

# City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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## CHAPTER 1995-17

No. 448

### AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CODE OF ORDINANCES ARTICLE VI ENTITLED "RETIREMENT SYSTEM"

*Approved* August 1, 1995

*Be it ordained by the City of Providence:*

#### SECTION 1. Findings and Declarations.

##### A. Findings

The City Council finds the following:

1. There has been little or no growth in the property tax base in the City in the last several years.
2. There remain no significant parcels of real estate to be developed to expand the property tax base.
3. The property tax base is being eroded by real estate acquisitions by non-profit hospitals and institutions of higher learning which are tax exempt by virtue of state law.
4. The current property tax base is insufficient to support the essential governmental functions, particularly public schools and public safety, without a significant tax increase.
5. Said tax increase will be burdensome and oppressive on the residents and taxpayers of the city and will further erode the economic viability of the city.
6. Personnel costs for city employees and retirees are the most significant costs in the city budget.
7. The personnel costs for present employees and retirees cannot be maintained without a significant tax increase.
8. Therefore, it is necessary to promote measures and impose solutions that will result in a significant reduction in personnel costs by modifying retirement benefits.
9. The present amount of the cost-of-living adjustment-(COLA) benefits for Class B employees is five (5%) per cent compounded.

No.

**CHAPTER**

**AN ORDINANCE** Amending Certain  
Sections of the Code of  
Ordinances Article VI  
Entitled "Retirement System"

10. A five (5%) per cent COLA does not conform to the true purpose, intent and meaning of a "cost-of-living adjustment" wherein the consumer price index shows costs rising by approximately three (3%) per cent a year over the long run.

11. Neither the State of Rhode Island nor any other local government in the State offer a five (5%) per cent COLA. A five (5%) COLA is also rare in the private employment sector.

12. In the ensuing fiscal year the City's pension contribution will be twelve million (\$12,000,000) higher than it was in 1990. In the period between 1984 and 1990, the value of the pension fund was growing by an average 15.6% per year reflecting spectacular investment returns whereas the rate of growth since 1990 has only been on the average of 9.6%.

13. The decline in growth in the pension fund value since 1990 has been largely due to the institution of the 5% COLA.

14. It is true that the contribution rate of Class B employees rose from 8% to 9.5% of their salary; however, the City's contribution rose from 24% in 1989 to a projected 46% in the coming year placing the burden for the difference almost entirely on the taxpayer. The City's contribution is the greater by a ratio of 5 to 1.

15. The provision of a 5% COLA as a supplemental benefit can no longer be afforded or justified. The present fiscal condition of the City impels the return to a 3% simple interest COLA.

#### B. Declaration of Policy

1. The City Council hereby declares that the public safety, health and welfare of the residents of Providence would be adversely affected by a tax increase due to the present economic conditions in the City and in the State of Rhode Island.

2. The City Council further declares that it is necessary to protect the fiscal integrity of the City and that it is a valid public purpose for the City of Providence to take appropriate action to avoid a tax increase.

3. The City Council declares that it is necessary to immediately take all steps necessary to reduce personnel costs for its employees and retirees in order to reduce expenses and thus prevent a significant tax increase.

4. The City Council declares that the passage of this Ordinance which shall reduce personnel costs by modifying retirement benefits is a valid public purpose.

SECTION 2. The definition of "final compensation" in Section 17-181 of Article VI entitled "Definitions" is hereby amended to read as follows:

"Final Compensation" shall mean the average of the highest three (3) years of compensation within the total service when the average compensation was the highest, excluding longevity payments and payments made for overtime or payments made for temporary or extra duties beyond the normal or regular work day.

SECTION 3. Section 17-189(1)(c) of Article VI entitled "Service retirement" is hereby amended to read as follows:

(c) Any member may retire upon his written application to the retirement board setting forth at what time, not less than thirty (30) nor more than ninety (90) days subsequent to the execution and filing thereof, he desires to be retired provided that the said member at the time so specified for his retirement shall have attained the minimum requirement age for his class and notwithstanding that, during such period of notification, he may have separated from service. The minimum ages for service retirement for employees who became members on or before June 30, 1995 shall be as follows:

- Class A employees: Fifty-five (55) or the age at which twenty -five years of service is completed if prior thereto.
- Class B employees: Fifty-five (55) or at the age at which twenty (20) years of service is completed if prior thereto.

