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CLERK'S OFFICE

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Retirement Board

APPROVED

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Anchorage, Alaska

AO No. 2002-54

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE
AMENDING CHAPTER 3.85, ANCHORAGE MUNICIPAL
CODE, RELATING TO THE POLICE & FIRE
RETIREMENT SYSTEM; PROVIDING ADDITIONAL
DEFINITIONS; CLARIFYING THE POWERS OF THE
BOARD OF TRUSTEES GRANTED IN AO 2000-65;
PROVIDING FOR THE DIRECT PAYMENT OF EXPENSES;
PROVIDING FOR STAFFING AND COMPENSATION OF
SYSTEM EMPLOYEES AS DETERMINED BY THE BOARD;
PROVIDING FOR PROCUREMENT OF PROFESSIONAL
SERVICES; PROVIDING FOR AN AMENDMENT TO THE
MAKEUP OF THE DISABILITY COMMITTEE; PROVIDING
FOR ADDITION OF LANGUAGE RELATING TO COST-OF-
LIVING ADJUSTMENTS INADVERTENTLY DELETED;
PROVIDING CLARIFICATION CONCERNING CHILD
SUPPORT ORDERS; PROVIDING FOR COMPLIANCE WITH
THE INTERNAL REVENUE CODE; PROVIDING FOR
CODIFICATION; PROVIDING FOR SEVERABILITY;
PROVIDING AN EFFECTIVE DATE.

WHEREAS on April 18, 2000, the Assembly substantially
revised Chapter 3.85, Anchorage Municipal Code creating a
restated Police and Fire Retirement System;

WHEREAS the Board of Trustees of the Retirement System has
determined that the proposed amendments are appropriate to
clarify benefits administration under the System, to clarify the
powers of the Board of Trustees in the administration of the
System; to ensure continued compliance with the Internal Revenue
Code, to clarify the composition of the Disability Committee, and

1 to clarify the administration of orders arising from dissolution
2 of marriage proceedings; and

3 WHEREAS the Assembly concurs in the recommendation of the
4 Board of Trustees;

5 NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE
6 MUNICIPALITY OF ANCHORAGE:

7
8 **Section 1.** Anchorage Municipal Code section 3.85.015 is hereby
9 amended by amending and adding definitions to read as follows
10 (the remainder of the definitions are not affected and are
11 therefore not set out):

12
13 **3.85.15 Definitions.**

14
15 ***

16
17 L. Compensation for Plan I and Plan II members shall
18 include a member's base rate of pay, overtime,
19 longevity pay, shift differential, education,
20 differential pay, specialty pay, acting pay, and
21 holiday pay, provided that such pay elements are
22 subject to required contributions to the Retirement
23 System, and are reported in the pay periods in which
24 they are actually paid, during each calendar year
25 [AS TAXABLE INCOME IN THE YEAR IN WHICH RECEIVED].

26
27
28 For Plan III members, compensation shall include the
29 basic hourly wage, longevity, holiday pay, shift
30 differential pay and educational pay, provided that
31 such pay elements are subject to a required
32 contribution to the Retirement System and are
33 reported in the pay periods in which they are
34 actually paid, during each calendar year [AS TAXABLE
35 INCOME IN THE YEAR IN WHICH RECEIVED].

36
37 [ALL SUMS WHICH ARE ALLOCATED PURSUANT TO SECTION
38 414(H)(2) OF THE INTERNAL REVENUE CODE OR DEFERRED
39 PURSUANT TO SECTIONS 120, 125, 129, 401(K) OR 457 OF
40 THE INTERNAL REVENUE CODE SHALL ALSO BE CONSIDERED
41 AS COMPENSATION, PROVIDED THEY ARE SUBJECT TO A
42 REQUIRED CONTRIBUTION TO THE RETIREMENT SYSTEM.
43 TEMPORARY DISABILITY BENEFITS RECEIVED PURSUANT TO

1 THE ALASKA WORKERS' COMPENSATION ACT SHALL ALSO BE
2 CONSIDERED COMPENSATION IN THIS PLAN, PROVIDED THEY
3 ARE SUBJECT TO A REQUIRED CONTRIBUTION TO THE PLAN.
4 MONIES RECEIVED FROM THE MUNICIPALITY FOR CLOTHING
5 ALLOWANCES, MEAL ALLOWANCES, OR CASH-IN OF
6 ACCUMULATED LEAVE TIME SHALL NOT BE CONSIDERED AS
7 COMPENSATION FOR PURPOSES OF THE RECEIPT OR
8 CALCULATION OF BENEFITS UNDER THE RETIREMENT SYSTEM.
9 RETROACTIVE PAY SHALL BE CONSIDERED AS COMPENSATION
10 FOR THE YEAR IN WHICH RECEIVED REGARDLESS OF THE
11 YEAR TO WHICH THE RETROACTIVE PAY IS ACTUALLY
12 ATTRIBUTABLE. OUT-OF-CYCLE PAY OR PAY PERIOD
13 ADJUSTMENTS SHALL BE CONSIDERED AS COMPENSATION IN
14 THE PAY PERIOD IN WHICH RECEIVED, REGARDLESS OF THE
15 PAY PERIOD TO WHICH THE OUT-OF-CYCLE PAY IS ACTUALLY
16 ATTRIBUTABLE.]

17 *** *** ***

18
19
20 U. Enhanced Benefit means a benefit created from time
21 to time from available surplus assets.[ENHANCED
22 BENEFIT ACCOUNT SHALL MEAN THOSE ACCOUNTS FOR
23 MEMBERS CREATED FROM SURPLUS ASSETS OF THE CURRENT
24 AND FORMER RETIREMENT SYSTEM AND HELD IN TRUST FOR
25 MEMBERS UNTIL THE COMMENCEMENT OF PAYMENT OF
26 BENEFITS.]

27 *** *** ***

28
29
30 [V. EXECUTIVE COMMITTEE MEANS THE COMMITTEE OF THE BOARD
31 CONSISTING OF THE CURRENT AND IMMEDIATE PAST
32 CHAIRPERSONS.]

33
34 W.[X.]21.Incident Safety Officer[FIRE TRAINING SPECIALIST];

35 *** *** ***

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37
38 CC.[DD.]Inactive member means a person who is neither a
39 member, nor a deferred vested member nor a retired
40 member. An inactive member shall have no right to
41 receive any benefit from the system except for a
42 refund of contributions and interest as provided for
43 in this Chapter.

44
45 (Note to Code Revisor: Re-letter subsequent subsections.)

46
47 EE. Light duty means an active member's return to work
48 under medical restrictions.

49 *** *** ***

(Note to Code Revisor: Re-letter subsequent subsections.)

