole or in part, under terms and conditions satisfactory to the Board of Estimates. If the City fails to provide adequate insurance coverage, or if the City fails to provide

indemnification [pursuant to] UNDER this section, a fiduciary [shall] IS not [be] required to pay amounts attributable to the liability described in this section by reason of the failure of the City to provide the indemnification, and the City [shall be held] IS liable [therefor] FOR THOSE AMOUNTS.

[The] IN SUITS OR OTHER ACTIONS BROUGHT AGAINST THE CITY, THE City may assert the defense of governmental immunity[,], or any other defense available to the City[, in suits or other actions brought against the City].

(7) City Solicitor.

The sole and final determination of eligibility of a person for indemnification with respect to a particular action, suit, or proceeding, and the approval of the reasonableness of all fees, expenses, and settlements, is vested in the City Solicitor.

§ 6. Benefits for Class A and Class B members.

(a) Service retirement benefits for any Class A or Class B member who was an employee on or after June 29, 1989.

Any Class A or Class B member in service may retire upon [his] written application to the Board of Trustees, [setting forth at what time] IF APPLICATION SPECIFIES THE DATE ON WHICH THE MEMBER DESIRES TO BE RETIRED, WHICH DATE MUST BE THE 1ST DAY OF A MONTH AND not less than 30 days nor more than 90 days [subsequent to the execution and] FOLLOWING THE filing [thereof,] OF THE APPLICATION [he desires to be retired], [provided that the said member at the time] AND IF, ON THE DATE so specified [for his retirement], THE MEMBER shall have attained [the] age [of] 60 and acquired at least 5 years of service or shall have acquired 30 years of service, regardless of age, [and] [notwithstanding that] EVEN IF, during [such] THE APPLICATION period [of notification], [he may have] THE MEMBER HAS separated from service.

...

(15) [Annuity Savings Fund] MEMBER CONTRIBUTIONS.

(i) [The Annuity Savings Fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities.] Effective with the 1st full payroll period commencing closest to January 1, 1978, the contributions by a Class A or Class B member to the Retirement System shall equal 5% of [his] THE MEMBER'S earnable compensation, [such] THESE contributions to continue throughout [such] THE member's entire period of service, subject to the provisions in [§ 8(a)(2)] SUBPARAGRAPH (II) OF THIS PARAGRAPH (15). [Provided, however, that] HOWEVER, a male member in the system prior to July 1, 1973, who is contributing at a rate of contribution [which] THAT is less than 5% shall continue to contribute at his present rate; and [provided, further, that] a female member in the system prior to July 1, 1973, shall contribute at a rate of contribution in effect prior to July 1, 1973, for a male member of corresponding age at the time of entrance into the system, unless [said] THAT rate exceeds 5%, in which event her contribution shall equal 5% of her earnable compensation. "Earnable compensation" [shall be as] HAS THE MEANING defined in § 1(11) of this subtitle.

Beginning July 1, 1992, the preceding paragraph shall read by substituting "4%" for "5%".

(ii) The Board of Trustees, through its Retirement Systems' administrator, shall certify to the Department of Finance, and the Department of Finance shall cause to be deducted from the salary of each Class A or Class B member on each and every payroll period, the percentage of contribution [as] provided for in [§ 8(a)(1)] SUBPARAGRAPH (I) OF THIS PARAGRAPH (15), and[such] THESE deductions shall be paid into [said Annuity Savings] THE RETIREMENT SYSTEM Fund, and shall be credited, together with regular interest [thereon], to the

individual account of the member from whose compensation [said] THE deductions were made. However, deductions shall not be made from the compensation of a Class A or Class B member who has attained [the] age [of] 60 and has completed 35 years of service. No deductions [shall] MAY be made from the earnable compensation of a [member's] MEMBER WHO IS either entering or leaving service AND [who] has worked less than a full payroll period.

(iii) The deductions provided for [herein] IN THIS PARAGRAPH (15) shall be made notwithstanding that the minimum compensation provided for by law for any Class A or Class B member [shall be] IS reduced thereby. Every member [shall be] IS deemed to consent and agree to the deductions made and provided for [herein], and [a] THE MEMBER'S receipt of [his] THE MEMBER'S full salary or compensation, and payment of THAT salary or compensation, less [said] THESE deduction, [shall be] ARE a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by [such] THE person during the period covered by [such] THE payment, except as to the benefits provided under this subtitle.

