

# City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## CHAPTER 2012-9

**No. 81**

**AN ORDINANCE** IN AMENDMENT OF THE CODE OF ORDINANCES, SECTION 17-185 ENTITLED "METHOD OF FINANCING" AND SECTION 17-189 ENTITLED "BENEFITS PAYABLE"

*Approved February 8, 2012*

***Be it ordained by the City of Providence:***

SECTION 1. Section 17-185 of the Code of Ordinances is hereby amended as follows:

**Section 17-185. Method of financing.**

The funds hereby created are the annuity savings fund, the annuity reserve fund, the pension accumulation fund and the pension reserve fund.

- (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 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 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 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 city controller shall certify 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 completed twenty-five (25) years of creditable service. 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.

Notwithstanding anything to the contrary, pursuant to the provisions of section four hundred and fourteen (h)(2) of the United States Internal Revenue Code, the City of Providence shall assume and pay the contributions which would be payable by the employees as members. Such contributions, although designated as employee contributions, shall be paid by the City of Providence in lieu of contributions by the employee. No employee shall have the option of choosing to receive such contributed amounts directly instead of having them paid by the City of Providence. The contributions so assumed shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The contributions so assumed shall be treated and identified, without limitation, as member contributions for all purposes of the retirement system.

Employee contributions assumed pursuant to this subsection shall be paid from the same source of funds used for the payment of compensation to an employee. A deduction shall be made from the employees' compensation equal to the amounts of the employees' contributions assumed by the City of Providence. These deductions, however, shall not reduce the employees' compensation for purposes of computing benefits under the retirement system pursuant to this ordinance or for purposes of determining any other member benefits.

Assumed contributions shall be transferred to the retirement system and be credited to a separate subaccount within the employees' account in order that the amounts contributed prior to the effective date of the assumption of employee contributions shall be distinguished from the amounts contributed on or after the date on which the City of Providence assumes the employees' contributions.

In addition to the contributions 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 form 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:

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 by the pension system's actuarial's rate of return on the investment portfolio, plus one (1) percent. 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.

- 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, or to be used for home improvements of member's home (primary residence).
- f. Educational expenses limited to member, member's spouse, member's domestic partner, member's children and/or dependent(s).
- g. 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 must be repaid within ten (10) years by additional deductions from his compensation.
  3. No loan shall be issued for less than one thousand dollars (\$1,000.00).
- h. Prior to approval the member shall sign a sworn affidavit which specifically states the purpose for the loan.

(2) *Annuity reserve fund.* The annuity reserve fund shall be the fund from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this article. Should a beneficiary retired on account of disability be restored to active service, his annuity shall cease and his annuity reserve shall be transferred to his credit in the annuity savings fund.

(3) *Pension accumulation fund.* The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by the City of Providence and from which such

pensions and other benefits shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

a. On account of each member there shall be paid annually into the pension accumulation fund by the City of Providence for the preceding fiscal period, a certain percentage of the earnable compensation of each member to be known as the "normal contribution," and an additional percentage of his earnable compensation to be known as the "deficiency contribution." The rates percentum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuations. Until the first valuation, the normal contribution shall be two and sixty-seven one hundredths ( $267/100$ ) percentum and the deficiency contribution shall be two and forty-five one hundredths ( $245/100$ ) percentum of the salaries of all members.

b. On the basis of regular interest and of such mortality and other tables as shall be adopted by the retirement board, the actuary engaged by the city council to make each valuation required by this article during the period over which the deficiency contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant, which, if contributed on the basis of his compensation throughout his entire period of active service would be sufficient to provide at the time of his retirement the total amount of his pension reserve. The rate percentum so determined shall be known as the "normal contribution" rate. After the deficiency contribution has ceased to be payable, the normal contribution shall be the rate percentum of the earnable salary of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one (1) percentum of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the retirement board and regular interest. The normal rate of contribution shall be determined by the actuary after each mortality and service investigation and shall continue in force until a new investigation and certification.

c. Immediately succeeding the first valuation, the actuary engaged by the city council shall compute the rate percentum of the total compensation of all members during the preceding fiscal year which is equivalent to four (4) percentum of the amount of the total pension liability on account of all members and beneficiaries not dischargeable by the aforesaid normal contribution made on account of such members during the remainder of their active service. The rate percentum originally so determined shall be known as the "deficiency contribution rate." On the basis of the first actuarial valuation following the 1st day of April, 1965, the deficiency contribution rate shall be revised to provide for the liquidation of the deficiency then existing.