PP. Occupational disability means a physical or mental condition as defined in this code, which is determined by the Disability Committee which prevents a member from performing the assigned, essential functions of the position for the municipality as a police officer or firefighter, or from performing substantially similar duties for any police or fire department. [AN OCCUPATIONAL DISABILITY MUST BE ONE WHICH IS CAUSED BY AN INJURY RECEIVED WHILE PERFORMING OFFICIAL DUTIES FOR THE MUNICIPALITY OF ANCHORAGE, INCLUDING INJURIES RECEIVED IN THE COURSE OF AND AS A DIRECT RESULT OF ACTUAL TRAINING WHICH HAS BEEN PREVIOUSLY APPROVED BY THE MUNICIPALITY EITHER BY LABOR AGREEMENT OR AS AUTHORIZED BY MUNICIPAL ADMINISTRATION. A DISABILITY SHALL BE PRESUMED TO BE OCCUPATIONAL IF IT ARISES FROM TUBERCULOSIS, HYPERTENSION, HEART DISEASE, HARDENING OF THE ARTERIES OR ANY OTHER DISORDER OF THE HEART, LUNGS, OR CARDIOVASCULAR/RESPIRATORY SYSTEM. THE PRESUMPTION IS NOT REBUTTABLE FOR MEMBERS OF PLANS I AND II. THE PRESUMPTION IS REBUTTABLE FOR A MEMBER OF PLAN III. THIS PRESUMPTION IS AVAILABLE WITHOUT LIMITATION TO MEMBERS OF PLAN I, BUT IS NOT AVAILABLE AFTER THE SEVENTH ANNIVERSARY OF A RETIREMENT FOR A MEMBER OF PLAN II. THE PRESUMPTION IS NOT AVAILABLE FOR A PLAN III MEMBER AFTER THE TERMINATION OF EMPLOYMENT.]

[XX. QUALIFIED DOMESTIC RELATIONS ORDERS MEANS ANY DIVORCE OR DISSOLUTION OF MARRIAGE ORDER OR JUDGMENT UNDER AS 25.24, INCLUDING AN ORDER APPROVING A PROPERTY SETTLEMENT THAT CREATES OR RECOGNIZES THE EXISTENCE OF AN ALTERNATE PAYEE'S RIGHTS TO RECEIVE A PORTION OF THE BENEFITS UNDER THIS CHAPTER WHICH ARE OTHERWISE PAYABLE TO A MEMBER. THIS DEFINITION SHALL ALSO INCLUDE QUALIFIED CHILD SUPPORT ORDERS.]

(Note to Code Revisor: Re-letter subsequent subsections.)

III. Surplus benefit account means those accounts for members created from surplus assets of the current and former Retirement Systems and held in trust for members until the commencement of payment of benefits. [SUBSTANTIALLY SIMILAR WHEN USED TO DEFINE CLASSIFICATIONS OF EMPLOYMENT BY MEMBERS MEANS THE

1 SAME TYPE OF DUTIES, ESSENTIAL FUNCTIONS, WORK
2 LOCATIONS AND MANNER IN WHICH WORK IS PERFORMED, TO
3 BE DETERMINED BY THE BOARD OF TRUSTEES FROM THE
4 TOTALITY OF CIRCUMSTANCES PRESENTED]

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8 KKK. *Temporary disability* means a physical or mental
9 condition which has not been determined to be
10 permanent and which prevents a member from
11 performing the assigned, essential functions of the
12 position for the Municipality as a police officer or
13 firefighter, or from performing substantially
14 similar physical or mental duties for any police or
15 fire department.

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19 **Section 2:** Anchorage Municipal Code section 3.85.020 is hereby
20 amended as follows:

21 **3.85.20 Administration of the retirement system.**

22 ***

23 ***

24 ***

25 F. All Trustees shall serve without compensation, but
26 they shall be reimbursed from the System for all
27 necessary expenses authorized by the Board. Trustees
28 appointed from among the membership shall be
29 eligible to receive reimbursement for reasonable
30 expenses, including but not limited to mileage, not
31 to exceed \$100.00 per meeting. For those Trustees
32 actively employed by the Municipality as a police
33 officer or firefighter, reimbursement shall apply
34 only for meetings which occur outside of the
35 Trustee's normal working hours for the Municipality.
36 Employee members may attend meetings on duty with no
37 loss of pay or benefits. Meetings not on duty shall
38 not be considered as time worked. The Board shall,
39 by uniform rule, establish a policy for
40 reimbursement for travel and other expenditures
41 incurred by Trustees in the course of their duties.

42 G. The Board shall have the authority to make and amend
43 such uniform rules and regulations and adopt and
44 amend such uniform policies and procedures,
45 consistent with the provisions of this Chapter, and
46 to take such action as they deem necessary to carry
47 out the provisions of the System. All decisions of
48 the Board of Trustees made in good faith[,] shall be
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1 final, binding and conclusive on all parties,
2 consistent with the provisions of this Chapter.
3

4 H. In the event that a trustee is contacted by an
5 attorney, not employed by the Board in connection
6 with a Board-related matter, who is acting as an
7 advocate on behalf of another for benefits or in
8 litigation related to the System, the trustee shall
9 promptly report the communication to the Director,
10 who in turn, shall forward the communication to the
11 Board's legal counsel and the Executive Committee of
12 the Board. [,WHICH SHALL CONSIST OF THE CURRENT
13 CHAIRPERSON AND IMMEDIATE PAST CHAIRPERSON.] No
14 matter which has been the subject of confidential
15 attorney-client communications between the Board and
16 its legal counsel or which has been the subject of
17 an Executive Session shall be communicated to an
18 attorney not employed by the Board without the
19 advice and consent of the Board's legal counsel.
20

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22
23 K. The Board shall have the authority to establish an
24 Executive Committee which shall consist of three
25 members of the Board. One member of the Executive
26 Committee shall be the current Chairperson and two
27 persons, each of whom shall represent a different
28 constituency on the Board than the Chairperson and
29 chosen by the trustees from that constituency. The
30 Executive Committee shall have the authority to act,
31 between meetings of the Board of Trustees, for the
32 purpose of providing day-to-day direction to the
33 Administrator and staff on ministerial matters not
34 required to go to the Board of Trustees; to provide
35 instructions to counsel in litigation matters where
36 it is not practical to assemble a regular meeting of
37 the Board; and to provide instruction to the
38 Director on matters relating to investment decisions
39 where there is insufficient time to assemble the
40 Board of Trustees. All matters relating to
41 instructions to counsel and investment decisions
42 shall be reported to the Board at its ensuing
43 meeting and shall be subject to ratification or
44 amendment by the Board.
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1 Section 3: Anchorage Municipal Code section 3.85.025 is hereby
2 amended to read as follows:
3

4 3.85.025

Powers of the retirement board.

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6 ***

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8 H. Notwithstanding any other provision of the Municipal
9 Code, the Board shall have the authority to directly
10 pay professional consultants as outlined in this
11 section. Payment of professional services, as
12 identified in subsection K of this section, shall be
13 made from either the Board's primary trust bank or
14 from an imprest account in a local banking
15 institution, to be authorized by the Chief Fiscal
16 Officer of the Municipality.