(iv) [The] A MEMBER'S accumulated contributions [of a member] THAT ARE withdrawn by [him] THE MEMBER, or paid to [his] THE MEMBER'S estate or [to his] designated beneficiary in event of [his], death as provided in this subtitle, shall be paid from the [Annuity Savings] RETIREMENT SYSTEM Fund. [Upon retirement of a member his accumulated contributions shall be transferred from the Annuity Savings Fund to the Annuity Reserve Fund.]

(V) Any member who, with the Board of Trustees' approval [may have] deposited, prior to December 1, 1975, voluntary excess contributions in the [Annuity Savings Fund] RETIREMENT SYSTEM FUND, by a single payment or by an increased rate of contribution to purchase an additional annuity, [shall be] IS entitled [upon] ON retirement, to receive an additional annuity for [such] THOSE voluntary excess contributions. Any Class A or Class B member who, with the Board of Trustees' approval, is depositing, on December 1, 1975, voluntary excess contributions in the [Annuity Savings] RETIREMENT SYSTEM Fund, by an increased rate of contribution, may continue to contribute the same approved amount, without the right to increase or decrease [such] THAT amount[,], after December 1, 1975. After December 1, 1975, the Board of Trustees shall neither accept nor approve any requests from any member to deposit excess voluntary contributions in a lump-sum payment or periodic payments. At any time prior to retirement, any member who deposited voluntary excess contributions in the [Annuity Savings] RETIREMENT SYSTEM Fund, upon written application, shall be refunded [such] THOSE excess voluntary contributions.

(VI) However, if a Class A or Class B member exercises HER OR his option to become a Class C member under [the provisions of] § 9 of this subtitle, [then he] THE MEMBER shall elect in his OR HER notice of intent to either withdraw his OR HER excess voluntary contributions[,], or [else] permit them to remain in the Retirement System together with [his] THE MEMBER'S mandatory contributions, without any further right to withdraw [said] THOSE excess voluntary contributions prior to retirement, except [upon] ON leaving City employment. [Upon] ON becoming a Class C member, [said] THE Class A or Class B member shall discontinue making any further voluntary excess contributions to the Retirement System.

(c) Non-line-of-duty disability retirement benefit for any Class A or Class B member who was an employee on or after June 29, 1989.

(3) Effective date of non-line-of-duty disability retirement.

A non-line-of-duty disability retirement under this subsection takes effect as follows:

(i) if the member applied for disability retirement before terminating City employment, the retirement is effective as of the [first] 1ST day OF THE MONTH IMMEDIATELY following the member's last day of City

employment; and

(ii) if the member applied for disability retirement after terminating City employment, the retirement is effective AS OF THE 1ST DAY OF A MONTH THAT FALLS AT LEAST 30 days after the date on which the Board received a completed application.

(e) Line-of-duty disability benefit.

(3) Effective date of line-of-duty disability retirement.

A line-of-duty disability retirement under this subsection takes effect as follows:

(i) if the member applied for disability retirement before terminating City employment, the retirement is effective as of the [first] 1ST day OF THE MONTH IMMEDIATELY following the member's last day of City employment; and

(ii) if the member applied for disability retirement after terminating City employment, the retirement is effective AS OF THE 1ST DAY OF A MONTH THAT FALLS AT LEAST 30 days after the date on which the Board received a completed application.

§ 8. Method of financing.

(A) Assets TO MEET OBLIGATIONS.

All of the assets of the Retirement System shall be credited [according to the purpose for which they are held to 1 of 4 funds, namely, the Annuity Savings Fund, the Annuity Reserve Fund, the Pension Accumulation Fund and the Pension Reserve Fund] TOWARD MEETING THE AGGREGATE OBLIGATIONS OF THE RETIREMENT SYSTEM.

[(b) Annuity Reserve Fund.]

[The Annuity Reserve Fund shall be the fund from which shall be paid all annuities as provided in this subtitle. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the balance of his annuity reserve shall be transferred from the Annuity Reserve Fund to the Annuity Savings Fund and credited to his individual account therein.]

[(c) Pension Accumulation Fund.]

(B) RETIREMENT SYSTEM FUND.

(1) The [Pension Accumulation Fund] RETIREMENT SYSTEM shall [be the] MAINTAIN A fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by the City of Baltimore and from which shall be paid all pensions and other benefits on account of members with prior service credit and lump sum death benefits for all members payable from the [said] THOSE contributions.

