

Councilman Nelson, Councilman Taggart, Councilman Blawie, Mayor & Justice

7/13/93

Chairman
Clerk

Michael R. Clement

THE COMMITTEE ON

Approves Passage of
The Within Resolution

Michael R. Clement

IN CITY COUNCIL

JUL 19 1993

READ AND PASSED

James H. Russell
PRES.
Michael R. Clement
CLERK

APPROVED
JUL 29 1993
Vicentiana
MAYOR

order did adjudge and decree that Rhode Island Public Laws of 1923, Chapter 489 (Providence Employee Retirement Act) be amended so as to provide the COLA benefits as voted at the aforesaid meeting of the Employee Retirement Board; and

WHEREAS, Section 908 of the Providence Home Rule Charter of 1980 granted the Employee Retirement Board certain powers and duties to establish rules and regulations for, and be responsible for the administration and operation of the Employee Retirement System; however, said Section 908 did not provide that said Employee Retirement Board had the authority to legislate retirement benefits; and

WHEREAS, said Employee Retirement Board by majority vote established a new class of benefits (among other provisions) by adding COLA benefits to Class A retirees not previously granted COLA benefits as provided in the Employee Retirement Act and/or the Providence Home Rule Charter of 1980; and

WHEREAS, the majority vote of the Employee Retirement Board as set forth above was approved and incorporated in a consent decree by the Superior Court on December 18, 1991 which purported to amend the Rhode Island Public Laws of 1923, Chapter 489 so as to provide COLA benefits among other benefits to Class A and Class B employees; and

WHEREAS, the Rhode Island Supreme Court on April 8, 1992, as by the record appears in Betz v. Paolino, 605 A.2d 837 declared that the Providence Retirement Board did not have the power to amend the Retirement Act to include additional benefits because this amounted to legislative action beyond the power and jurisdiction of the Employee Retirement Board; and

WHEREAS, it is the considered judgment of this City Council that by virtue of the pronouncements of the Rhode Island Supreme Court in Betz v. Paolino that the consent judgment entered by the Superior Court is null and void and beyond the jurisdiction of that Court and that the City is entitled to relief from any enforcement of that decree;

NOW THEREFORE BE IT RESOLVED:

That this City Council does hereby request the City Solicitor to apply for injunctive and any other appropriate relief to prevent any further enforcement of the COLA and other benefit provisions of said consent decree.

RESOLUTION OF THE CITY COUNCIL

No. 493

Approved July 29, 1993

WHEREAS, the Retirement Board of the City of Providence at a meeting on December 6, 1989 voted to the effect that:

- a) The city would be liable for any deficiency in any member's individual retirement allowance resulting from the city's failure to deduct eight percent (8%) of the member's compensation;
- b) all Class A employees and all beneficiaries of Class A employees who retired or died prior to January 1, 1990 would on February 1, 1990, receive a cost of living retirement adjustment in the amount equal to three percent (3%) of the retirement allowance, and would receive an additional three percent (3%) in each succeeding year;
- c) all Class A employees and all beneficiaries of Class A employees who retire or die on or after January 1, 1990 would on the first day of January next following the first anniversary date of such retirement, receive a cost of living retirement adjustment in the amount equal to three percent (3%) of the retirement allowance, and would receive an additional three percent (3%) in each succeeding year thereafter;
- d) the minimum age for service retirement for Class A employees would be age 55 or the age at which 20 years is complete;
- e) all retired Class B employees and all beneficiaries of Class B employees who have retired or have died, would on the first day of January of the year following the date of retirement or decease, receive a cost of living retirement adjustment in the amount equal to six percent (6%) of the retirement allowance, and would receive an additional six percent (6%) in each succeeding year thereafter;
- f) all retired Class B employees and all beneficiaries of Class B employees who have retired or have died, would have a minimum pension of \$1,000 per month;
- g) 42 police and fire department employees would receive longevity increases in their pensions; and

WHEREAS, subsequent to said vote of the Employee Retirement Board a consent decree in the matter of City of Providence, et al v. The Employee Retirement Board of Providence, et al was entered by the Superior Court on December 18, 1991 which purported to provide for, among other things, a cost-of-living-adjustment (COLA) and by said court's