17
18 I.[H.] Establish and maintain communication with Municipal
19 departments and other agencies of government as is
20 necessary for the management of the Retirement
21 System, including trust bank expense reports
22 associated with the payment of professional
23 services, and further including preparing, filing
24 and distributing such reports and information as are
25 required by law to be prepared, filed, or
26 distributed on behalf of the Retirement System, its
27 members and their beneficiaries;

28 ***

29 ***

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31 *(Note to Code Revisor: Re-letter subsequent subsections.)*

32 P.[O.] Select, compensate and retain a director, in the
33 manner set forth in this subsection, to handle such
34 executive and administrative functions that are
35 required by the Board:

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- 39 2. The Board shall establish a compensation
40 plan for the Director and other staff
41 subject to the limitations set forth in
42 this Chapter. The Board shall review
43 the salary classifications periodically
44 and make such adjustments as it deems
45 appropriate. [THE BOARD SHALL RECOMMEND
46 AN ANNUAL SALARY FOR THE DIRECTOR WITHIN
47 THE RANGE ESTABLISHED BY ORDINANCE FOR
48 COMPARABLE POSITIONS UNDER THE
49 EXECUTIVE/PROGRAM MANAGER CLASSIFICATION
50 AND PAY PLAN. THE BOARD SHALL REVIEW

1 THE SALARY FOR THE DIRECTOR PERIODICALLY
2 AND TRANSMIT RECOMMENDATIONS FOR
3 ADJUSTMENT, IF ANY, TO THE MAYOR AND
4 ASSEMBLY FOR APPROVAL.]
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8 Q.[P] The Board shall determine the compensation of the
9 Director, provided however, that cash remuneration
10 shall not exceed the maximum salary for Municipal
11 pay grade 24. The Board shall determine the salary
12 for staff members, provided however, that total cash
13 remuneration for each position may not exceed pay
14 grade 18. The provisions of Title 3
15 notwithstanding, the Board may promote existing
16 staff members to vacant positions within the
17 Retirement System staff. Within the limitations of
18 this section, the Board shall hire, terminate,
19 promote and compensate staff. The staff shall be
20 considered Municipal employees for benefit plan
21 participation purposes, including participation in
22 the Alaska PERS. The Board shall enter into an
23 agreement with the Municipality to provide for full
24 payroll and employee benefit services, with the full
25 cost to be paid from System assets. The Board shall
26 determine staffing levels based on the
27 recommendation of the Director. [ESTABLISH
28 APPROPRIATE STAFFING LEVELS SUBJECT TO THE
29 RECOMMENDATION OF THE DIRECTOR. THE STAFF SHALL BE
30 CONSIDERED MUNICIPAL EMPLOYEES AND SHALL REPORT TO
31 THE DIRECTOR.]
32

33 S.[R] The Board shall procure and compensate professional
34 and technical service providers, outlined in
35 subsection J., as provided in this subsection. The
36 Board, in consultation with the Purchasing
37 Department, shall develop a standard for request for
38 proposal (RFP) and a uniform service provider
39 contract. In recognition of its fiduciary
40 responsibility, the Board shall, in the selection of
41 all professional service providers, exercise due
42 diligence which shall include an investigation of
43 the existence of licenses, experience, and a
44 demonstrated competence in the area of the
45 professional service provider's responsibility. The
46 Board shall request proposals, analyze responses,
47 evaluate fees and services and secure legal review
48 of all contractual provisions prior to finalizing a
49 selection. In the case of special expertise, as
50 determined by the Board, a proprietary contract

1 arrangement may be made. For all professional
2 service contracts as provided for in this section,
3 Assembly approval shall not be required provided,
4 however, that the Board shall report to the Assembly
5 on a quarterly basis through an Assembly memorandum
6 on any professional service contracts entered into
7 pursuant to the provisions of this section,
8 including but not limited to the duties to be
9 performed by the contractor and the compensation
10 paid. All professional and technical service
11 contracts adopted in accordance with this subsection
12 shall be approved by the Board and executed by the
13 Director. [THE PROVISIONS OF CHAPTER 7.20
14 NOTWITHSTANDING, PROCURE AND COMPENSATE PROFESSIONAL
15 SERVICES, SUCH AS INVESTMENT MANAGERS AND ADVISORS,
16 ATTORNEYS, ACTUARIES, INVESTMENT ADVISORS, AUDITORS,
17 ACCOUNTANTS, HEARING OFFICERS AND OTHER PROFESSIONAL
18 SERVICE PROVIDERS. IN THE SELECTION OF PROFESSIONAL
19 SERVICE PROVIDERS, THE BOARD SHALL UTILIZE THE SAME
20 LEVEL OF DUE DILIGENCE AS IS REQUIRED IN THE
21 PERFORMANCE OF ITS DUTIES AS A FIDUCIARY OF THE
22 SYSTEM. ALL PROFESSIONAL SERVICE PROVIDERS SHALL BE
23 INVESTIGATED TO DETERMINE THE EXISTENCE OF THE
24 APPROPRIATE LICENSES, EXPERIENCE, AND DEMONSTRATED
25 COMPETENCE IN THE AREA OF RESPONSIBILITY. THE BOARD
26 SHALL REQUEST PROPOSALS, ANALYZE RESPONSES, EVALUATE
27 FEES AND SERVICES AND SECURE LEGAL REVIEW OF ALL
28 CONTRACTUAL PROVISIONS PRIOR TO FINALIZING A
29 SELECTION;]

30
31 T. [S] Procure supplies, equipment and other non-
32 professional contracted services and to dispose of
33 any surplus or excess property. The Board shall
34 process purchase and disposal requests through the
35 municipal purchasing department in accordance with
36 Title 7, and shall adhere to the administrative
37 policies and procedures of the Municipality.
38 [PROCURE SUPPLIES, EQUIPMENT, OR OTHER CONTRACTED
39 SERVICES PROVIDED THAT SUCH PROCUREMENT IS OBTAINED
40 IN COMPLIANCE WITH TITLE 7 OF THE ANCHORAGE
41 MUNICIPAL CODE.]

42
43 U. [T] To submit an annual budget to the Assembly and to
44 comply with the other provisions of Title 6 of the
45 Anchorage Municipal Code except for the payment of
46 professional services and for Trustee education and
47 travel expenses as provided in this Chapter. Such
48 provisions may be enlarged [MODIFIED] from time to
49 time by regulations adopted by the Board and
50 approved by the Municipal Manager or by ordinance

adopted by the Assembly;

(Note to Code Revisor: Re-letter subsequent subsections.)

AA. The Board, by uniform administrative rule, may create an actuarially determined deferred retirement option program (DROP). The DROP may provide for lump sum distribution of member pension benefits, without loss of the right to future benefit enhancements, provided that the distribution shall not exceed the present life value of the monthly annuity, as determined by the actuary for the System.

