



Mayor of Providence

Angel Taveras

March 4, 2013

Providence City Council
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Re: Veto of Amended Ordinance Section 17-189(6)

Honorable Members of the City Council:

On February 21, 2013, the Council passed an amendment to Section 17-189(6) of the Providence Code of Ordinances, thereby permitting the Retirement Office to process the application for accidental disability retirement of Steven R. DeConte, despite the fact that this application was filed more than eighteen (18) months after the date of his injury.

Mr. DeConte is a former employee with the Providence Water Supply Board ("PWSB") with 23 years and 8 months of service credit. On September 3, 2009, Mr. DeConte was injured while working at the PWSB's Scituate facility when he attempted to lift a 200-pound rack alone and without his personal Protective Equipment supplied by the PWSB. Mr. DeConte received Workers' Compensation benefits for said injury.

During Mr. DeConte's employment at the PWSB, he was injured on seven (7) instances. Additionally, Mr. DeConte was disciplined on twenty-four (24) separate occasions during his tenure, including for the September 3, 2009 injury, when he failed to adhere to the Department's basic safety rules.

On June 4, 2012, Mr. DeConte entered into a Settlement Agreement with the City, whereby in exchange for a lump sum of money (\$125,000.00) he promised to resign his employment effective June 25, 2012. The Settlement Agreement released the City from and against any and all claims and liability arising out of the incident on September 3, 2009.

Section 17-189(6) of the Providence Code of Ordinances sets forth a mechanism through which an injured employee may apply for accidental disability retirement. The requirements of this Ordinance must be strictly obeyed and may not be waived absent exceptional circumstances.

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There are limited occasions when waiver of the eighteen (18) month requirement may be appropriate. For instance, an injured employee may attempt to return to full duty and it is later determined that the employee is unable to perform the functions of his/her job. Although the Retirement Office generally may not consider an application after the eighteen month period has elapsed, in that situation, fairness suggests that a waiver may be justified.

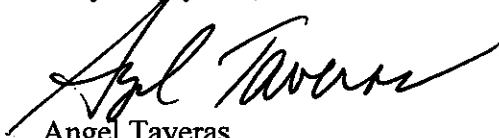
There are also situations in which it is to the City's financial benefit to waive the eighteen month requirement. For example, there have been injured employees who receive Injured-On-Duty ("IOD") benefits while out of work. IOD benefits include 100% of the injured employee's salary, tax free, as well as accrual of contractual benefits such as sick and vacation time, longevity, and retirement credits. The IOD statute mandates that the City maintain all contractual benefits and continue to compensate these individuals as long as they are disabled and employed by the City. Additionally, the City must fill the injured employee's position, which usually requires staffing the position with an employee on overtime due to minimum manning requirements under the police and fire Collective Bargaining Agreements. Due to the high cost associated with IOD benefits, most IOD employees who file for accidental disability retirement more than eighteen (18) months after the date of injury should be granted a waiver.

Unlike the limited exceptional situations explained above, the facts and circumstances surrounding Mr. DeConte's application for accidental disability retirement do not justify waiver of the eighteen (18) month requirement.

For these reasons, the Law Department advised the Council prior to the vote that the amendment to Section 17-189(6) should be denied.

Accordingly, I veto the attached ordinance.

Very truly yours,



Angel Taveras
Mayor

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2013-8

No. 134

AN ORDINANCE RELATING TO ARTICLE IV, CHAPTER 17, SECTION 17-189(5) OF THE CODE OF ORDINANCES

EFFECTIVE ~~XXXXXX~~ April 1, 2013

Be it ordained by the City of Providence:

SECTION 1. Notwithstanding the language of Section 17-189(5) of the Code of Ordinances which provides that the application to accomplish such [accidental disability] retirement must be filed within eighteen (18) months of the date of the accident," the Retirement Board of the City of Providence, may consider and act upon the accidental disability retirement application of Steven DeConte, even though more than eighteen (18) months have passed since the date of the accident which is the averred proximate cause of the above-named applicant for a disability retirement allowance.

SECTION 2. Said application shall be subject to and considered in accordance with all other applicable ordinances, regulations, standards and practices relating to accidental disability retirement applications.

SECTION 3. This Ordinance shall take effect upon its passage.

IN CITY COUNCIL

FEB 13 2013

FIRST READING

READ AND PASSED

A. M. Stitt CLERK

IN CITY
COUNCIL

FEB 21 2013

FINAL READING

READ AND PASSED

[Signature] PRESIDENT
[Signature] CLERK
ACTING

IN CITY COUNCIL

MAR 21 2013

READ AND MAYOR'S VETO

NOT SUSTAINED

A. M. Stitt CLERK

VETO

I HEREBY DISAPPROVE
AND VETO.

[Signature]
Mayor

Date: 3/4/13