The minimum age for service retirement for employees who become members on or after July 1, 1995 shall be as follows:

- Class A employees: Fifty-five (55) or the age at which thirty (30) years of service is completed if prior thereto.
- Class B employees: Fifty five (55) or the age at which twenty (20) years of service is completed if prior thereto.

SECTION 4. Section 17-189(5) of Article VI entitled "Benefits Payable" is hereby amended to read as follows:

(5) Accidental disability retirement: Medical examination of a member for accidental disability and investigation of all statements and certifications by him or in his behalf in connection therewith shall be made upon the application of the head of the department in which said member is employed, or upon the

application of the member, or of a person acting in his behalf, stating that such member is physically or mentally incapacitated for the performance of the duties the member was performing at the time of the accident, as a natural and proximate result of an accident while in the performance of duty, and certifying the definite time, place and conditions of such duty performed by said member resulting in such alleged disability and that such alleged disability is not the result of willful negligence or misconduct on the part of said member and is not the result of age or length of service and that said member should, therefore, be retired. If a medical examination conducted by three (3) physicians engaged by the retirement board and such investigation as the retirement board may desire to make shall show that said member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident, while in the performance of duty, and that such disability is not the result of willful negligence or misconduct on the part of said member and is not the result of age or length of service, and that such member should be retired, and in the event a majority of the physicians who conducted the examination shall so certify to the retirement board stating the time, place and condition of such service performed by said member resulting in such disability, the retirement board shall retire the said member for accidental disability. The application to accomplish such retirement must be filed within eighteen (18) months of the date of the accident.

SECTION 5. Section 17-189(8) of Article VI entitled "Accidental death benefit" is hereby amended to read as follows:

(8) *Accidental death benefit:* Upon the accidental death of a member before retirement, provided that evidence shall be submitted to the retirement board providing that the death of such member was the natural and proximate result of an accident while in the performance of duty at some definite time and place and that such death was not the result of willful negligence on his part, his accumulated contributions shall be paid to his estate, or to such person having an insurable interest in his life as he shall

have nominated by written designation, duly executed and filed with the retirement board, and upon application by or on behalf of the dependents of such deceased member the retirement board shall grant a pension of one-half the final compensation of such member:

- (a) To his widow, to continue during her widowhood; or
- (b) If there be no widow, or if the widow dies or remarries before any child of such deceased member shall have attained the age of nineteen (19) years, then to his child or children under said age, divided in such manner as the retirement board in its discretion shall determine, to continue as a joint and survivor pension of one-half of his final compensation until every such child dies or attains said age; or
- (c) If there be no widow or child under the age of nineteen (19) years surviving such deceased member, then to his dependent father or mother, as the deceased member shall have nominated by written designation, duly acknowledged and filed with the retirement board; or if there be no such nomination, then to his dependent father or to his dependent mother, as the retirement board in its discretion shall direct, to continue for life.

SECTION 6. Section 17-189(16) of Article VI entitled "Reserved" is hereby amended to read as follows:

(16) Accrual Provision. In no event shall benefits payable under Section 17-189 of the Code of Ordinances be less than that which accrued as of September 2, 1995 based upon the benefit provisions in effect at that time.

SECTION 7. Section 17-189(17)(a)(b) of Article VI entitled "Additional benefits effective as of July 1, 1989, police department" and Section 17-189(18)(a)(b) entitled "Additional benefits effective July 1, 1990, fire department" are hereby repealed.