Section 4: Anchorage Municipal Code section 3.85.030 is hereby amended to read as follows:

3.85.030 **Trustee liability.**

E. The [CONTRARY] provisions of Title 7 notwithstanding, the Board shall have the authority to acquire [MAINTAIN] policies of insurance at the expense of the System for fiduciary liability [, GENERAL LIABILITY, AND COMMERCIAL THEFT] independent of Municipal Risk Management insurance services.

Section 5: Anchorage Municipal code section 3.85.050 is hereby amended to read as follows:

3.85.50 **Compensation.**

A. All compensation sums which are allocated pursuant to Section 414(h)(2) of the Internal Revenue Code or deferred pursuant to Sections 120, 125, 129, 401(k) or 457 of the Internal Revenue Code shall also be considered as compensation, provided they are subject to a required contribution to the Retirement System. Temporary disability benefits received pursuant to the Alaska Workers' Compensation Act shall also be considered compensation in this plan, provided they are subject to a required contribution to the plan. Monies received from the Municipality

1 for clothing allowances, meal allowances, or cash-in
2 of accumulated leave time shall not be considered as
3 compensation for purposes of the receipt or
4 calculation of benefits under the Retirement System.
5 Out-of-cycle pay or pay period adjustments shall be
6 considered as compensation in the pay period in
7 which received, regardless of the pay period to
8 which the out-of-cycle pay is actually attributable.
9

10 B. Retroactive compensation, that meets the definition
11 of compensation of this chapter, shall be considered
12 by the Board in the calculation of benefits if paid
13 as a result of a grievance, arbitration award,
14 collective bargaining agreement or court ordered
15 judgement or settlement. However, any amounts
16 awarded or paid as court costs, interest, attorney's
17 fees, statutory penalties, punitive damages and any
18 other type of retroactive compensation that does not
19 meet the definition of compensation in this chapter
20 shall be specifically excluded.
21

22 C. Active members may elect to have retroactive pay
23 treated as compensation in the year in which paid or
24 to have retroactive pay allocated to the pay periods
25 where it would have been actually paid. The method
26 chosen by the active member shall apply to all
27 instances of eligible retroactive pay. For retired
28 members, retroactive pay shall be allocated to the
29 pay periods where it would have been actually paid.
30

31 **[3.85.050 INACTIVE MEMBER.**

32
33 AN INACTIVE MEMBER SHALL HAVE NO RIGHT TO RECEIVE ANY
34 BENEFIT FROM THE SYSTEM EXCEPT FOR A REFUND OF CONTRIBUTIONS AND
35 INTEREST AS PROVIDED FOR IN THIS CHAPTER.]
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37 **Section 6:** Anchorage Municipal Code section 3.85.075 is hereby
38 amended to read as follows:
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40 **3.85.075 Cost of living adjustment - Plan III.**

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43 A. A cost of living adjustment ("COLA") shall be
44 available to retired members of Plan III, disabled
45 retired members of Plan III and their survivors.
46 Alternate payees shall not be eligible to receive a
47 COLA. Members who retired prior to April 17, 1984,
48 members of Plan I or Plan II, and all of their
49 survivors and beneficiaries shall not be eligible to
50 receive a cost of living adjustment under this

1 section. [SURVIVORS OF PLAN III MEMBERS AND
2 DISABLED MEMBERS OF PLAN III SHALL RECEIVE THE COLA,
3 REGARDLESS OF SERVICE PAYABLE AT THE TWENTY-FIVE
4 PERCENT (25%) RATE UNTIL THE DATE THE MEMBER WOULD
5 HAVE ACCRUED 25 YEARS OF CREDITED SERVICE, HAD THEY
6 REMAINED EMPLOYED. THEREAFTER, SURVIVORS OF PLAN III
7 MEMBERS AND DISABLED MEMBERS OF PLAN III SHALL
8 RECEIVE THE COLA AT THE FIFTY PERCENT (50%) RATE.]
9

10 B. Members of Plan III who retire pursuant to Section
11 3.85.070 B and C shall not be eligible to receive
12 cost of living adjustments until that date on which
13 they would have accrued 20 years of credited service
14 had they remained employed by the Municipality as
15 firefighters or police officers. Survivors of Plan
16 III members and disabled members of Plan III shall
17 receive the COLA, regardless of service payable at
18 the twenty-five percent (25%) rate until the date
19 the member would have accrued 25 years of credited
20 service, had they remained employed. Thereafter,
21 survivors of Plan III members and disabled members
22 of Plan III shall receive the COLA at the fifty
23 percent (50%) rate.
24
25

26 C. The Retirement Board shall determine the COLA for
27 each year and it should become effective on July 1st
28 of each year. COLA shall be prorated for the year
29 in which benefits are first received.
30
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32 D.[B] COLA, for the current year, shall be calculated by
33 reference to the annual average percentage increase
34 of the United States Department of Labor Anchorage
35 Consumer Price Index for all Urban Consumers (CPI-U)
36 for the previous calendar year, or such index as the
37 Board may select if the Anchorage CPI-U ceases to
38 exist. COLA shall be equal to twenty-five percent
39 (25%) of the index or three percent (3%) of the
40 then-current benefit, whichever is lower, for a
41 retired member until he or she has accumulated
42 twenty-five (25) years of credited service,
43 permanent retirement benefits or any combination
44 thereof. After that time, COLA shall be equal to
45 fifty percent (50%) of the index or six percent (6%)
46 of the member's then-current benefit, whichever is
47 lower.
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1 Section 7: Anchorage Municipal Code section 3.85.080 is hereby
2 amended to read as follows:
3

4 3.85.080 Disability Committee created; powers and
5 duties.
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8
9 B. The Disability Committee shall be composed of five
10 (5) Trustees. One shall be a Police Trustee, chosen
11 by the three Police Trustees; one shall be a Fire
12 Trustee, chosen by the three Fire Trustees; and two
13 shall be Municipal Trustees, chosen by the three
14 Municipal Trustees. The fifth member shall be
15 either a Police Trustee or Fire Trustee, chosen on
16 an alternating annual basis by the other four
17 Trustees. The fifth Trustee shall participate in
18 all hearings, when requested by three members of the
19 Disability Committee, but shall only vote in the
20 case of a tie among the other Disability Committee
21 members. [THE DISABILITY COMMITTEE SHALL BE COMPOSED
22 OF ONE POLICE TRUSTEE CHOSEN BY THE THREE POLICE
23 TRUSTEES; ONE FIRE TRUSTEE CHOSEN BY THE THREE FIRE
24 TRUSTEES; AND TWO MUNICIPAL TRUSTEES, CHOSEN BY THE
25 THREE MUNICIPAL TRUSTEES. THE FOUR TRUSTEES SHALL,
26 WHEN THEY DEEM NECESSARY, APPOINT A FIFTH MEMBER IN
27 ACCORDANCE WITH A PROCEDURE ADOPTED BY THEM. THE
28 FIFTH MEMBER NEED NOT BE A MEMBER OF THE SYSTEM.
29 THE FIFTH MEMBER SHALL PARTICIPATE IN ALL HEARINGS,
30 WHEN REQUESTED BY THREE MEMBERS OF THE DISABILITY
31 COMMITTEE, BUT SHALL ONLY VOTE IN THE CASE OF A TIE
32 AMONG THE OTHER DISABILITY COMMITTEE MEMBERS.
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36 E. Upon receipt of an application for temporary
37 disability which, on its face, establishes that the
38 member is temporarily incapacitated for the physical
39 or mental duties of a police officer or a
40 firefighter, the Director shall be authorized to
41 commence payments in accordance with the temporary
42 disability provisions of this Chapter. All such
43 approvals shall be reported to the Disability
44 Committee at its next ensuing meeting for
45 ratification.
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1 **Section 8:** Anchorage Municipal Code section 3.85.085 is hereby
2 amended to read as follows:

3
4 **3.85.085**

5 **Disability Committee Administrative**
6 **Procedures.**

7 A. The processing of applications for disability
8 benefits shall be in accordance with the provisions
9 of this section. These procedures shall also apply
10 to application for death benefits in accordance with
11 the provisions of this chapter.
12

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16 2. Failure to file an application for disability
17 or death benefits within the applicable filing
18 period shall bar the application from further
19 consideration, unless the Disability Committee
20 excuses the delay in filing upon a
21 demonstration by the member of extenuating
22 circumstances which justify the delay. After
23 the filing deadline, an applicant may file a
24 written request for exemption from the
25 deadline by documenting the extenuating
26 circumstances which caused the delay in
27 filing. The request for an extension[**] must
28 be supported by a physician's written
29 statement that the member is undergoing
30 medical treatment for the disabling condition
31 and that there is a reasonable likelihood that
32 the member will be able to return to his or
33 her usual duties as a police officer or
34 firefighter within the extended application
35 period. The burden of proof supporting an
36 extension shall be upon the member making
37 application and shall be supported by such
38 credible evidence including physicians'
39 statements, as the member may provide. The
40 Disability Committee will review each request
41 for exemption to the filing deadline on a
42 case-by-case basis. The Disability
43 Committee's decision in any individual case
44 shall not constitute precedent in any other
45 case. [**THE BURDEN OF PROOF SUPPORTING AN
46 EXTENSION SHALL BE UPON THE MEMBER MAKING
47 APPLICATION AND SHALL BE SUPPORTED BY SUCH
48 CREDIBLE EVIDENCE INCLUDING PHYSICIANS'
49 STATEMENTS, AS THE MEMBER MAY PROVIDE.]
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5 B. *Claims procedure.*
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- 7 1. The staff shall investigate each application
8 for disability or death benefits and present
9 its analysis and recommended disposition of
10 the application to the Disability Committee at
11 the next regularly scheduled meeting after
12 completion of the investigation, except where
13 delegated under Section 3.85.080 E. Staff
14 shall complete its investigation within ninety
15 (90) days after an application is received,
16 unless the Disability Committee authorizes a
17 longer period of time for investigation.
18 During the course of its investigation, the
19 staff shall promptly provide the applicant
20 with copies of all pertinent documentation.
21 Staff shall provide to the applicant written
22 notice of the date, time and location of the
23 Disability Committee meeting during which the
24 staff intends to present its analysis,
25 together with its recommendation, no later
26 than ten (10) working days prior to the
27 meeting.
28

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31 C. *Preparation for formal hearing*
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35 6. The parties may engage in discovery in the
36 form of depositions, interrogatories, requests
37 for admissions and production of documents as
38 described in Rules 30, 33, 34, and 36 of the
39 Alaska Rules of Civil Procedure, except that
40 responses shall be due within fifteen (15)
41 days prior to the hearing. The parties may
42 also agree to other forms of discovery. All
43 aspects of discovery shall be completed not
44 later than ten (10) working days prior to the
45 hearing date set by the Disability Committee.
46

47 ***

1 D. *Hearing procedures. A formal hearing before the*
2 *disability committee shall include the following*
3 *procedures.*

4
5 ***

- 6 2. Prior to the hearing the hearing officer shall
7 consult with the parties to set the time, date
8 and place of the hearing. The hearing officer
9 may identify the issues to be addressed at the
10 hearing, may set deadlines for discovery and
11 other pre-hearing events, and may solicit or
12 accept stipulations [SOLICITATIONS] to promote
13 the orderly and efficient resolution of
14 disputed issues. The hearing officer may
15 conduct pre-hearing conferences as necessary.
16 The hearing officer may, in connection with
17 pre-hearing proceedings, make decisions or
18 recommendations to the Disability Committee on
19 pre-hearing motions. In the event that any
20 party disagrees with the decision or
21 recommendation made by the hearing officer on
22 a pre-hearing motion, that matter shall be
23 taken up in its entirety with the Disability
24 Committee at the hearing for final resolution.
25 A decision of the hearing officer may be
26 sustained only upon an affirmative vote of at
27 least three members of the Disability
28 Committee.

29
30 ***

31
32 F. *Reconsideration.*

33
34 ***

- 35
36 3. The filing of a timely notice for
37 reconsideration or rehearing shall delay the
38 date upon which an order becomes final. In
39 the case of a decision which is subject to a
40 timely motion for rehearing or
41 reconsideration, the Disability Committee's
42 initial order shall become final on the date
43 the order on [MOTION FOR] reconsideration is
44 served by mail or in person. [DETERMINED]

45
46 G. Appeal. A member whose claim is denied on appeal to
47 the Disability Committee may seek judicial review in
48 the Superior Court in a manner consistent with law.
49 In any such appeal, the Disability Committee's
50 decision shall be defended by the Board's counsel.