d. The total amount payable in each year to the pension accumulation fund shall not be less than the sum of the rates percentum known as the normal contribution rate and the deficiency contribution rate of the total compensation earnable by all members during the preceding fiscal period; provided, however, the sum of such rates percentum need not exceed the rate percentum of the earnable salary of all members obtained by deducting from seventy (70) percentum of the total liabilities of all funds except the annuity savings fund the amount of the funds in hand to the credit of such funds and dividing the remainder by one (1) percentum of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the retirement board and regular interest. The aggregate payment by the city into the pension accumulation fund shall be sufficient, when combined with the amount in the fund, to provide the pension payable out of the fund during the year then current.

e. The deficiency contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the city council, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the normal contributions to be received on account of persons who are at that time members.

f. All pensions with the exception of those payable on account of members who received no prior service allowance shall be paid from the pension accumulation fund.

g. Upon the retirement of a member not entitled to prior service allowance, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

(4) *Pension reserve fund.* The pension reserve fund shall be the fund from which shall be paid the pensions to members not entitled to a prior service allowance. Should any disability pension payable from said fund be canceled, the pension reserve thereon shall thereupon be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of a disability beneficiary be reduced as a result of an increase in his earning capacity, the amount of the annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

SECTION 2. Section 17-189 of the Code of Ordinances is hereby amended as follows:

**Section 17-189. Benefits payable.**

(1) Service retirement: Retirement of a member on a service retirement allowance shall be made by the retirement board as follows:

- (a) 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 age requirement 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 (25) 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.

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.

- (b) Notwithstanding anything herein to the contrary, the minimum age for service retirement for Class B employees with less than (5) years of total service on the effective date of enactment of this amendment shall be fifty-five (55) or at the age at which twenty three (23) years of service.

The minimum age for service retirement for Class A employees who become members on or after July 1, 2004 shall be sixty (60) years of age and have completed at least ten (10) years of total service or thirty (30) years of total service. For members that have attained age fifty-five (55) years of age and have completed at least ten (10) but not thirty (30) years of total service, the allowance

on service retirement shall be reduced five-twelfths ( $5/12$ ) percent per month for each month between retirement commencement and the age of sixty (60).

The minimum age for service retirement for Class A employees who become members on or after July 1, 2009 shall be sixty-two (62) years of age and has completed at least ten (10) years of total service or thirty (30) years of total service. For members that have attained age fifty-five (55) years of age and have completed at least ten (10) but not thirty (30) years of total service, the allowance on service retirement shall be reduced five-twelfths ( $5/12$ ) percent per month for each month between retirement commencement and the age of sixty (62).

This subsection (1)(b) shall not apply to members who vested with ten (10) years or more of contributing service.

- (c) Each Class B member who has attained the age of sixty (60) and each Class B member who attains the age of sixty (60), shall be retired forthwith, or on the first day of the calendar month next succeeding that in which the member shall have attained the age of sixty (60) years.

(2) Allowance on service retirement: Upon retirement for service a member shall receive a retirement allowance which shall consist of:

- (a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and
- (b) If the member is a Class A employee who first becomes a member prior to July 1, 1996, a pension which together with his normal annuity, exclusive of any excess annuity, shall be equal to one-fortieth ( $1/40$ ) of his final compensation multiplied by the first twenty (20) years of his total service credited and equal to one-fiftieth ( $1/50$ ) of his final compensation multiplied by the number of years of his total service credited in excess of twenty (20) years; and, in addition, an excess annuity which shall be the actuarial equivalent of his accumulated excess contributions at the time of his retirement. If the member is a Class A employee who first becomes a member on or after July 1, 1996, a pension which together with his normal annuity, exclusive of any excess annuity, shall be equal to one-fiftieth ( $1/50$ ) of his final compensation multiplied by the number of years of his total service credited; and, in addition, an excess annuity which shall be the actuarial equivalent of his accumulated excess contributions at the time of his retirement, provided, however, that no Class A employee shall receive a service retirement allowance, exclusive of any excess annuity, in excess of one hundred (100) percentum of his final compensation.
- (c) If the member is a Class B employee, a pension which together with his normal annuity, exclusive of any excess annuity, shall be equal to one-fortieth ( $1/40$ ) of his final compensation multiplied by the first twenty (20) years of his total service credited, and equal to one-fiftieth ( $1/50$ ) of his final compensation multiplied by the number of years of his total service credited in excess of twenty (20) years; and, in addition, an excess annuity which shall be the actuarial equivalent of his accumulated excess contributions at the time of his retirement, provided, however, that no Class B employee shall receive a service retirement allowance, exclusive of any excess annuity, in excess of seventy-five (75) percentum of his final compensation.

