

# City of Philadelphia



(Bill No. 000342)

## AN ORDINANCE

Amending Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” by making certain corrections to address problems in the Code due to typographical errors, oversights, or inconsistencies, by clarifying the definition of various plans, addressing various issues raised by the new 5-year vesting program, refining the DROP program, and correcting inconsistencies with respect to refunds and purchases of certain types of service credit, all under certain terms and conditions.

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

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

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

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

\* \* \*

#### **§22-104. Continuation of Divisions and Plans.**

\* \* \*

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

\* \* \*

Plan J includes all current and former employees of  
the City who on the effective date of this

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Title are members, or who upon  
reemployment are entitled to be members, of  
Municipal Revised Coverage Plan 60,  
established by an ordinance of City Council  
approved April 27, 1967 (Bill No. 2318),  
who are not included in the Police Division  
Old or in the Fire Division Old, and in  
addition:

(a) all employees represented by  
AFSCME District Council 47 Local  
2186 who were hired by the City  
between January 8, 1987 and  
[September 30,] *October 1*, 1992,  
and who contribute to the Retirement  
System, an amount equal to the  
difference between the contribution  
that the employee has previously  
made to the Retirement System, and  
what the employee contribution  
would have been under Plan J during  
the term of the employee's  
employment; and

(b) all employees represented by  
AFSCME District Council 47 Local  
2187 who were hired by the City  
between January 8, 1987 and  
[September 30,] *October 1*, 1992[.] ;  
*and*

(c) *all employees represented by  
AFSCME District Council 33 who  
were hired by the City between  
January 8, 1987 and October 1,  
1992.*

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Plan J is a plan within the Municipal  
Division Old.

\* \* \*

## **§22-105. Definitions**

\* \* \*

(6) Average Final Compensation.

\* \* \*

(b) For a member of Plan D or Plan X, average final compensation shall be the highest of:

(.1) the average compensation upon which contributions have been made on behalf of the member during the five (5) calendar years of employment in which such compensation is highest;

(.2) the *average* compensation is received by the member during the twelve (12) consecutive months of the member's employment in which such compensation is highest; or

(.3) the annual compensation of the member, calculated from the final pay period, *and as defined in Section 22-105(9)(a)(.1), except that such compensation shall exclude longevity payments.*

(c) For a member of Plan A or Plan B, average final compensation shall be the average of the member's two (2) highest annual compensations calculated for either two (2) calendar years or two (2) anniversary years.

\* \* \*

## **CHAPTER 22-200. MEMBERSHIP**

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## **§22-201. Membership Upon Employment.**

(1) Employees first hired before January 8, 1987. All employees who were hired, rehired or first elected before January 8, 1987, shall be members of [Plan A, Plan B, Plan L, or Plan Y] *Plan D, Plan J, or Plan X* of the Retirement System, except to the extent that they are afforded other options pursuant to §22-203 (Membership After Reemployment) or are Police or Fire employees covered by subsection (3). Of these employees:

(a) All municipal employees are members of Plan J which covers members of the Municipal Division Old, except

(.1) an employee appointed to a part-time or nonsalaried position with a board or commission and who was not a compensated member of such board or commission on May 18, 1978.

(b) All police employees are members of Plan D which covers members of the Police Division Old.

(c) All fire employees are members of Plan X which covers members of the Fire Division Old.

\* \* \*

(4) Municipal employees first hired between January 8, 1987 and [September 30, 1992] *October 1, 1992*.

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(a) A municipal employee first hired between January 8, 1987 and [September 30] *October 1*, 1992 and represented by AFSCME District Council 47 Local 2186 or Local 2187 or AFSCME District Council 33 is a member of Plan J, which covers members of the Municipal Division Old, provided that such employee contribute to the Retirement System an amount equal to the difference between the contribution that the employee has previously made to the Retirement System, and what the employee contribution would have been under Plan J during the term of the employee's employment.

\* \* \*

## CHAPTER 22-300. RETIREMENT BENEFITS.

### §22-301. Service Retirement Benefits.

(1) Eligibility.

\* \* \*

(c)(1) After the effective date of this Title (*January 13, 1999*), members of Plan A, Plan B or Plan Y who hold positions that are both exempt from civil service and who are not entitled to be represented by a union and who are employed [or reemployed] after the effective date of this Title shall vest their retirement benefits upon attaining five (5) years of credited service. During such vesting period, such employees shall each contribute, in addition to the employee contribution as determined in §22-902, a proportionate contribution equal to one hundred percent (100%) of the member's share of the aggregate normal cost of the additional benefit, over the cost of 10-year vesting, afforded by such earlier vesting period.