1
2 H. Reimbursement of legal fees and costs. A member or
3 survivor of a member whose application for benefits
4 is formally denied by the Disability Committee upon
5 "administrative" or claim review under this chapter
6 shall be entitled to receive an award of actual
7 reasonable attorney's fees and costs if, on formal
8 hearing, the Disability Committee grants benefits.
9 If the Disability Committee's denial of benefits is
10 appealed to the Superior Court and benefits are
11 awarded by the court, attorney fees and costs
12 specified above shall be paid by the Retirement
13 System. If the appeal to the Superior Court results
14 in remand to the Disability Committee, no fees are
15 payable unless the Disability Committee, upon
16 reconsideration, grants the claimed benefits.
17 Attorney fees and costs reimbursed under this
18 section are limited to those fees and costs incurred
19 after the meeting during which the application is
20 first denied by the Disability Committee.
21 Reimbursement of attorney fees and costs under this
22 section shall be made by the Retirement System in
23 addition to any benefits that are paid to the
24 successful applicant.
25

26 **Section 9:** Anchorage Municipal Code section 3.85.090 is hereby
27 amended to read as follows:
28

29 **3.85.90 Permanent Occupational Disability - Plans I and II.**
30

31 A. A member who suffers an occupational disability as
32 defined in this Chapter shall be eligible for an
33 occupational disability retirement. An occupational
34 disability must be one which is caused by an injury
35 received while performing official duties for the
36 Municipality of Anchorage, including injuries
37 received in the course of and as a direct result of
38 actual training which has been previously approved
39 by the Municipality either by labor agreement or as
40 authorized by Municipal administration. A
41 disability shall be presumed to be occupational if
42 it arises from tuberculosis, hypertension, heart
43 disease, hardening of the arteries or any other
44 disorder of the heart, lungs, or
45 cardiovascular/respiratory system. The presumption
46 is not rebuttable for members of Plans I and II.
47 This presumption is available without limitation to
48 members of Plan I, but is not available after the
49 seventh anniversary of a retirement for a member of
50 Plan II.

1
2 B. A member whose application for occupational
3 disability benefits is approved by the Disability
4 Committee shall receive a monthly benefit calculated
5 as sixty-six and two-thirds percent (66-2/3%) of the
6 member's gross monthly compensation at the time of
7 disability. This benefit shall be payable for life
8 or until such time as the retired member is capable
9 of resuming the assigned, essential functions for
10 the police or fire department of the Municipality,
11 or any other police or fire department, performing
12 substantially similar physical or mental duties
13 depending on the nature of the disability.
14 Substantially similar mental duties shall include
15 but not be limited to the intellectual or mental
16 processes performed by a police officer or
17 firefighter as determined by the respective
18 department. Substantially similar physical duties
19 shall include but not be limited to the same type of
20 physical duties and functions as may be outlined by
21 the department. The general language of this
22 section shall not, however, define the category of
23 duties which may be assigned to a firefighter or
24 police officer.

25
26 ***

27
28 E. The Board of Trustees, may by uniform rule, provide
29 an election for members applying for disability to
30 utilize a rebuttable presumption for the purpose of
31 enabling members to seek occupational disability
32 retirement without regard to the member's age, years
33 of service or contributions and in such a manner as
34 would qualify for favorable tax treatment under the
35 Internal Revenue Code.

36
37
38 **Section 10:** Anchorage Municipal Code section 3.85.095 is hereby
39 amended to read as follows:

40
41 **3.85.095** **Temporary occupational disability - Plans I**
42 **and II.**

43
44 ***

45
46 B. Temporary occupational disability benefits for non-
47 retired members shall be made only to the extent
48 that such benefits and other wage continuation
49 payments attributable to the Municipality do not
50 exceed one hundred (100%) percent of average

biweekly compensation at the time of disability. A member who is otherwise eligible to receive a temporary occupational or non-occupational disability benefit shall not receive such benefit if the medical authority returns the member to light duty and the member refuses to return to work. [A MEMBER WHO IS UNABLE TO FULLY PERFORM THE DUTIES OF A POLICE OFFICER OR FIREFIGHTER AND WHO IS ELIGIBLE TO RECEIVE SUCH TEMPORARY DISABILITY BENEFITS SHALL NOT RECEIVE BENEFITS IF RETURNED TO LIGHT DUTY AT THE MEMBER'S OWN REQUEST. THE DECISION TO RETURN A MEMBER TO LIGHT DUTY SHALL REQUIRE THE JOINT CONCURRENCE OF THE HEAD OF THE POLICE OR FIRE DEPARTMENT AND A DISABILITY COMMITTEE REPRESENTATIVE FROM THE MEMBER'S PARTICULAR DEPARTMENT.]

Section 11: Anchorage Municipal Code section 3.85.100 is hereby amended to read as follows:

3.85.100 **Permanent occupational disability - Plan III.**

A. A member who suffers an occupational disability as defined in this Chapter shall be eligible for an occupational disability retirement. An occupational disability must be one which is caused by an injury received while performing official duties for the Municipality of Anchorage, including injuries received in the course of and as a direct result of actual training which has been previously approved by the Municipality either by labor agreement or as authorized by Municipal administration. A disability shall be presumed to be occupational if it arises from tuberculosis, hypertension, heart disease, hardening of the arteries or any other disorder of the heart, lungs, or cardiovascular/respiratory system. The presumption is rebuttable for a member of Plan III. The presumption is not available for a Plan III member after the termination of employment.

C. Occupational disability benefits shall be paid only to the extent that when combined with benefits and other wage continuation payments attributable to the municipality, the sum does not exceed 100% of final average biweekly compensation at the time of disability. In the event that the sum of such benefits exceed 100% of final average biweekly

1 compensation at the time of disability, the benefits
2 payable from this system shall be reduced to the
3 extent that the total benefits attributable to the
4 municipality exceeds 100% of final average biweekly
5 compensation.
6

- 7 D. The occupational disability benefit shall continue
8 for life or until such time as the member has both
9 recovered from the disability for which benefits are
10 paid and is physically and mentally capable of
11 performing duties for the Municipality, or for any
12 other police or fire department, substantially
13 similar to those performed at time of retirement. To
14 be capable of performing substantially similar
15 physical or mental duties does not require the
16 actual performance of such duties, nor does it
17 require the availability of a job which includes
18 performance of such duties. Substantially similar
19 mental duties shall include but not be limited to
20 the intellectual or mental processes performed by a
21 police officer or firefighter as determined by the
22 respective department. Substantially similar
23 physical duties shall include but not be limited to
24 the same type of physical duties and functions as
25 may be outlined by the department. The general
26 language of this section shall not, however, define
27 the category of duties which may be assigned to a
28 firefighter or police officer.
29

30 ***

31
32
33 **Section 12:** Anchorage Municipal Code section 3.85.105 is hereby
34 amended to read as follows:
35

36 **3.85.105** **Temporary occupational disability - Plan III.**
37

- 38 A. Temporary occupational and non-occupational disability
39 benefits, as approved by the Disability Committee,
40 shall be granted in the same amounts as permanent
41 disability benefits for an initial period not to exceed
42 ninety (90) days. The Disability Committee [BOARD],
43 upon subsequent written request of the applicant and
44 upon consideration of medical and other evidence
45 satisfactory to the Disability Committee, may extend
46 such benefits for additional periods of up to ninety
47 (90) days, subject to periodic review by the Disability
48 Committee [BOARD]. A member who is otherwise eligible
49 to receive a temporary occupational or non-occupational
50 disability benefit shall not receive such benefit if