(2) Contributions BY THE CITY BALTIMORE to [and payments from] the [Pension Accumulation] RETIREMENT SYSTEM Fund shall be made as follows:

(I) [(2)] On the basis of regular interest and of such mortality and other tables as [shall be] ARE adopted by the

Board of Trustees, the actuary engaged by the Board shall make a valuation to determine the required contribution by the City of Baltimore for the [Pension Accumulation] RETIREMENT SYSTEM Fund.

(II) The actuary shall determine FOR EACH MEMBER a normal cost [for each member which] THAT is equal to the amount of annual contribution as a constant percentage of compensation [which] THAT is necessary to provide [his] THE MEMBER'S benefit, if [such] THE contributions had been made annually from [his] THE MEMBER'S date of entry into the system, together with any other service credit acquired under any provisions of this subtitle and under Division II of the State Personnel and Pension Article, to the member's date of retirement. The total amounts so determined shall be known as "normal cost contribution."

(III) [(3)] An accrued liability shall be calculated for each member equal to the accumulation of the annual normal cost contribution, AS described in [paragraph (2) above] SUBPARAGRAPH (II) OF THIS PARAGRAPH (2), from the date of entry into the system, together with any other service credit acquired under any provisions of this subtitle and under Division II of the State Personnel and Pension Article, to the valuation date on the basis of the actuarial assumptions adopted by the Board of Trustees.

(IV) The accrued liability computed [in] UNDER [the preceding] SUBPARAGRAPH (III) OF THIS paragraph (2) shall be added to the reserve for retirement benefits payable to retired members from the [Pension Accumulation] RETIREMENT SYSTEM Fund to obtain the total accrued liability.

(V) The assets of the [Pension Accumulation] RETIREMENT SYSTEM Fund shall be applied against the total accrued liability, computed [above] for all members, retirees, and beneficiaries, to determine the amount of unfunded accrued liability. An accrued liability contribution shall be determined as the amount [which is] sufficient to meet regular interest on the unfunded accrued liability, and to amortize the principal of [such] THE unfunded accrued liability over the period of time determined by the Board of Trustees.

(VI) [(4)] The required contribution by the City of Baltimore shall be the sum of the normal cost and accrued liability contribution determined [above;] IN ACCORDANCE WITH THIS PARAGRAPH. [provided, however, that the] THE aggregate payment by the City of Baltimore shall be, [sufficient] when combined with the amount in the [fund] RETIREMENT SYSTEM FUND, SUFFICIENT to provide the pensions and other benefits payable out of the [fund] FUND during the year then current.

(VII) [(5)] The accrued liability contribution shall be discontinued as soon as the accumulated reserve in the [Pension Accumulation] RETIREMENT SYSTEM Fund [shall equal] EQUALS the present value, as actuarially computed and approved by the Board of Trustees, of the total liability of [such fund] THE FUND, less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of persons who are at that time members.

[(6) Upon the retirement of a member not entitled to credit for prior service, an amount equal to his pension reserve shall be transferred from the Pension Accumulation Fund to the Pension Reserve Fund.]

[(d) Pension Reserve Fund.]

[The Pension Reserve Fund shall be the fund from which shall be paid the pension to members not entitled to credit for prior service and benefits in lieu thereof. Should such a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement the pension reserve thereon shall be transferred from the Pension Reserve Fund to the Pension Accumulation Fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity, the amount of the annual reduction in his pension shall be paid annually into the Pension Accumulation Fund during the

period of such reduction.]

(C) [(e)] Certification of appropriation.

On or before [the April] JANUARY 1 of each year, the Board of Trustees shall certify to the Board of Estimates the amount of the appropriation necessary to pay to the [various funds of the] Retirement System the amounts payable by the City of Baltimore, as enumerated in this article, for the fiscal year beginning on July 1 of the succeeding year. [and items] ITEMS of appropriation providing [such] THOSE amounts shall be included in the Ordinance of Estimates.

§ 9. Class C membership.

(m) Method of payment.

(7) Election to receive lump-sum payment.

(A) Any Class C member or former Class C member who has ceased all permanent full-time and permanent part-time employment with the City may elect to receive the present value of the member's total pension benefit, in a single lump-sum payment, if:

(i) the member is entitled to:

1. a normal service retirement benefit under § 9(e) of this article;
2. an early service retirement benefit under § 9(f) of this article; or
3. a deferred vested benefit under § 9(l); and

(ii) the present value of the total pension benefit is [\$10,000 or less] NO MORE THAN THE LUMP-SUM CASHOUT LIMIT.