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*(.3) After the effective date of this Title (January 13, 1999), members of Plan A, Plan B or Plan Y who hold positions that are both exempt from civil service and who are not entitled to be represented by a union and who have prior City service and are reemployed after the effective date of this Title may elect to vest their retirement benefits upon attaining five (5) years of credited service. Such election shall be irrevocable and must be made in writing on forms provided by the Board and filed with the Board within one hundred and eighty (180) days following either the date of the member's reemployment or the effective date of the ordinance adding this subsection, whichever is later. Such employees who make an election for a five (5) year vesting period shall each be charged for the additional benefit afforded by such earlier vesting period a proportionate contribution equal to one hundred percent (100%) of the member's share of the aggregate normal cost of the additional benefit, over the cost of 10-year vesting, afforded by such earlier vesting period.*

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

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*Board and filed with the Board within one hundred and eighty (180) days after the effective date of the amending ordinance adding this subsection.*

(d)(.1) After the effective date of this Title (*January 13, 1999*), members of Plan L who take office after the effective date of this Title shall vest their retirement benefits upon attaining credited service which shall be the lesser of two full terms in their elected office or eight (8) years. During such vesting period, such elected officials shall each contribute, in addition to the employee contribution as determined in §22-902, a proportionate contribution equal to one hundred percent (100%) of the member's share of the aggregate normal cost of the additional benefit, over the cost of 10-year vesting, afforded by such earlier vesting period. *Provided, however, that any such elected officials who, upon taking elected office, have any prior credited City service, shall not be required to vest in less than ten (10) years and pay the additional contributions, but shall have the option to elect to vest their retirement benefits upon attaining the lesser of two full terms in their elected office or eight (8) years, rather than ten (10) years, under the terms and conditions in Section 22-301(1)(c)(.3) above.*

\* \* \*

(f) *Notwithstanding the provision under subsection (c)(.2) and (d)(.2) above that the election for 5-year vesting (or other term of less than 10 years) shall be irrevocable, any member of Plan A, Plan B, Plan L or Plan Y who made such an election and paid the increased cost may, upon attaining ten (10) years service credit, elect 10-year vesting. Upon such an election, but not before being fully credited with ten (10) years' service as otherwise provided in this Code, such member shall, upon*

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*application to the Board, be refunded the cost paid by the member for the additional benefit of 5-year vesting (or other shortened term), without interest.*

[(f)] (g) To qualify as retired, member must file an application for retirement benefits with the Board and the application must be approved by the Board.

\* \* \*

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

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

(a) Any member of Plan J, Plan L, or Plan Y who is age fifty-two (52) or older and [has ten (10) or more years of credited service] *had become a vested member as defined in Section 22-105(47).*

(b) Any member of Plan B or Plan D who is age forty (40) or older and [has ten (10) or more years of credited service] *had become a vested member as defined in Section 22-105(47).*

(c) Any member of Plan A or Plan X who is age forty (40) or older and [has ten (10) or more years of credited service] *had become a vested member as defined in Section 22-105(47).*

(d) Any member of either Plan A or Plan B who has twenty-five (25) or more years of credited service, regardless of age.

(e) Any member of Plan Y who has thirty-three (33) or more years of credited service, regardless of age.



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\* \* \*

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

\* \* \*

### **(5) Benefit Requirements and Calculation.**

(a) Except as otherwise provided by this section, an election to participate in the DROP is irrevocable. The effective date of a member's participation in the DROP shall be the date provided on the member's application, provided that such date shall only be [the first day of a month] *the beginning of a full pay period* and shall not be earlier than ninety (90) days after the date the application is filed with the Board nor earlier than the member's "minimum retirement age" as that term is defined in Section 22-105(25).

\* \* \*

(c) Credits to a member's DROP account begin on the effective date of the member's participation in the DROP and continue until the DROP participant separates from active service with the City, provided that such separation must be no later than four (4) years after the DROP entry date. [Amounts are creditable for partial crediting periods of not less than one month each.] Credits may not be made to a member's DROP account for a period that occurs after the member separates from active service with the City.

\* \* \*

(g) Re-hire. There is no return to regular employment from a DROP. Once entering the DROP, the employee is in the DROP until separation from City service, at which point the member is retired. A retiree may be re-hired by the City, subject to the provisions of this Title (see Section 22-204), but no former DROP participant who is

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rehired by the City may be eligible to again participate in the DROP. *A rehired retiree who had not been a former DROP participant may be eligible to enter the DROP if the employee otherwise meets the eligibility requirements of subsection 22-310(4). In such a case, the retirement benefit for purposes of credits to the DROP account shall be determined by reference to Section 22-204 of this Title.*

\* \* \*

## **CHAPTER 22-400. DISABILITY BENEFITS.**

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

\* \* \*

(5) "Final compensation." For the purposes of §22-401(4) "final compensation" shall be calculated as defined in [§22-106(16)] §22-105(16), except that it shall be subject to a periodic adjustment in accordance with the following provisions:

\* \* \*

### **§22-402. Ordinary Disability Retirement Benefits.**

#### **(1) Qualification.**

(a) Any member found to be mentally or physically totally incapacitated from the further performance of duty as the result of causes occurring not in the actual performance of duty to the City and who, as a member of Plan B, Plan D, Plan J, Plan L, or Plan Y has had ten (10) or more years of credited service, or who as a member of [the] Plan A or Plan X has had five (5) years of credited service, or a member of Plan B or Plan D who is totally disabled, in which case such member is considered to have had at

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least ten (10) years of credited service, shall be deemed retired and shall receive ordinary disability retirement benefits.

