



Legislation Details (With Text)

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Title: An Ordinance to Amend Sections 1:552 and 1:569 of Chapter 18, Employees Retirement System, of Title I of the Code of the City of Ann Arbor - Duty Death Benefit (Ord. No. ORD-08-16)

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5/5/2008	1	City Council	Adopted on Second Reading	Pass
4/21/2008	1	City Council	Approved on First Reading	Pass

An Ordinance to Amend Sections 1:552 and 1:569 of Chapter 18, Employees Retirement System, of Title I of the Code of the City of Ann Arbor - Duty Death Benefit (Ord. No. ORD-08-16)

The Board of Trustees of the City of Ann Arbor Employees' Retirement System at its regular meeting on Thursday, November 15, 2007 reviewed the attached proposed ordinance amendments and moved that they be submitted to Council for its consideration and approval. The Board's legal counsel, in conjunction with the City Attorney's Office, drafted these ordinance amendments.

They are two primary changes to the Proposed Ordinance. One is that the payment of a duty death benefit from the Retirement System would not be dependent on whether worker's compensation is actually paid but instead on whether the employee's death is considered a compensable death under the Worker's Compensation Act. The second important change is that the member would be credited with a minimum of 25 years of service for the purpose of calculating the amount of benefit to be paid to his or her survivors.

The Retirement System believes that an employee who died while in the performance of duty has made the ultimate sacrifice and that his or her survivors are entitled to a pension benefit which reflects a full career of service.

Prepared by: Willie J. Powell, Executive Director
Reviewed by: Mary J. Fales, Senior Assistant City Attorney
Approved by: Roger W. Fraser, City Administrator
ORDINANCE NO. ORD-08-16

First Reading : April 21, 2008

Public Hearing : May 5, 2008
Approved: May 5, 2008
Published: May 11, 2008
Effective: May 21, 2008

EMPLOYEES RETIREMENT SYSTEM
(DUTY DEATH BENEFIT)

AN ORDINANCE TO AMEND SECTIONS 1:552 AND 1:569 OF CHAPTER 18, EMPLOYEES RETIREMENT SYSTEM, OF TITLE I OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Section 1:552 of Chapter 18 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:552. Definitions.

The following words and phrases used in this chapter, unless a different meaning is clearly required by the context, shall have the following meanings:

- (1) *Board.* The Board of Trustees of the Retirement System provided in this chapter.
- (2) *Retirement system or systems.* The City of Ann Arbor Employees Retirement System.
- (3) *Member.* Any person who is included in the membership of the retirement system.
- (4) *Covered member.* Any member who is covered under the federal social security old age survivors' and disability insurance program on account of City employment.
- (5) *Non covered member.* Any member who is not covered under the federal social security old age survivors' and disability insurance program on account of City employment.
- (6) *Police officer or firefighter member or police officer and firefighter.* In the case of a police officer, any employee of the police services unit of the City holding the rank of patrol officer, including probationary patrol officer, or higher rank; and, in the case of a firefighter, any employee of the fire services unit of the City holding the rank of firefighter, including probationary firefighter, or higher rank. The terms "police officer or firefighter member" and "police officer and firefighter" shall not include:
 - (a) Any person temporarily employed by the City as a police officer or firefighter, or
 - (b) Any civilian employee of either the police or fire services units.
- (7) *General City member.* Any member except a police officer or firefighter member.

(8) *Retirant*. Any member who retired with a pension or retirement allowance payable by the retirement system.

(9) *Beneficiary*. Any person, except a retirant, who is in receipt of or has entitlement to a pension, retirement allowance, or other benefit payable by the retirement system.

(10) *Service*. Personal service rendered to the City by an officer or employee of the City.

(11) *Credited service*. The sum of a member's prior service and membership service to the extent credited the member by the Board of Trustees.

(12) *Break in service*. A period during which the member is not contributing to the retirement system, except that a period of payment under workers' compensation shall not constitute a break in service nor shall a period of temporary employment preceding permanent status for which the employee elects to purchase service credit, in accordance with section 1:561. For an employee who does not return from a leave of absence, the break starts with the last day of pay status, except that for purpose of calculating the special window allowance in accordance with section 1:563 any period of approved unpaid leave granted an employee by the City shall not be considered a break in service. Member contributions shall be due and payable for any period of approved unpaid leave used in calculating an employee's special window allowance.