SECTION 8. Section 17-185(1) of Article VI entitled "Annuity savings fund" is hereby amended to read as follows:

(1) *Annuity savings fund*. The annuity savings fund shall be a fund in which shall be accumulated contributions from the

compensation of members to provide for their annuities and their withdrawal allowances. Upon the basis of such tables as the retirement board shall adopt and regular interest, the actuary of the retirement system shall determine for each class A member of the proportion of the compensation which, when deducted from each payment of his prospective earnable annual compensation prior to his eligibility for service retirement and accumulated at regular interest until his attainment of the minimum age of service retirement for his group, shall be computed to provide at that time an annuity equal to the pension provided on account of his service as a member. Such proportion of compensation shall be computed to remain constant. In the event that the provisions of this article for the determination of the amount of the pension of a class A employee on account of his service as a member shall at any time, be amended, the retirement board shall adopt, as of the effective date of such amendment, rates of contribution for class A employees computed on the basis of such amendment and such contribution rates shall apply to all members who become class A employees after said effective date at the age attained upon entrance into such class. No increase in percentage contribution rates shall be required of members who are so classified on said effective date, but any such member may elect prior to said date to contribute at the rate as so amended applicable to his age attained on said date and thereafter deductions shall be made from his compensation at such amended rate. The retirement board shall adopt as of April, 1951, for employees in class B a percentage contribution rate of five (5) percentum, and therefore deductions shall be made from the compensation of all members so classified at this rate. The retirement board shall adopt as of October 1, 1968, for employees in class B, a percentage contribution rate of eight (8) percentum, and thereafter deductions shall be made from the compensation of all members so classified at this rate. The retirement board shall adopt as of July 1, 1989, for employees in class B who are members of the Police Department and as of July 1, 1990, for employees in class B who are members of the Fire Department, a

percentage contribution rate of nine and one-half (9½) percentum, and thereafter deductions shall be made from the compensation of all members so classified at this rate, anything to the contrary in this article notwithstanding. The proportion so computed for a member one (1) year younger than the minimum age for service retirement from his group shall be applied to any member who has attained a greater age before entrance into the retirement system. The retirement board shall adopt as of July 1, 1974, for employees in class A, a percentage contribution rate of eight (8) percentum, and thereafter deductions shall be made from the compensation of all members so classified at this rate, anything to the contrary in this article notwithstanding. The proportion so computed for a member one (1) year younger than the minimum retirement age for service retirement from his group shall be applied to any member who has attained a greater age before entrance into the retirement system.

Notwithstanding the provisions of the foregoing paragraph of this subsection (1) of this section, the contribution rates applicable on September 30, 1968, shall continue in force for all class A employees who were then members of the retirement system. They shall also apply to members enrolling on or after October 1, 1968, except that the retirement board may, from time to time, adopt for employees becoming members thereafter, new proportions of compensation to be determined as provided in the preceding paragraph.

The retirement board shall certify to the city controller the proportion of earnable compensation of each member so computed, and he shall deduct such proportion from the compensation of each member on each and every payroll of each department for each and every payroll period; but the city controller shall not make any deductions for annuity purposes from the annual compensation of a member who elects not to contribute if he has attained the minimum retirement age in the case of a class A employee or if he has completed twenty-five (25) years of creditable service in the case of a class B employee. In determining the amount earnable by a member in a payroll

period, the retirement board may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deductions from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period; and to facilitate the making of deductions it may modify the deduction required by any member by such an amount as shall not exceed one-tenth of one percentum of the annual compensation upon the basis of which said deduction is to be made. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation; and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided under this article. Said amounts shall be deducted and when deducted shall be paid into said annuity savings fund, and shall be credited, together with regular interest, to an individual account of the member from whose compensation said deduction was made.

In addition to the contribution deducted from compensation hereinbefore provided, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he withdrew previously therefrom as provided in this article, or any member may deposit therein by a single payment or by an increased rate of contribution an amount to be used to provide an additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of retirement, when they shall be treated as excess contributions returnable to the member in the same manner and from as his normal accumulated contributions. The accumulated contributions of a member, withdrawn by him or paid to his

estate or to his designated beneficiary in the event of his death as provided in this article, shall be paid from the annuity savings fund. Upon retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund. Subject to such rules and regulations as the retirement board may provide, any member who has at least three (3) years of total service may borrow from his account in the annuity savings fund for the following purposes:

- a. Medical expenses.
- b. Dental expenses.
- c. Hospital expenses.
- d. Funeral expenses.
- e. Down payment on the purchase of real estate to be used in whole or in part as the member's home.
- f. Such other purposes as the retirement board may approve. The aggregate amount of loans outstanding to any member shall never exceed the lesser of the following amounts:
  1. Fifty (50) percentum of the amount of the members accumulated contributions.
  2. An amount, together with interest thereon, which can be repaid prior to the member's attainment of the age of seventy (70) years by additional deductions from his compensation.