1 the medical authority returns the member to light duty
2 [THE FIRE CHIEF OR POLICE CHIEF, RESPECTIVELY, OFFERS
3 TO RETURN THE MEMBER TO LIGHT DUTY,] and the member
4 refuses to return to work [DO SO]. [IN THE CASE OF THE
5 POLICE CHIEF OR FIRE CHIEF, THE MUNICIPAL MANAGER SHALL
6 DETERMINE IF IT IS APPROPRIATE TO RETURN THE MEMBER TO
7 LIGHT DUTY.]
8

9 ***

10
11 **Section 13:** Anchorage Municipal Code section 3.85.115 is hereby
12 amended as follows:
13

14 **3.85.115** **Temporary non-occupational disability**
15 **benefits [RETIREMENT] - Systemwide**
16 **provisions.**
17

- 18 A. The Disability Committee may grant temporary non-
19 occupational disability benefits to non-retired members
20 who are unable to fully perform the duties of a police
21 officer or a firefighter. Said benefits shall be
22 granted on the same basis as temporary occupational
23 disability benefits. The duration of such benefits
24 shall not exceed an initial period of ninety (90) days.
25 The Disability Committee may extend such benefits for
26 additional periods of ninety (90) days each based on
27 medical and other evidence presented to the Disability
28 Committee. Temporary non-occupational disability
29 benefits shall be made only to the extent that such
30 benefits and other wage continuation payments
31 attributable to the Municipality do not exceed one-
32 hundred (100%) percent of the applicable average
33 biweekly compensation at the time of disability. To
34 the extent the sum of such benefits exceeds one-hundred
35 (100%) percent of the member's applicable average
36 biweekly compensation, benefits received from the
37 system shall be reduced to the extent the benefit
38 exceeds one-hundred (100%) percent of the applicable
39 average biweekly compensation.
40

41 ***

42
43 **Section 14:** Anchorage Municipal Code section 3.85.125 is hereby
44 amended as follows:
45

46 **3.85.125** **Temporary non-occupational disability**
47 **benefits [RETIREMENT] - Plans I and II.**
48

49 ***

1
2 B. A member receiving temporary non-occupational
3 disability shall not receive such benefit if the
4 medical authority returns the member to light duty
5 and the member refuses to return to work. [A MEMBER
6 RECEIVING A TEMPORARY NONOCCUPATIONAL DISABILITY
7 BENEFIT SHALL NOT RECEIVE SUCH BENEFIT IF RETURNED
8 TO LIGHT DUTY AT THE MEMBER'S REQUEST. THE DECISION
9 TO RETURN A MEMBER TO LIGHT DUTY SHALL REQUIRE THE
10 JOINT CONCURRENCE OF THE HEAD OF THE POLICE OR FIRE
11 DEPARTMENT AND A DISABILITY COMMITTEE REPRESENTATIVE
12 FROM THE MEMBER'S PARTICULAR DEPARTMENT.]
13
14

15 **Section 15:** Anchorage Municipal Code section 3.85.130 is hereby
16 amended as follows:
17

18 **3.85.130** **Permanent non-occupational disability - Plan**
19 **III.**
20

21 A. A member who becomes disabled, but is not eligible
22 for an occupational disability shall receive a
23 monthly benefit of twenty-five percent (25%) of
24 final average compensation at the time of disability
25 if the member retires after more than five (5), but
26 less than ten (10) years of credited service. For
27 every additional year of credited service in excess
28 of ten (10) years, up to a total of twenty (20)
29 years, the member's benefit shall be increased by
30 two and one-half percent (2-1/2% [2-1/5%]) of final
31 average compensation.
32

33 **Section 16:** Anchorage Municipal Code section 3.85.135 is hereby
34 amended as follows:
35

36 **3.85.135** **Temporary non-occupational disability**
37 **benefits [RETIREMENT] - Plan III.**
38

39 ***

40
41 B. A member receiving temporary non-occupational
42 disability shall not receive such benefit if the
43 medical authority returns the member to light duty
44 and the member refuses to return to work. [A MEMBER
45 OF PLAN III WHO IS OTHERWISE ELIGIBLE TO RECEIVE A
46 TEMPORARY OCCUPATIONAL OR NON-OCCUPATIONAL
47 DISABILITY BENEFIT SHALL NOT RECEIVE SUCH A BENEFIT
48 IF THE FIRE CHIEF OR POLICE CHIEF, RESPECTIVELY,
49 OFFERS TO RETURN THE MEMBER TO LIGHT DUTY AND THE

MEMBER REFUSES. IN CASE OF THE POLICE CHIEF OR FIRE CHIEF, THE MUNICIPAL MANAGER SHALL DETERMINE IF IT IS APPROPRIATE TO RETURN TO LIGHT DUTY.]

Section 17: Anchorage Municipal Code section 3.85.150 is hereby amended as follows:

3.85.150 Death benefits [PRE-RETIREMENT] - Plan III.

A. When a member of Plan III dies [PRIOR TO RETIREMENT,] regardless of the cause, the designated beneficiaries shall be eligible to receive a benefit[S] equal to the greater of (1) or (2) below [SEVENTY-FIVE PERCENT (75%) OF ANY DISABILITY BENEFIT TO WHICH THE MEMBER WOULD HAVE BEEN ENTITLED HAD THE MEMBER SURVIVED WITH A DISABILITY, WHETHER OCCUPATIONAL OR NON-OCCUPATIONAL.]:

1. 100% of the disability benefit to which the member would have been entitled had the member survived with a disability, whether occupational or non-occupational,

2. 75% of the service retirement benefit to which the member would have been entitled had the member survived.

D. If the member is survived by children under the age of 18, or disabled children, regardless of age, the survivor benefit shall be increased by the children's benefit. In the absence of a spouse survivor, payments to minor children shall be in the same manner as prescribed for Occupational Death Benefits under Plans I and II in Section 3.85.140.B.

E. For active member deaths, [T]the Disability Committee shall determine the cause of death in the same manner as the determination of disability benefits. [THIS PROCEDURE SHALL BE USED TO DETERMINE THE AMOUNT OF THE BENEFIT PAYABLE UNDER THIS SECTION.]

F. No additional insurance, annuity, or other compensation shall have any bearing on the payment of death benefits provided for in this section.