(13) *Regular interest*. Such rate or rates of interest per annum, compounded annually, as the Board shall from time to time adopt.

(14) *Accumulated contribution*. The sum of all amounts deducted from the compensation of a member and credited to the member's individual account to the annuity savings fund, together with applicable regular interest thereon.

(15) *Compensation*. The remuneration, exclusive of fees, paid a member by the City for personal services rendered to the City. In case a member's remuneration is not all paid in money, the City Administrator shall fix the value of that part of the remuneration which is not paid in money. Compensation includes amounts deferred under a deferred compensation plan and any amount deferred in accordance with the City's Section 125 flexible benefits plan and/or a voluntary employees beneficiary association (VEBA). For purposes of the special window allowance in accordance with section 1:563, compensation shall not include any retroactive payment for personal services rendered to the City.

(16) *Final average compensation*.

(a) The average of the highest annual compensation received by a member during 3 successive years of service (excluding any breaks in service) within the last 10 years of the member's employment with the City;

(b) If a member has fewer than 3 years of service, the final average compensation shall be the average of the annual rates of compensation for the

total years of service. If less than 12 months of service was credited in a year, the compensation utilized for the year shall be annualized by dividing the compensation earned by the service credited;

(c) Final average compensation may include compensation paid to a retirant for personal services rendered as a member prior to retirement in accordance with Section 1:564(5);

(d) Notwithstanding the provisions of 16(a)--(c), final average compensation for purposes of the special window allowance shall be calculated in accordance with Section 1:563.

(17) *Annuity*. An annual amount derived from the accumulated contributions of a member, payable in equal monthly installments throughout the future life of a person.

(18) *Pension*. An annual amount, derived from money provided by the City, payable in equal monthly installments throughout the future life of a person or for a temporary period as provided in this chapter.

(19) *Retirement allowance*. The sum of the annuity and the pension.

(20) *Annuity reserve*. The present value of all payments to be made on account of any annuity. The annuity reserve shall be computed upon the basis of such mortality table and regular interest as the Board shall from time to time adopt.

(21) *Pension reserve*. The present value of all payments to be made on account of any pension. The pension reserve shall be computed upon the basis of such mortality and other tables of experience, and regular interest, as the Board shall from time to time adopt.

(22) *Pension contingency reserve*. A reserve in addition to the actuarially determined annuity and pension reserves for retirants and beneficiaries and is to be determined by the Board at an amount not to exceed 20% of the annuity and pension reserves for retirants and beneficiaries.

(23) *Early retirement age*:

(a) Except as provided in (c), age 55 years for general City members;

(b) Age 50 years for police officers and firefighter members;

(c) Age 50 years for nonunion employees, or for union employees with collective bargaining agreements specifying age 50 as the early retirement age.

(24) *Voluntary retirement age*:

(a) Age 60 years for general City members who entered or enter the employ of the City after December 31, 1953;

(b) Age 55 years for police officers and firefighter members; or effective July 1, 2001, the age at which 25 years of credited service is acquired, whichever occurs first, for police officer and firefighter members;

(c) Effective July 1, 2001, age 50 years or at such older age at which 25 years of credited service is acquired for nonunion employees or union employees for whom the benefits of this subsection are specified in a collective bargaining agreement.

(d) Any combination of age and years of credited service which equals 75, for general City members who elect to retire under the provisions of section 1:563;

(25) *Social security salary.* A member's annual salary, or the portion thereof, which is subject to federal social security taxes.

(26) *Services area administrator.* As used in Sections 1:563 and 1:568, if an employee is employed in a unit or office that is not within a services area headed by a services area administrator, the term services area administrator means instead the city administrator, city attorney, administrator of the fifteenth district court, executive director of the housing commission, executive director of the retirement system or executive director of the downtown development authority, as appropriate, who has responsibility for oversight of the office, unit or agency where the employee is employed.

(27) Spouse. As used in Section 1:569, the term "spouse" means the person to whom the deceased member or retirant was married at the termination of employment with the City.

Section 2. That Section 1:569 of Chapter 18 of Title I of the Code of the City of Ann Arbor be amended to read as follows:

1:569. Duty death benefits.