(3) Ordinary disability retirement: Medical examination of a member for ordinary disability shall be made upon application of the head of the department in which said member is employed, or upon the application of said member or of a person acting in his behalf, stating that said member is physically or mentally incapacitated for the performance of duty and that he ought to be retired, provided that the member has had ten (10) or more years of total service. A medical examination of the member shall be made by three (3) physicians engaged by the director of personnel for this purpose, and should such medical examination show that said member is physically or mentally incapacitated for the performance of duty and ought to be retired, the physicians shall so report and

certify to the retirement board and the retirement board shall retire the member for ordinary disability forthwith.

(4) Allowance upon ordinary disability retirement: Upon retirement for ordinary disability a member shall receive a retirement allowance which shall consist of:

- (a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and
- (b) If the member is a Class A employee, a pension which together with his normal annuity, exclusive of any excess annuity, shall be equal to nine-tenths (9/10) of one-fiftieth (1/50) of his final compensation multiplied by the number of years of the total service which would have been credited at minimum retirement age had he remained in service to such age; and in addition, an excess annuity which shall be the actuarial equivalent of his accumulated excess contributions at the time of his retirement; provided, however that no Class A employee shall receive an ordinary disability retirement allowance, exclusive of any excess annuity, in excess of forty-five (45) percentum of his final compensation.
- (c) If the member is a Class B employee, a pension which together with his normal annuity, exclusive of any excess annuity, shall be equal to nine-tenths (9/10) of one-fortieth (1/40) of his final compensation multiplied by the number of years of total service which would have been credited at minimum retirement age had he remained in service at such age; and, in addition, an excess annuity which shall be the actuarial equivalent of his accumulated excess contributions at the time of his retirement, provided, however, that no Class B employee shall receive an ordinary disability retirement allowance, exclusive of any excess annuity, in excess of forty-five (45) percentum of his final compensation.

(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 such 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 director of personnel and such investigation as the director of personnel 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 the physicians who conducted the examination shall so certify to the retirement board stating the time, place and conditions 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.

(6) Allowance on accidental disability retirement: Upon retirement for accidental disability a member shall receive a retirement allowance which shall consist of:

- (a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension, in addition to the annuity, of sixty-six and two-thirds ( $66\frac{2}{3}$ ) percentum of his final compensation, or a pension equal to the amount of retirement allowance provided in subsection (2) of this section, whichever is greater.

(c) Upon the death of a member within five (5) years after accidental disability retirement, provided that evidence shall be submitted to the retirement board proving 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, and upon application by or on behalf of the dependents of such deceased member the retirement board shall grant a pension of one-half ( $\frac{1}{2}$ ) the final compensation of such member:

1. To his/her widow/widower, to continue during his/her widowhood/widowhood; or
2. If there be no widow/widower, or if the widow/widower 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 ( $\frac{1}{2}$ ) of his final compensation until every such child dies or attains said age; or
3. If there be no widow/widower 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.

(7) Re-examination of members retired on account of disability: Once each year the director of personnel may, and upon application by a disability pensioner shall, require any said pensioner if under the minimum age for service retirement to undergo a medical examination, such examination to be made at the place of residence of the pensioner or other place mutually agreed upon, by a physician or physicians engaged by the director of personnel. Should any such pensioner refuse to submit to such examination, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for a year, all his rights in and to such pension may be revoked by the retirement board. If the examination indicates that the disability of the pensioner has been removed, his name shall be placed on such appropriate lists of candidates as are prepared for appointment to a position in his department for which he is stated to be qualified in a salary grade comparable to that from which he was last retired. Upon reinstatement to active service at the salary grade comparable to that from which he was last retired, he shall be reinstated as a member and participate in the benefits of the retirement system with credit for service rendered prior to disability retirement and for the period during which he received the disability retirement allowance, provided that he did not refuse to accept such reinstatement when it was first offered to him; in the event of such refusal, the pension shall be discontinued and any rights to further benefits under the retirement system shall be based solely on his service rendered prior to his disability retirement.

(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 ( $\frac{1}{2}$ ) the final compensation of such member:

- (a) To his/her widow/widower, to continue during his/her widowhood/widowhood; or

(b) If there be no widow/widower, or if the widow/widower 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 (½) of his final compensation until every such child dies or attains said age; or

(c) If there be no widow/widower 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.

(9) Deferred retirement benefit: Any employee who has ten (10) or more years of total service 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 member, at the time so specified for his retirement, shall have fulfilled the above service requirement and notwithstanding that, during such period of notification, he may have separated from service.

(10) Allowance upon deferred retirement: Upon deferred retirement a member shall receive a deferred retirement allowance commencing at minimum retirement age calculated in the same manner as provided in subsection (2) of this section.