(B) FOR PURPOSES OF THIS PARAGRAPH, "LUMP-SUM CASHOUT LIMIT" MEANS THE GREATER OF:

(I) \$12,500; OR

(II) AN AMOUNT THAT IS CALCULATED BY THE SYSTEM'S ACTUARY TO REFLECT ANY INCREASES IN THE AVERAGE SALARY OF ACTIVE MEMBERS AND THAT IS APPROVED BY THE BOARD OF TRUSTEES.

(C) [(B)] A member who receives a lump-sum payment under this paragraph (7) ceases to be entitled to any other benefits from this system.

(D) [(C)] A Class C member entitled to receive both a disability or dismemberment benefit and 1 of the 3 service benefits listed in paragraph (7)(A) of this subsection, may waive his or her rights to the disability or dismemberment benefits and elect to receive a lump-sum payment under this paragraph.

(E) [(D)] The present value of the benefit payable under this paragraph (7) shall be calculated as of the date the member ceases all permanent full-time and permanent part-time employment with the City, using actuarial assumptions as of that date approved by the Board of Trustees pursuant to the recommendation of the system's

actuary.

§ 17. Post-retirement benefit increases [to certain retirees and beneficiaries] BEFORE JULY 1, 2007.

THIS SECTION APPLIES ONLY TO POST-RETIREMENT BENEFIT INCREASES DETERMINED BEFORE JULY 1, 2007. Each retired member or beneficiary (Classes A, B, and C) who is receiving periodic benefits [pursuant to the provisions of] FROM the Retirement System may be eligible for an increase in the amount of [such] THOSE periodic benefits, subject to the following provisions.

§ 17.1. POST-RETIREMENT BENEFIT INCREASES ON OR AFTER JULY 1, 2007.

(A) SCOPE.

THIS SECTION APPLIES TO RETIREMENT BENEFIT INCREASES DETERMINED ON OR AFTER JULY 1, 2007.

(B) "SINGLE-PREMIUM PAID-UP ANNUITY" DEFINED..

IN THIS SECTION, "SINGLE-PREMIUM PAID-UP ANNUITY" MEANS THE ACTUARIALLY DETERMINED VALUE OF A PAYMENT STREAM FOR THE LIFE OF A RETIREE.

(C) ELIGIBILITY.

(1) AS OF JUNE 30, 2007, AND EACH SUCCEEDING JUNE 30, A MEMBER OR BENEFICIARY THAT HAS BEEN ON THE RETIREMENT SYSTEM PAYROLL FOR THE PURPOSE OF RECEIVING PERIODIC BENEFIT PAYMENTS FOR A PERIOD OF NOT LESS THAN 12 CONSECUTIVE MONTHS SHALL RECEIVE A POST-RETIREMENT BENEFIT INCREASE BEGINNING IN JANUARY OF THE FOLLOWING YEAR.

(2) FOR PURPOSES OF THIS SECTION, A BENEFICIARY OF A DECEASED MEMBER IS DEEMED TO HAVE BEEN ON THE RETIREMENT SYSTEM PAYROLL FROM THE DATE THE DECEASED MEMBER ORIGINALLY JOINED THE PAYROLL.

(3) A BENEFICIARY OF A FORMER RETIRED MEMBER IS ELIGIBLE TO RECEIVE ANY PERCENTAGE INCREASE UNDER THIS SECTION THAT THE RETIRED MEMBER WAS ELIGIBLE TO RECEIVE.

(D) AMOUNT OF BENEFIT INCREASE.

(1) "CPI LIMIT" DEFINED.

"CPI LIMIT" MEANS THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) FOR THE U.S. CITY AVERAGE FOR ALL ITEMS, 1982-84=100, FOR A FISCAL YEAR ENDING JUNE 30.

(2) CALCULATION.

AS OF JANUARY 1, 2008, AND EACH SUBSEQUENT JANUARY 1, AN ELIGIBLE RETIREE OR BENEFICIARY SHALL RECEIVE AN INCREASE IN PERIODIC BENEFITS, WHICH SHALL BE CALCULATED AS THE SUM OF:

(I) A GUARANTEED INCREASE OF 1.5%; AND

(II) AN EARNINGS INCREASE DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION.

