



AD 99-85

CLERK'S OFFICE

APPROVED

Date: 7-13-99

Submitted by: Chairman of the Assembly at the  
Request of the Mayor  
Prepared by: Police and Fire Retirement Board  
For Reading: June 8, 1999

ANCHORAGE, ALASKA  
AO NO. 99- 85

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE REPEALING AND RE-ENACTING SECTION 3.85.050 OF THE ANCHORAGE MUNICIPAL CODE TO PROVIDE FOR RECOVERY BY THE POLICE AND FIRE RETIREMENT SYSTEM OF BENEFITS PAID TO MEMBERS WHERE A THIRD PARTY IS LIABLE.

WHEREAS, Section 3.85.040 of the Anchorage Municipal Code authorizes the Police and Fire Retirement Board to administer the Police and Fire Retirement System; and

WHEREAS, in connection with the prudent administration of the System, the Board desires to have a process for recovering the value of benefits paid to a member or the member's survivor where a third party causes injury or disability to a member;

NOW, THEREFORE, the Assembly hereby ordains:

**Section 1.** Anchorage Municipal Code Section 3.85.050 is hereby repealed and re-enacted to read as follows:

**3.85.050** **Receipt of benefits where third persons are liable.**

- A. If on account of disability or death for which benefits are payable under this chapter the member entitled to the benefits believes that a third person other than the municipality or a fellow employee is liable for damages, the member need not elect whether to receive benefits under this chapter or to recover damages from the third person.
- B. Acceptance of benefits under this chapter operates as an automatic assignment to the system of all rights of the member or of the personal representative of a deceased member to recover damages from the third person, unless the member or survivor commences an action against the third person within one year after the member's or survivor's initial receipt of benefits.

- 1        C. The system under such an automatic assignment may either institute proceedings for  
2        the recovery of damages or may compromise with a third person, either without or  
3        after instituting an action.
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- 5        D. An amount recovered by the system under an assignment, whether by action or  
6        compromise, shall be distributed as follows:
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- 8        1.        The system shall retain an amount equal to  
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- 10                a.        the expenses incurred by the system in respect to the action or compromise,  
11                including a reasonable attorney's fee;
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- 13                b.        all benefits paid to the member or survivor by the system;
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- 15                c.        the present value of all amounts payable later as benefits (present value to  
16                be computed from a schedule adopted by the board), as estimated by the  
17                board; the amounts so computed and estimated are to be retained by the  
18                system as a trust fund to pay benefits as they become due and to pay any  
19                finally remaining sum to the person entitled to benefits or to the survivor;
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- 21        2.        The system shall pay any excess to the person entitled to benefits or to the survivor  
22        of that person.
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- 24        E. Even if a member, the member's survivor, or the system brings an action or settles a  
25        claim against the third person, the system shall pay the benefits required by this  
26        chapter.
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- 28        F. If the member or survivor recovers damages from the third person, the member or  
29        survivor shall promptly repay to the system the total amounts paid by the system under  
30        D. 1. a. and b., insofar as the recovery is sufficient after deducting all litigation costs  
31        and expenses. Any excess recovery by the member or survivor shall be credited  
32        against any amount payable by the system thereafter. If the system is allocated a  
33        percentage of fault under AS 09.17.080 (apportionment of damages), the amount due  
34        the system under this subsection shall be reduced by an amount equal to the system's  
35        equitable share of damages assessed under AS 09.17.080(c).
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- 37        G. If compromise with a third person is made by the member or survivor in an amount  
38        less than the total benefits to which the member or survivor would be entitled, the  
39        system is liable for benefits stated in E. of this section only if the compromise is made  
40        with the system's prior written approval.
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- 42        H. Notice of the commencement of an action against a third party shall be given to the  
43        system and to all interested parties within 30 days.

1 The system's right of recovery as set forth herein is subordinate to any right of recovery  
2 by the municipality under AS 23.30.015 of the Alaska Workers' Compensation Act.

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7 **[BEFORE A MEMBER MAY RECEIVE A DISABILITY AWARDED UNDER THIS**  
8 **CHAPTER FOR A CLAIM ARISING AFTER SEPTEMBER 29, 1981, THAT MEMBER**  
9 **SHALL ASSIGN HIS CAUSE OF ACTION AGAINST ALL THIRD PARTIES TO THE**  
10 **EXTENT THAT BENEFITS ARE PAID TO THE MEMBER UNDER THIS PLAN TO THE**  
11 **BOARD AND THE MUNICIPALITY. ANY FUNDS RECOVERED FROM SUCH THIRD**  
12 **PARTIES SHALL BE DEPOSITED IN THE TRUST MAINTAINED FOR THE PLAN.]**  
13 (AO No. 81-162, 9-29-81; AO No. 84-69, 4-17-84; AO No. 99- )

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16 **Section 2.** This ordinance shall become effective immediately upon passage and approval by the  
17 Assembly.

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19 PASSED AND APPROVED by the Anchorage Assembly this 13th day of July  
20 1999.

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31 Chair of the Assembly

ATTEST:

Municipal Clerk