The rate of interest payable on the unpaid balance of such loans shall be fixed at the date of commencement of the loan at the rate established for this purpose from time to time by the retirement board. The principle amount, together with interest thereon, shall be repaid to the retirement system in equal installments in such amounts as the board shall approve, and shall be deducted from the compensation of the member at the same time and in the same manner as the member's contributions to the retirement system are deducted. Such installments shall be at least equal to five (5) percentum of the member's compensation.

All payments of principal and regular interest made by a borrowing member shall be credited to his account in the annuity savings fund. The excess of the interest paid by him over the

regular interest creditable to the account of the member shall be credited to the pension accumulation fund. The amount of any benefit which becomes payable under the provisions of this article shall be determined on the basis of the member's accumulated contributions less the outstanding balance of such loan, and the pension shall be determined as if such loan had not been made. Should a beneficiary be restored to active service, his annuity reserve shall be transferred from the accumulation fund to his credit in the annuity savings fund.

SECTION 9. Section 17-197 of Article VI entitled "Cost of living adjustment" is hereby amended to read as follows:

Any retired class B employee and any beneficiary of such employee who receives any service or any ordinary disability retirement allowance or any accidental disability retirement allowance pursuant to the provisions of this article shall, on the first day of January next following the third anniversary date of his/her retirement, receive a cost-of-living retirement adjustment, in addition to the retirement allowance, in an amount equal to three (3) per cent of the retirement allowance, not compounded. In each succeeding year thereafter, on the first day of January, the original retirement allowance shall be increased by three (3) per cent, not compounded, to be continued during the lifetime of said retired employee or beneficiary. For the purpose of said computation, credit shall be given for a full calendar year, regardless of the effective date of such service retirement allowance. All cost-of-living retirement adjustments granted to retirees under this section shall be considered voluntary gratuities. The payment of such voluntary gratuities may be reduced or suspended by Ordinance at any time upon a finding by the City Council that due to the existence of a depressed economy affecting the fiscal condition of the City it becomes expedient to reduce expenses in order to avoid or minimize a tax increase.

SECTION 10. Severability. If any provision of this ordinance, or the application thereof, to any person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of

this ordinance and the application of such provisions to other persons or circumstances, other than those to which it is held invalid, shall not be affected thereby.

SECTION 11. This Act shall take effect on September 2, 1995.

IN CITY COUNCIL  
JULY 28, 1995  
FIRST READING  
READ AND PASSED

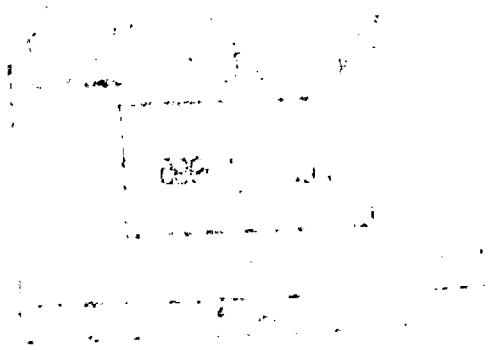
*Michael R. Clement* CLERK

IN CITY COUNCIL  
JULY 31, 1995  
FINAL READING  
READ AND PASSED

*Evelyn V. Fargnoli*  
ACTING SILENT  
*Michael R. Clement* CLERK

**APPROVED**  
AUG - 1 1995  
*Vincente L. Lancia*  
MAYOR

ENCLOSURE



THE COMMITTEE ON

Recommends: Re-extended

Clayton Brooks Stewart  
Clerk

Nov 10, 1995  
May 15, 1995  
May 30, 1995

THE COMMITTEE ON

<sup>FINANCE</sup>  
Approves Passage of  
The Within Ordinance

Clayton Brooks Stewart  
Chairman  
June 21, 1995

THE COMMITTEE ON

<sup>FINANCE</sup>  
Approves Passage of  
The Within Ordinance, as amended

Clayton Brooks Stewart  
Chairman  
July 24, 1995

Council Resolution Retitled by Request