(11) Restoration to service: Should a beneficiary retired on a service retirement allowance or a deferred retirement benefit be restored to service he shall again become a member and any election of an optional benefit shall be null and void. If payment of his retirement allowance has commenced, such allowance shall cease. Upon subsequent retirement, if he has completed one (1) year of service following his restoration, he shall receive a retirement allowance based on his total service before and after his restoration to service; otherwise, his retirement allowance shall be equal to the sum of the retirement allowance computed as of the date of his previous retirement and the retirement allowance computed on the basis of his service subsequent to restoration.

(12) Withdrawal and ordinary death benefit: Benefits upon withdrawal and ordinary death shall be payable as follows:

(a) A member who withdraws from service or ceases to be a member for any reason other than death or retirement shall be paid on demand the accumulated contributions standing to the credit of his individual account in the annuity savings fund which were credited prior to the effective date of City of Providence's assumption of the employee's contributions pursuant to Section 17-185(1). A member retired on a deferred retirement benefit may elect, prior to the date upon which the first payment on account of his retirement allowance becomes normally due, to receive in lieu of his retirement allowance the amount of the accumulated contributions standing to the credit of his individual account in the annuity savings fund which were credited prior to the effective date of City of Providence's assumption of the employee's contributions pursuant to Section 17-185(1). Payment of such amount shall constitute a full and complete discharge of any further claim by him or any beneficiary claiming through him for benefits under this article. In either instance, a member may withdraw the accumulated contributions standing to the credit of his individual account in the annuity fund which were credited on or following the effective date of the City of Providence's assumption of the employee's contributions pursuant to Section 17-185(1), but as to such funds, the employee will be liable for any taxable consequences including penalties for such a withdrawal.

(b) Should a member die before retirement or should a retired member die within thirty (30) days after the date upon which the first payment on account of his retirement allowance becomes normally due, his accumulated contributions less the amount of any retirement allowance payments he may have received, shall be

paid to his estate, or to such person as he shall have nominated by written designation, duly executed and filed with the retirement board.

(c) Should a member who has attained minimum retirement age and who dies before retirement without his having made an election under the provisions of section 17-190 of this article be survived by a spouse, such spouse shall be entitled, in lieu of return of the member's accumulated contributions as provided under paragraph (b) of this subsection, to a benefit determined in the same manner as it would have been determined had the member retired from service on the date of his death and made an effective election of a reduced retirement allowance in accordance with option 2 under section 17-190 of this article and nominated his spouse as his designated beneficiary.

(d) Upon the death of a retired member who has not made an optional selection as provided in section 17-190 of this article or upon the death of the survivor of a retired member and the beneficiary under an optional selection as provided in section 17-190 of this article, if such optional selection has been made and become effective, a payment shall be made to the estate of the retired member, or to the estate of the survivor as the case may be, or to such person as the retired member shall have nominated by written designation duly executed and filed with the retirement board in an amount equal to the excess, if any, of the retired member's normal accumulated contributions at retirement over the sum of the payment made on account of his pension and normal annuity, plus the excess, if any, of the retired member's excess accumulated contributions at retirement over the payments made on account of his excess annuity.

(e) Upon the death of any Class B member who at the time of his death was eligible to retire from service, if no accidental death benefit is payable and if an effective election of an optional benefit has not been made under section 17-190, a retirement allowance equal to sixty-seven and one-half (67½) percent of the retirement allowance, exclusive of any excess annuity, that would have been paid to such member had he retired shall be paid to his surviving spouse for her lifetime until she remarries, or if there be no surviving spouse or the surviving spouse remarries, then to his dependent children until they attain eighteen (18) years of age. The benefit provided under this paragraph (c) shall be in lieu of any benefit under paragraph (c) of this subdivision (12) and shall be payable only if it exceeds the benefit otherwise provided under said paragraph (c).

(f) Upon the death of any Class B member who has retired from service, if no pension is payable pursuant to paragraph (c) of subdivision (6) of this section, a pension equal to sixty-seven and one-half (67½) percent of the retirement allowance, exclusive of any excess annuity, paid to such retired member shall be paid to his surviving spouse, for her lifetime until she remarries, or if there be no surviving spouse or the surviving spouse remarries, then to his dependent children until they attain the age of eighteen (18).

(13) Eligibility for an allowance: The eligibility for a retirement allowance and the amount of such allowance shall be determined in accordance with the provisions of the ordinance to provide for the retirement of employees of the city as in effect on the last day of a member's employment.

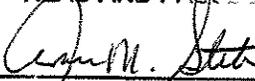
(14) Additional benefits for retired Class A employees and their beneficiaries: Effective January 1, 1993, the benefits for any retired Class A employee who retired prior to January 1, 1993 or his beneficiary shall be adjusted to provide a minimum monthly retirement allowance of six hundred eighteen dollars (\$618.00); provided, however, if the member elected to receive a reduced retirement allowance in accordance with the available options, said six hundred eighteen dollar (\$618.00) minimum monthly allowance shall be reduced to reflect the option elected. In the event the retired Class A employee has completed less than twenty-five (25) years of service, he or his beneficiary shall be entitled to receive one twenty-fifth (1/25) of the minimum monthly retirement allowance for each year of his service.