(3) EARNINGS INCREASE ACCOUNT.

(I) THE BOARD OF TRUSTEES SHALL ESTABLISH A BOOKKEEPING ACCOUNT ENTITLED THE EARNINGS INCREASE ACCOUNT FOR THE SOLE PURPOSE OF DETERMINING WHETHER AN EARNINGS INCREASE IS PAYABLE.

(II) THE ESTABLISHMENT OF THE EARNINGS INCREASE ACCOUNT NEITHER REQUIRES NOR ALLOWS FOR THE SEGREGATION OF ANY RETIREMENT SYSTEM ASSETS.

(III) (A) IF THE ACTUARY ENGAGED BY THE BOARD DETERMINES THAT THERE IS A BALANCE IN THE EARNINGS INCREASE ACCOUNT AS OF THE PRECEDING JUNE 30, THAT BALANCE SHALL BE ALLOCATED TO PROVIDE AN EARNINGS INCREASE TO ELIGIBLE RETIRED MEMBERS AND BENEFICIARIES, EFFECTIVE AS OF THE FOLLOWING JANUARY 1.

(B) THE EARNINGS INCREASE SHALL BE CALCULATED AS A PERCENTAGE INCREASE THAT CAN BE PROVIDED BY THE BALANCE IN THE EARNINGS INCREASE ACCOUNT SUFFICIENT TO FUND A SINGLE-PREMIUM PAID-UP ANNUITY, USING REGULAR INTEREST AFTER COMMENCEMENT OF BENEFITS FOR VALUATION PURPOSES ON THE JUNE 30 PRECEDING THE EFFECTIVE DATE OF THE INCREASE.

(C) THE PERCENTAGE INCREASE CALCULATED UNDER SUBPARAGRAPH (III)(B) OF THIS PARAGRAPH (3) MAY NOT EXCEED AN AMOUNT THAT, WHEN ADDED TO THE GUARANTEED INCREASE PROVIDED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, EXCEEDS THE CPI LIMIT.

(IV) AS OF JANUARY 1, 2008, AND EACH SUBSEQUENT JANUARY 1, ANY BALANCE IN THE EARNINGS INCREASE ACCOUNT RESULTING FROM THE CPI LIMIT AS OF THE PRECEDING JUNE 30 SHALL BE CARRIED FORWARD IN THE ACCOUNT TO THE NEXT JUNE 30 BY CREDITING THE BALANCE WITH THE AVERAGE ANNUAL MARKET VALUE ASSET RATE OF RETURN, AS DETERMINED UNDER SUBSECTION (E)(1)(I) OF THIS SECTION.

(E) EARNINGS INCREASE ACCOUNT TRANSFERS.

(1) AS OF JULY 1, 2007 AND EACH SUBSEQUENT JULY 1, A TRANSFER TO THE EARNINGS INCREASE ACCOUNT WILL BE MADE IN THE AMOUNT OF THE POSITIVE DIFFERENCE BETWEEN:

(I) 100% OF THE DOLLAR-WEIGHTED AVERAGE INVESTMENT RETURN ON THE MARKET VALUE OF ASSETS CALCULATED FOR A FISCAL YEAR ENDING JUNE 30, UP TO THE REGULAR INTEREST BEFORE BENEFITS COMMENCE, BASED ON THE PORTION OF ASSETS ATTRIBUTABLE TO MEET THE OBLIGATION FOR PARTICIPANTS IN PAY STATUS; AND

(II) THE REGULAR INTEREST AFTER BENEFIT PAYMENTS COMMENCE, ON THE PORTION OF ASSETS ATTRIBUTABLE TO MEET THE OBLIGATION FOR PARTICIPANTS IN PAY STATUS.

(2) (I) IN THIS PARAGRAPH (2), "NORMAL COST" MEANS THE AMOUNT DETERMINED ANNUALLY BY THE ACTUARY FOR THE FUNDING OF BENEFITS EARNED DURING A PLAN YEAR IN ACCORDANCE WITH THE FUNDING METHOD IN EFFECT. IF AN AGGREGATE COST METHOD IS IN EFFECT THE CALCULATION WILL USE THE ENTRY-AGE NORMAL COST FUNDING METHOD.