*(b) Notwithstanding subsection (a) above, if a member in Plan B, Plan L, or Plan Y who otherwise meets the requirements of this section separates while eligible for a vesting period lesser than ten years as is authorized by §22-301(1)(c) or (d) and has made all necessary contributions to attain such eligibility, or completes such payments within 90 days of separation, such member shall be deemed retired and shall receive ordinary disability retirement benefits.*

(2) *Procedure.* To approve the application for such benefits the Board must find that:

- (a) the member's disability is likely to be permanent;
- (b) the disability existed while the member was in the employ of the City;
- (c) such disability is not the result of dissipation, immoral habits or practices, or was not incurred in the commission of a crime; and
- (d) the application for such benefits is filed within one (1) year after separation from service with the City, except as provided in §22-401(3) (Service-Connected Disability Retirement Benefits.)

Applications for ordinary disability retirement benefits shall be acted upon by the Board promptly upon receipt thereof. Subject to the provisions of §22-1203 (Medical

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Panel) of this Title, the decision of the Board as to eligibility for benefits under this section shall be final and conclusive.

\* \* \*

## CHAPTER 22-500 DEATH BENEFITS.

\* \* \*

### §22-502. Ordinary Death Benefits.

(1) Qualifications. Ordinary death benefits are paid to the designated beneficiary of a deceased employee or vested member who has not received any retirement or disability benefits from the Retirement System.

(2) Benefit amount. The ordinary death benefit shall be an amount equal to the deceased member's total contributions to the Retirement System, without interest, together with an additional amount equal to [1/10th of] the member's average final compensation [for each] *multiplied by the number of* completed years of credited service, *and divided by the number of years of credited service required for that member to become a vested member as defined in Section 22-105(47)*, provided that in no event shall the additional amount exceed the deceased member's average final compensation as defined in §22-105(a). This additional amount shall be reduced by any amount provided solely by the City under any group life insurance program.

(3) Optional benefit. If a deceased member had attained the applicable minimum retirement age or had [acquired ten (10) years of credited service in the Retirement System] *become a vested member as defined in Section 22-105(47)* or, if the member is a Police Employee or Fire Employee who shall be deemed as having [had a minimum of

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ten (10) years of credited service] *become a vested member*, the beneficiary of such member shall have the option of receiving:

- (a) the amount payable under §22-502(2), or
- (b) the amount payable under Option 2 of §22-306 (Retirement and

Survivor Benefit Options) determined as follows:

(.1) in the case of a member who had attained the minimum retirement age specified in the applicable plan, an annual benefit calculated as if the member had retired on the day preceding the member's death; or

(.2) in the case of a member who had [acquired ten (10) years of credited service] *become a vested member*, but had not attained the retirement age specified in the applicable plan, an annual benefit calculated as if the member had been eligible to retire and retired on the day before the member died, based on the member's attained age at the date of death.

\* \* \*

## CHAPTER 22-700. BENEFICIARIES AND SURVIVORS

\* \* \*

### §22-702. Designation of Survivors.

(1) Permissible designations. Each member shall make an irrevocable designation of survivors upon retirement. The designation of a member's survivors must be in writing and on file with the Board. A member may designate only the following individuals:

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(a) spouse;

\* \* \*

(e) estate of the member if the member retired under Option 1 or Option 4 of [§22-304] §22-306 (Retirement and Survivorship Benefit Options).

\* \* \*

## CHAPTER 22-800. PURCHASE OF CREDITED SERVICE

### §22-801. Leaves of Absence Without Pay.

\* \* \*

(5) Time within which to make contributions for USERRA service. If a member makes contributions to the Retirement System for a period of unpaid leave of absence and such leave of absence is subject to USERRA or 51 Pa. C.S. Ch.73, the member must complete the payments for credited service on or before the earlier of:

- (a) a period which is three times the duration of such leave of absence; or
- (b) five years.