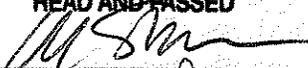
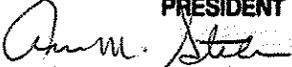
(15) Additional benefits for retired Class B employees and their beneficiaries: Effective January 1, 1993, the benefit for any retired Class B employee who retired prior to January

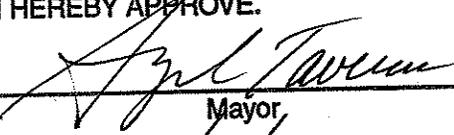
1, 1993 or his beneficiary shall be adjusted to provide a minimum monthly retirement allowance of six hundred thirty dollars (\$630.00); provided, however, if the member elected to receive a reduced retirement allowance in accordance with the available options, said six hundred-thirty dollar (\$630.00) minimum monthly allowance shall be reduced to reflect the option elected.

In the event the retired Class B employee has completed less than twenty-five (25) years of service, he or his beneficiary shall be entitled to receive one twenty-fifth (1/25) of the minimum monthly retirement allowance for each year of his service.

SECTION 3. This ordinance shall take effect on April 1, 2012.

IN CITY COUNCIL  
JAN 19 2012  
FIRST READING  
READ AND PASSED  
  
CLERK

IN CITY  
COUNCIL  
FEB 02 2012  
FINAL READING  
READ AND PASSED  
  
PRESIDENT  
  
CLERK

I HEREBY APPROVE.  
  
Mayor  
Date: 2/8/12

November 22, 2011

Mr. Michael D'Amico  
City Administrator  
City Hall  
25 Dorrance Street  
Providence, RI 02903-1789

Re: Pre Tax Employee Contributions

Dear Mr. D'Amico:

This letter is a summary of the pertinent issues regarding a tax advantaged way for employee's to contribute to the pension fund.

**Overview**

Section 414(h)(2) of the Internal Revenue Code permits the City to modify the pension plan in such a way that the mandatory employee contributions are treated as City contributions for taxation purposes. The IRS guidelines provide the taxes for these "pick-up" contributions may be deferred until the employee receives the contributions, as either a refund after termination of employment or as retirement benefits.

No Federal, or state income taxes are withheld from the picked-up retirement contributions. The contribution is not reported as taxable income on the employee's W-2 form for Federal, or state purposes. The contribution is taxable for FICA.

**Method**

Assuming an 8% contribution rate, the employee's earnable pay is reduced by 8% and this reduced amount is reported for federal and state income tax purposes. The 8% mandatory contribution is forwarded to the pension trust as an employer contribution. For example, an employee earning \$10,000 would have the following tax and take-home pay impact during his/her employment:

	Current Approach	Proposed Approach	Tax Savings
Salary	\$10,000	\$10,000	
Reduction due to pick-up	\$0	\$800	
Taxable Income	\$10,000	\$9,200	
Federal income tax withholding at 15%	\$1,500	\$1,380	\$120
State tax withholding at 2%	\$200	\$184	\$16
Medicare withholding at 1.45%	\$145	\$145	
Social Security Retirement at 6.2%	\$620	\$620	
Contribution by Employee	\$800	\$0	
Contribution by Employer	\$0	\$800	
Additional take-home pay			\$136
Earnable salary for Pension purposes	\$10,000	\$10,000	
Costs to City	\$0	\$0	

### Termination or Retirement

If an employee elects upon termination to refund their contributions, all pick-up contributions are reported to the IRS on Form 1099R as taxable income for the tax year in which the refund was made. This is taxable income and is subject to a 20% federal withholding, unless the employee elects a direct rollover to an Individual Retirement Account (IRA), deferred compensation plan or another qualified plan.

Special tax consequences may apply when taking a refund of the annuity account. Generally, the taxable portion of a refund is subject to a 10% excise tax if the employee is under age 55 (Age 50 for Public Safety). Employees may avoid the 10% excise tax by rolling over the taxable portion of a refund into an IRA, deferred compensation plan, or another qualified plan. Recipients who receive a monthly benefit from the plan and beneficiaries who receive a distribution due to the death of an employee are not subject to the 10% excise tax.

If, during employment, an employee had after-tax contributions, a portion of the monthly benefit payment will be excluded from federal taxes. Usually, the retiree pays taxes on a larger portion of their monthly benefit. If the employee did not have after-tax contributions, the monthly benefit payment is fully taxable.