Effective January 1, 2006, in the event (1) a member dies as the result of a personal injury or disease arising out of and in the course of employment by the City, or (2) a disability retirant dies prior to attaining voluntary retirement age and within a period of 3 years immediately following his disability retirement as the result of the same injury or disease for which the member retired, and in either case the member's death, injury or disease resulting in death be found by the Board to be a work-related death, injury or disease resulting in death in accordance with Sections 301 and 415 of the Worker's Disability Compensation Act of 1969, as amended (MCL 418.301 or 418.415) or successor provisions of law, ~~have~~ having occurred as the natural and proximate result of causes arising out of and in the course of actual performance of duty in the service of the City, the applicable benefits provided in paragraphs (1), (2), (3) and (4) through (7) of this section, shall be paid, subject to the condition that ~~worker's compensation is paid on account of the death of the said member or retirant is a compensable death under the Worker's Disability Compensation Act.~~

(1) Amounts paid under the Worker's Disability Compensation Act to a surviving spouse or the child or children of a deceased member or retirant shall be offset against and payable in place of benefits provided under paragraphs (3) and (4) of this section. If the

benefits under the Worker's Disability Compensation Act are less than the benefits payable, under paragraphs (3) and (4) of this section, the amount to be paid out of the funds of the retirement system shall be the difference between the benefits provided under the Worker's Disability Compensation Act and the benefits provided under paragraph (3) and (4) of this section.

(42) In the case of a deceased member, the member's accumulated contributions standing to his/her credit in the annuity savings fund at the time of the member's death shall be paid in accordance with section 1:571.

(3) The surviving spouse or, to the extent allowed by law, qualified domestic partner in accordance with the City of Ann Arbor Domestic Partnership Ordinance shall receive shall receive a pension computed in the same manner as if the member had (a) retired effective the day preceding the date of the member's or retirant's death, (b) been credited with a minimum of 25 years of service credit if the member or retirant had less than 25 years of service at the time of death, (c) elected Option II provided for in Section 1:566(1), and (d) nominated the spouse or domestic partner as a survivor beneficiary.

(4) In the event there is no surviving spouse or, to the extent allowed by law, domestic partner, the child or children of the deceased retired member or retirant shall receive a pension as if the member had (a) retired the day preceding the date of the member's or retirant's death, (b) been credited with a minimum of 25 years of service credit if the member or retirant had less than 25 years of service at the time of death, and (c) elected a reduced straight life retirement allowance with monthly payments guaranteed for the period from the date of death until the youngest child would attain the age of 18. Each child shall receive an equal share of the guaranteed payments until each child attains the age of 18, at which time the total guaranteed payments shall be reapportioned in equal shares to the remaining children under the age of 18.

(2-5) In the event worker's compensation benefits are paid, uUpon termination of the statutory period for payment of worker's compensation to the surviving spouse of the said deceased member or retirant, the said surviving spouse shall receive a surviving spouse's pension equal to the greater of (a) the surviving spouse's weekly worker's compensation converted to an annual basis or (b) the surviving spouse benefit payable in accordance with paragraph (3) of this section. Said pension to continue until death.

(36) In the event worker's compensation benefits are paid, uUpon termination of the statutory period for payment of worker's compensation to the child or children of the said deceased member or retirant, the said children shall each receive a child's pension equal to the greater of (a) the child's weekly worker's compensation converted to an annual basis; said child's pension to terminate upon his/her attainment of age 18 years, or death or marriage prior thereto or (b) the survivor beneficiary benefits payable in accordance with paragraph 4 of this section. Should the surviving spouse's pension be terminated as provided in paragraph (25) of this section, and should an unmarried child or children under age 18 years survive the said surviving spouse, each such child's pension shall be increased by a proportionate share of said surviving spouse's pension.

(47) Upon termination of the statutory period for payment of worker's compensation to the parent or parents of said deceased member or retirant, the said parent or parents shall each receive a parent's pension equal to the parent's weekly worker's compensation converted to an annual basis; said parent's pension to terminate upon the parent's death.

(5) As used in this section, the term "spouse" means the person to whom the said deceased member or retirant was married at the termination of employment with the City.

Section 3. If this ordinance amendment or any portion thereof is held to be invalid by any court of competent jurisdiction, said decision shall not effect the validity of the remaining provisions.

Section 4. This ordinance shall take effect ten days following passage and publication.