If a member does not complete the required payments within the prescribed time period, the member will receive credited service for purposes of calculating retirement, death and disability benefits under Chapters 22-300, 22-400 and 22-500, respectively, in an amount equal to that portion of the required payments which is made within the prescribed time period. The member will receive credited service for purposes of determining vested status regardless of whether such payments are completed within the

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prescribed time period. *Provided, however, that if a member does not complete the required payments within the prescribed time period, the member may purchase service credit for the remaining leave of absence service by paying the required payments, plus the additional interest provided in Section 22-807.*

\* \* \*

## **§22-802. Purchase of Governmental Service**

(1) Allowable other governmental service. A member of the Retirement System may purchase credited service for other governmental employment which was full-time or its pro-rated equivalent (as determined by the Board) and which occurred prior to the member's current employment with the City, as follows:

(a) Service with the military . . .

\* \* \*

(2) Maximum purchase of service; limitation. Credited service which may be purchased for allowable other governmental employment is limited to a maximum of ten (10) years and will be permitted only with respect to service for which the member is not or will not be entitled to a vested pension from another employer. *However, a member may purchase credit for prior military service for which the member is or will be entitled to a military pension, if that member's entitlement to a military pension is based in whole or in part upon service in the military reserves.* [A member who was vested in a prior governmental employer's pension plan and who voluntarily withdrew contributions made to such plan shall be considered to be entitled to a pension under the prior governmental plan for purposes of this section.] \* \* \*

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\* \* \*

## **§22-803. Purchase of Prior City Service.**

\* \* \*

*(6) Purchase of prior service during deferred membership by members of Plan D, Plan J, and Plan X.*

*(a) If any member of Plan D, Plan J, or Plan X had, at the time of his or her employment and in accordance with the applicable Retirement System Ordinance at the time, elected to defer membership in the Retirement System and had not previously purchased pension credit for the period during which membership was deferred, such member may purchase said service by paying to the system*

*(.1) the amount of contributions the member would have paid during that period of deferred membership; and*

*(.2) the additional interest provided in Section 22-807.*

*(7) Purchase of previously ineligible City temporary service.*

*(a) If any member of has one or more periods of temporary service with the City for which the member is not eligible to purchase service credit under subsection 22-803(3) or (4) above, such member may purchase said service by paying to the system*

*(.1) the amount of contributions the member would have paid during that period of temporary employment; and*



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(.2) *the additional interest provided in Section 22-807.*

\* \* \*

## **§22-806. Installment Payments.**

\* \* \*

(4) Refund of contributions; partial credit. If installment payments are not completed within ninety (90) days of a member's separation from service, the member or the member's beneficiary may elect either (i) a refund of the total payments made for the purchase of prior City or other prior governmental service [minus any amounts attributable to interest charges]; or (ii) credit for that portion of prior service for which payment has been made (expressed in years and specified to the day), provided that, in order to receive partial credit for prior City service, pursuant to §22-803, the member must have made arrangements to pay for all prior City service.

\* \* \*

## **§22-807. Interest.**

Any member of Plan A, Plan B, Plan L, or Plan Y who desires to purchase credited service for:

- (a) prior City service,
- (b) leaves of absence [other than the purchase of credited service for intervening military service governed by USERRA] *as authorized under Section 22-801(2)*, this subsection (b) also to apply to members of Plan D, Plan J, or Plan X, [or]
- (c) governmental service[;],

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(d) *a period of service with the City during which membership in the Retirement System was deferred, or*

(e) *a period of previously ineligible temporary service, under Section 22-803(7) of this Title;*

and who failed to apply within the applicable period after their date of hire or the effective date of this Title (*January 13, 1999*), may nevertheless purchase said service, provided that the member pays interest on the purchase amount calculated from the date the employee was hired [or] rehired, *or returned to service after a leave of absence. A member who had not purchased a period of service during which membership was deferred or which was previously ineligible temporary service may purchase said service, provided that the member pays interest on the purchase amount calculated from the date the employee would have made contributions if the employee had been a member at the time.* Interest shall be charged at the current rate determined by the Board's actuary to compensate the Pension Fund for lost interest, currently 9% compounded annually, and shall be in addition to any interest to be paid for making any installment payments under the terms set forth in Section 22-806 (Installment Payments) of this Ordinance.

\* \* \*

**SECTION 2. Effective Date.** This Ordinance shall be effective retroactively to January 13, 1999, except for amendments to Code Section 22-310, which shall be effective retroactively to June 28, 1999, and except that, as to members of Plan L, any part of this ordinance that represents an increase or diminishment in the benefit rights of such

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members shall not apply to an elected official during any term of office to which such official was elected prior to the effective date of this ordinance, but shall only apply to an elected official during a term of office to which such official was elected after the effective date of this ordinance.

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**Explanation:**

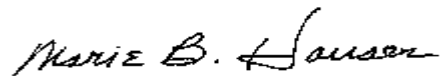
[Brackets] indicate matter deleted.  
*Italics* indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 14, 2000. The Bill was Signed by the Mayor on January 23, 2001.

A handwritten signature in cursive script that reads "Marie B. Hauser".

Marie B. Hauser  
Chief Clerk of the City Council