Retirees will still have the ability to elect Option 4 – a reduced life annuity that includes a refund of their contributions (including the pick-up) with interest. However, the pick-up portion of the contributions will be subject to taxation, including the 10% excise tax if the distribution occurs prior to age 55 (age 50 for Public Safety). The excise tax may be avoided by rolling over the taxable portion of a refund into an IRA, deferred compensation plan, or another qualified plan. There is no impact on the City provided monthly benefit.

Employees participating in the Loan program may continue to do so. There are no tax changes or issues during the period the loan balance is greater than \$0 up until Termination or Retirement. There are not changes in the way the loan program works up until Termination or

Mr. Michael D'Amico  
November 22, 2011  
Page 3

Retirement. If, at Termination or Retirement, the loan is not repaid, the balance is considered a distribution. Taxation occurs in the same manner as described above. The pick-up contributions are subject to income taxes and the 10% Excise tax may apply.

If you have any questions, feel free to contact me anytime.

Sincerely,

A handwritten signature in cursive script that reads "Daniel W. Sherman".

Daniel W. Sherman, ASA, EA, MAAA  
Director, Consulting Actuary

P:\Admin\00040 Providence\No COLA v2.doc

November 29, 2011

Jeffrey M. Padwa, Esq.  
City Solicitor  
Law Department  
City of Providence  
275 Westminster Street, Suite 200  
Providence, RI 02903

Re: Pre-Tax Employee Contributions

Dear Mr. Padwa:

This letter will summarize the tax implications involved in having the City of Providence (the "City") "pick up" the employee mandatory contributions to the Employee Retirement System of the City of Providence (the "Retirement System") pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended (the "Code").

Generally, Section 414(h)(1) of the Code provides that if a contribution to a qualified retirement plan is designated as an employee contribution, it will not be treated as having been made by the employer and will be includible in the income of the employee in the year made. Thus, the eight percent (8%) mandatory contribution required for employees to the Retirement System has been treated an after-tax employee contribution.

However, Section 414(h)(2) of the Code provides an exception to this rule for contributions to governmental plans if the City "picks up" the contribution the employee is required to make. "Pick up" contributions are treated as employer contributions solely for federal income tax purposes, and these contributions are not included in the employee's compensation for the year made (i.e., are not reported on the employee's W-2 for federal or state tax purposes for the year made) and no federal or state income taxes are withheld from these "pick up" contributions. This is a beneficial change to the employee and has no impact financially on the City. These "pick up" contributions are considered wages for FICA purposes (which does not represent any change because the mandatory after-tax contributions are also considered wages for FICA purposes).

Although treated as employer contributions for federal income tax purposes, these contributions will continue to be designated as employee contributions and treated as accumulated contributions for all other purposes under the Retirement System. When the employee terminates or retires, and elects a distribution or refund of their accumulated contributions, the "pick up" contributions will be treated as part of the employee's contributions. The "pick up" contributions are taxable (includible in gross income) in the year distributed or refunded to the

Jeffrey M. Padwa, Esq.

November 29, 2011

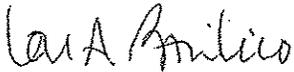
Page 2

employee. The "pick up" contributions will be subject to a mandatory 20% federal withholding unless the employee elects to directly rollover such amounts to another qualified plan or individual retirement account. The City will be required to make this withholding. Further, if the employee is under age 55 (age 50 for qualified public safety employees) at the time of the distribution or refund of employee contributions, the "pick up" contributions (i.e., the taxable portion) will be subject to a 10% excise tax unless the employee rolls over the taxable portion of the distribution or refund to another qualified plan or IRA. This excise tax is imposed on the employee at the time s/he files his/her tax return, and the City is not responsible for withholding or otherwise paying this 10% excise tax. Any portion of the employee's accumulated contributions that consist of after-tax mandatory employee contributions will not be affected.

For purposes of employee loans, the "pick up" contributions are treated as accumulated contributions so the employee is entitled to borrow from such funds. If the loan has not been fully repaid at the time of the employee's termination of employment or retirement, the outstanding balance is deemed to be a distribution. To the extent the outstanding loan balance includes any pick up contributions, the employee will be taxed on the amount of pick up contributions remaining unpaid in the same manner as if s/he received a distribution or refund of his/her accumulated contributions. The 20% mandatory withholding may apply, as well as the 10% excise tax depending on the employee's age at termination or retirement.

Please do not hesitate to contact me with any further questions.

Sincerely,



Lori A. Basilico

IRS Circular 230 Disclosure

The advice set forth in this opinion letter was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding United States Federal tax penalties that may be imposed on the taxpayer. The advice was written to support the promotion or marketing of the transactions or matters addressed in this opinion letter. Each taxpayer should seek advice based upon the taxpayer's particular circumstances from an independent tax advisor.