(II) MARKET VALUE OF ASSETS ATTRIBUTABLE TO MEET THE OBLIGATION FOR PARTICIPANTS IN PAY STATUS SHALL BE DETERMINED AS OF JUNE 30 TO BE EQUAL TO THE PRODUCT OF:

(A) THE RATIO OF PRESENT VALUE OF BENEFITS FOR PARTICIPANTS IN PAY STATUS OVER THE PRESENT VALUE OF BENEFITS FOR ALL PARTICIPANT BENEFITS; AND

(B) THE SUM OF:

1. THE MARKET VALUE OF ASSETS ATTRIBUTABLE TO PARTICIPANTS NOT IN PAY; AND
2. THE PRESENT VALUE OF FUTURE NORMAL COST.

(F) ADMINISTRATION OF BENEFIT INCREASES.

(1) THE GUARANTEED BENEFIT INCREASE PROVIDED BY SUBSECTION (D)(2)(I) OF THIS SECTION MAY NOT BE LESS THAN ANY CORRESPONDING GUARANTEED POST-RETIREMENT BENEFIT INCREASE PROVIDED BY THE FIRE AND POLICE EMPLOYEES RETIREMENT SYSTEM TO ITS MEMBERS.

(2) ANY BENEFIT INCREASE PROVIDED UNDER THIS SECTION SHALL BE FUNDED AS A SINGLE-PREMIUM PAID-UP ANNUITY.

(3) IT IS INTENDED THAT ANY BENEFIT INCREASE CONTINUE FOR THE LIFETIME OF THE ELIGIBLE MEMBER AND ANY BENEFICIARY, CONSISTENT WITH ANY OPTION ELECTED UNDER § 6 OR § 9 OF THIS ARTICLE.

(4) THE GUARANTEED BENEFIT INCREASE PROVIDED BY SUBSECTION (D)(2)(I) OF THIS SECTION IS EFFECTIVE AS OF EACH JANUARY 1, REGARDLESS OF THE INVESTMENT PERFORMANCE OF THE RETIREMENT SYSTEM'S INVESTMENT FUNDS.

(5) THE POST-RETIREMENT BENEFIT INCREASE PROVIDED BY THIS SECTION SHALL BE PAYABLE IN THE SAME FORM AS POST-RETIREMENT BENEFIT PAYMENTS BEING RECEIVED BY THE ELIGIBLE PERSON.

(6) EACH ELIGIBLE PERSON SHALL RECEIVE AN EQUAL PERCENTAGE ADDITIONAL INCREASE.

Subtitle - Elected Officials' Retirement System

§ 17A. Definitions.

(12) All retirement allowances or other benefits [which] THAT are calculated on an annual basis shall be payable for each [day] MONTH in a year. [in such] PAYMENTS SHALL BE MADE IN periodic installments, as [may be] determined from time to time by the Board of [Estimates] TRUSTEES [to be in conformance with prevailing payment practices for active municipal employees], and [such daily] THE MONTHLY allowance shall be computed

by dividing the annual allowance by [365] 12.

SECTION 3. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 4. AND BE IT FURTHER ORDAINED, That:

(a) Using the determination of the market value of the Retirement System Fund as of June 30, 2005:

(1) the portion of assets dedicated for special investments in the Paid-Up-Benefit Fund shall be offset by any non-positive value held in the Contingency Reserve Fund;

(2) of the net balance derived under item (1) of this subsection, \$13.3 million shall be used [to determine] FOR a one-time increase in the periodic benefit payments for members in pay status as of June 30, 2006;

(3) the percent of the increase under paragraph (2) of this subsection shall be the percentage that can be provided by the balance to fund a single-premium paid-up annuity, using regular interest that is used for valuation purposes on the June 30 preceding the effective date of the increase; and

(4) after deductions for items (1) and (2) of this subsection, the net balance of the portion of assets dedicated for special investments in the Paid-Up Benefit Fund shall be released into the Retirement System Fund.

(b) Following these adjustments, the Paid-Up-Benefit fund and the Contingency Reserve Fund shall cease to exist.

SECTION 5. AND BE IT FURTHER ORDAINED, That if any provision of this Ordinance or the application of it to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect any other provisions of this Ordinance or any other application of it that can be given effect without the invalid provision or application, and, for this purpose, the provisions of this Ordinance are declared severable.

SECTION 6. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.

dlr06-937(12)~intro/21Feb07
art22/ers cola/aa:me

dlr06-937(12)~intro/21Feb07
- 9 -
art22/ers cola/aa:me

dlr06-937(12)~intro/21Feb07
- 14 -
art22/ers cola/aa:me