The foregoing language is intended to satisfy the requirements under the regulations in Section 10.35 of Circular 230.



# Public Employees' Local Union 1033

410 South Main Street  
Providence, Rhode Island 02903-7124  
Tel. (401) 331-1033  
Fax (401) 421-0244



November 21, 2011

The Honorable John J. Igliazzi, Chairperson  
And the Committee on Finance  
Providence City Council  
City Hall – 25 Dorrance Street  
Providence, RI 02903

Subject: Section 17-185(1) Code of Ordinances – Amendment of Employee Payroll Contributions to the Employee Retirement System from Post- to Pre-Tax Dollars

Dear Chair Igliazzi and Members of the Committee,

I am writing to seek your rejection of the above subject amendment to the Code of Ordinances or, in the alternative, to modify the same so that it is applicable to Class B members only.

When this item was initially proposed, I wrote to you on August 25, 2011 (enclosed), on behalf of our members who comprise a majority of the Class A membership. I also testified before the Finance Committee to communicate our concerns and the unintended consequences this amendment could cause due to complexities in the Tax Code.

The Administration assured our Union that appropriate subject matter experts would address our concerns and several additional concerns raised by Chairman Igliazzi and that we would meet as needed with the “subject matter experts.” We are still waiting for the meetings!

Our Union has committed to the Council President that we are prepared to meet and agree to substantive and systematic changes to the Class A provisions of the Retirement System. Our efforts must collectively and collaboratively be devoted to Pension Reform. Our goal is to jointly propose a new Class A Pension System effective in FY13. In order to achieve this necessary goal, we cannot be diverted to piece meal “feel good” amendments, the consequences of which have been neither explained nor explored. I respectfully request that you defeat the proposed amendment.

Sincerely,

DONALD S. IANNAZZI, ESQ.  
Business Manager

DSI/FJH

August 25, 2011

The Honorable John J. Iglizzi, Chair  
City Council Committee on Finance  
Providence City Hall  
25 Dorrance Street  
Providence, RI 02903

Dear Chairperson Iglizzi,

I write on behalf of the 2,000 Class A beneficiaries of the Employees' Retirement System of the City of Providence who are represented for collective bargaining by Local Union 1033 and request that there be no action regarding a change in the type of employee contribution (post-tax vs. pre-tax) for Class A members until such time as a full review of all of the ramifications of said action occurs.

Issues that immediately arise include:

- a) Tax Consequence and early withdrawal penalties on retirees who are less than age 60 and elect the Single Annuity Option (Option 4).
- b) Tax Consequences to the Loan Program.
- c) Costs associated with administering the system during the period (next 30 plus years) when the system will need to segregate post-tax contributions and pre-tax contributions.
- d) Costs associated with computing the annuity portion of the retirement benefit which will be funded with both post-tax and pre-tax dollars (internal costs and external certifications by the Actuary).
- e) Unknown consequences.

I respectfully request that you and the City Administration convene a Study Panel, supported with appropriate subject matter experts, to address this proposed action and all of its ramifications. My request is relative to Class A members and I offer no opinion as to Class B members.

Thank you for your consideration.

Sincerely,

DONALD S. IANNAZZI, ESQ.  
Business Manager

DSI/FJH

C: Finance Committee Members  
Michael D'Amico, Director of Administration



# Public Employees' Local Union 1033 <sup>Exhibit 4</sup>

410 South Main Street  
Providence, Rhode Island 02903-7124  
Tel. (401) 331-1033  
Fax (401) 421-0244



August 25, 2011

The Honorable John J. Iglizzi, Chair  
City Council Committee on Finance  
Providence City Hall  
25 Dorrance Street  
Providence, RI 02903

Dear Chairperson Iglizzi,

I write on behalf of the 2,000 Class A beneficiaries of the Employees' Retirement System of the City of Providence who are represented for collective bargaining by Local Union 1033 and request that there be no action regarding a change in the type of employee contribution (post-tax vs. pre-tax) for Class A members until such time as a full review of all of the ramifications of said action occurs.

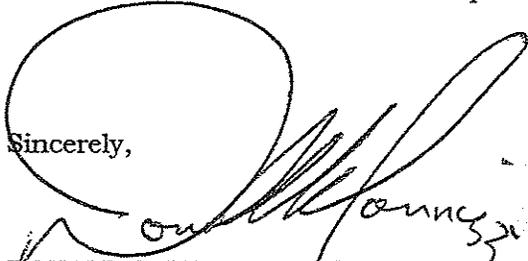
Issues that immediately arise include:

- a) Tax Consequence and early withdrawal penalties on retirees who are less than age 60 and elect the Single Annuity Option (Option 4).
- b) Tax Consequences to the Loan Program.
- c) Costs associated with administering the system during the period (next 30 plus years) when the system will need to segregate post-tax contributions and pre-tax contributions.
- d) Costs associated with computing the annuity portion of the retirement benefit which will be funded with both post-tax and pre-tax dollars (internal costs and external certifications by the Actuary).
- e) Unknown consequences.

I respectfully request that you and the City Administration convene a Study Panel, supported with appropriate subject matter experts, to address this proposed action and all of its ramifications. My request is relative to Class A members and I offer no opinion as to Class B members.

Thank you for your consideration.

Sincerely,

  
DONALD S. IANNAZZI, ESQ.  
Business Manager

DSI/FJH

C: Finance Committee Members  
Michael D'Amico, Director of Administration



# Public Employees' Local Union 1033

410 South Main Street  
Providence, Rhode Island 02903-7124  
Tel. (401) 331-1033  
Fax (401) 421-0244



September 1, 2011

Pasquale T. D'Amico, Chair  
and Members of the Board  
Employees' Retirement System  
of the City of Providence  
City Hall - 25 Dorrance Street  
Providence, RI 02903

Dear Chair and Members of the Board,

I am writing as the representative of over 2,000 active Class A members and requesting that the Board take no action relative to the proposed conversion of employee contributions from post-tax earnings to pre-tax earnings.

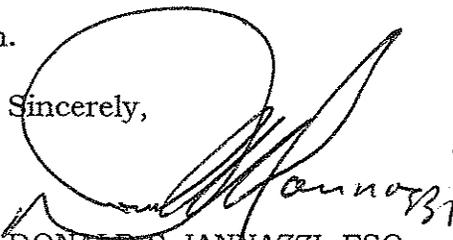
Such action has far-reaching implications and I have grave concerns that we are not aware of many of these implications and thus the proposed "hasty" action may cause serious unintended consequences.

I have discussed these concerns and specific inquiries with Council Finance Chair Iglizzi and he has assured me that the Council will act with prudence, in a conscientious and deliberate manner, by seeking necessary advice from subject matter experts including the Internal Revenue Service. This well thought-out process must prevail.

Accordingly, I respectfully ask that you continue this matter and await receipt of the study conducted by the Providence City Council. To the extent that such action is contrary to a negotiated benefit with Class B members, I ask that your deliberations on this proposed change relate solely to Class B members and that you simultaneously commence deliberations to sever the Fund, appropriating the corpus on a per capita basis.

Thank you for your consideration.

Sincerely,

  
DONALD S. IANNAZZI, ESQ.  
Business Manager

DSI/FJH

Elkabet 6



# Public Employees' Local Union 1033

410 South Main Street  
Providence, Rhode Island 02903-7124  
Tel. (401) 331-1033  
Fax (401) 421-0244



November 4, 2011

The Honorable Angel Taveras  
Mayor of Providence  
City Hall  
Providence, RI 02903

The Honorable Michael Solomon  
President, Providence City Council  
City Hall  
Providence, RI 02903

Subject: Employees' Retirement System of the City of Providence  
(Class A)

Dear Mayor and Council President,

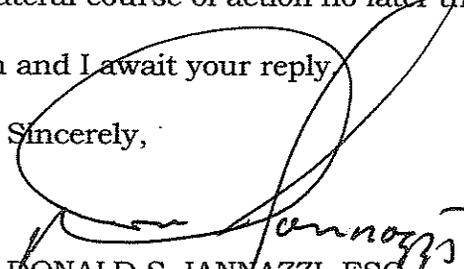
I am writing to request a joint meeting to discuss Local Union 1033's plan for the future relating to retirement benefits of Class A members of the Employees' Retirement System of the City of Providence and to arrange a process and time table for our collaborative efforts.

As you know, our Union comprises a substantial majority of both the active and retired Class A membership. Since 2005, when Director of Administration Simmons and I published a plan to transition to a Hybrid Pension Plan, Local Union 1033 has advocated for action to address the dire shape that our Retirement System is in and to secure the future benefits our members are entitled to. Most recently, during our 2011 collective bargaining, our Union called for a new direction to administering Municipal Employee Retirement Benefits.

Mindful of the requirements of the Rhode Island Open Meetings Act, I will leave it to your respective Offices to schedule this meeting and invite appropriate participants so as to allow an initial frank discussion followed by a subsequent open and meaningful collaboration that produces a bilateral course of action no later than January, 2013.

Thank you for your consideration and I await your reply.

Sincerely,

  
DONALD S. IANNAZZI, ESQ.  
Business Manager

DSI/FJH