1
2 **Section 18:** Anchorage Municipal Code section 3.85.155 is repealed
3 in its entirety as follows:
4

5 **[3.85.155 POST-RETIREMENT DEATH BENEFITS-PLAN III.]**
6

- 7 A. UPON THE DEATH OF A RETIRED MEMBER OF PLAN III, THE
8 DESIGNATED BENEFICIARIES SHALL BE ELIGIBLE TO
9 RECEIVE BENEFITS EQUAL TO SEVENTY-FIVE PERCENT (75%)
10 OF THE BENEFITS TO WHICH THE RETIRED MEMBER WAS
11 ENTITLED AT TIME OF DEATH.
12
13 B. IN THE ABSENCE OF A DESIGNATION OF BENEFICIARIES ON
14 THE FORM PRESCRIBED BY THE BOARD, BENEFITS SHALL BE
15 PAYABLE ACCORDING TO THE SAME PROCEDURE AS
16 OCCUPATIONAL DEATH BENEFITS IN PLANS I AND II WHEN
17 NO BENEFICIARY IS DESIGNATED.
18
19 C. THE MANNER OF DESIGNATION OF BENEFICIARIES SHALL BE
20 THE SAME AS PRESCRIBED FOR OCCUPATIONAL DEATH
21 BENEFITS IN PLANS I AND II.
22
23 D. IF THE MEMBER IS SURVIVED BY CHILDREN UNDER THE AGE
24 OF 18, OR DISABLED CHILDREN REGARDLESS OF AGE, THE
25 SURVIVOR BENEFIT SHALL BE INCREASED BY THE
26 CHILDREN'S BENEFIT. PAYMENT TO MINOR CHILDREN SHALL
27 BE IN THE SAME MANNER AS PRESCRIBED FOR OCCUPATIONAL
28 DEATH BENEFITS UNDER PLANS I AND II.
29
30 E. NO ADDITIONAL INSURANCE, ANNUITY, OR OTHER
31 COMPENSATION SHALL HAVE ANY BEARING ON THE PAYMENT
32 OF DEATH BENEFITS PROVIDED IN THIS SECTION.]
33

34 **Section 19:** Anchorage Municipal Code section 3.85.160 is amended
35 as follows:
36

37 **3.85.155 [3.85.160] Reserve funding and enhanced benefits.**
38

- 39 A. The Board shall maintain [FUND] a contingency
40 reserve at all times for funding of the minimum
41 defined benefits within each plan at not less than
42 16% of accrued and projected future liabilities.
43 *** *** ***

- 44
45 M. Enhanced benefits for the benefit of active members
46 of the System or deferred vested members not yet
47 eligible to receive benefits may not be distributed
48 until a member has separated from service and is
49 eligible to begin receiving benefits from the
50 System. Enhanced benefits attributable to active

1 members of the System or deferred vested members
2 regardless of eligibility for retirement shall be
3 credited to those members in individual accounts.
4 The assets attributable to these accounts shall
5 remain a part of the corpus of the Trust, but may,
6 at the Board's discretion, be managed by a third
7 party administrator. The precise manner of account
8 management and attribution of interest shall be as
9 determined by the Board. The Board may establish an
10 interim procedure and alter that procedure as it
11 deems to be in the best interest of the System, its
12 members and beneficiaries, or as otherwise required
13 by law.

14
15 ***

- 16
17 O. Retired members and deferred vested members
18 regardless of eligibility to receive payment of
19 retirement benefits shall have the option to
20 participate in the third-party administered accounts
21 maintained for the enhanced benefits of active
22 members. [AS A CONDITION OF PARTICIPATION, RETIRED
23 MEMBERS AND DEFERRED VESTED MEMBERS SHALL EXECUTE A
24 RELEASE, IN A FORM PRESCRIBED BY THE BOARD, WHICH
25 HOLDS THE BOARD OF TRUSTEES, THE SYSTEM, AND THE
26 MUNICIPALITY HARMLESS FOR THE EXERCISE OF THEIR
27 DISCRETION IN THE MANAGEMENT OF THE THIRD-PARTY
28 ADMINISTRATION PROGRAM.]
29

30 **Section 20:** Anchorage Municipal Code section 3.85.165 is hereby
31 amended as follows:
32

33 **3.85.160[3.85.165]Qualified domestic relations orders; child**
34 **support domestic relations orders.**
35

- 36 A. As used in this chapter, a qualified domestic
37 relations order, including a qualified child support
38 domestic relations order, is an order or judgement
39 under AS 25.24, in a format prescribed by the board,
40 approved by a court of competent jurisdiction that:
41

42 ***

- 43
44 13. Allows the establishment of a [EITHER] minimum
45 [OR MAXIMUM] payment amount[S] to the
46 alternate payee based upon the member's
47 contributions and interest as a percentage of
48 the period of marriage while the member
49 participated in the system, limited to no
50 greater than 50% of the contribution account.

1 If the member dies prior to receipt by the
2 alternate payee of benefits equal to his or
3 her share of the contribution account as
4 specified in the court order, the alternate
5 payee shall continue to receive benefits until
6 such time as the alternate payee's portion of
7 the contribution account has been distributed.
8 Thereafter, the survivorship benefits that
9 were reduced shall be restored and paid in
10 accordance with this chapter.

11
12 B. For the purpose of this section, an alternate payee
13 is defined as an individual who is designated as the
14 result of a domestic relations order to receive a
15 direct payment of a portion of the member's benefits
16 from the plan. The qualified domestic relations
17 order is initiated by a divorce, dissolution order,
18 judgment under AS 25.24, or an order approving a
19 property settlement. [A CHILD SUPPORT ORDER WILL
20 ALSO BE RECOGNIZED AS A QUALIFIED DOMESTIC RELATIONS
21 ORDER.]

22 *** *** ***

23
24
25 E. An alternate payee shall not receive continued
26 benefits from the System as of the date of the
27 member's death occurring after the entry of the
28 order and the initiation of distributing benefits
29 under this System, excepting as provided for under
30 the maximum or minimum payment provision in
31 paragraph A.13 [D] above.

32 *** *** ***

33
34
35 L. Enhanced benefits shall be subject to a QDRO as
36 defined in this chapter. The alternate payee's
37 enhanced benefit will be calculated by taking the
38 years of marriage which occurred while participating
39 in the System divided by the member's years of
40 credited service. [THE ALTERNATE PAYEE'S ENHANCED
41 BENEFIT WILL BE CALCULATED BY TAKING THE YEARS OF
42 MARRIAGE DIVIDED BY THE MEMBER'S YEARS OF CREDITED
43 SERVICE WHICH OCCURRED DURING THE MARRIAGE.] This
44 number shall be multiplied by a percentage as
45 determined by a court of competent jurisdiction, not
46 to exceed fifty percent (50%), which number shall
47 then be multiplied by the amount of the enhanced
48 benefit[.], the value of which shall be determined
49 as of the date of the separation/divorce. No
50 alternate payee may receive payment of the enhanced

benefit until the member has separated from service and is in receipt of benefits from the System.

N. Child support domestic relations orders, when issued by a court of competent jurisdiction and in a manner consistent with law shall be enforceable in the same manner as a qualified domestic relations order.

O. In the case of a retired member, an active vested member, or a deferred vested member, that member may elect to pay domestic relations obligations in excess of the fifty percent (50%) limitation in subsection L of this section, by authorizing immediate distribution from the surplus benefit account of the sum which exceeds fifty percent (50%). In order for such a distribution to occur, the alternate payee must waive payment, in a form satisfactory to the Board, from that portion of the defined benefit which is represented by the lump sum distribution. In no circumstances can the alternate payee receive a payment which is in excess of fifty percent (50%) of the combined value of the member's accounts. Alternate payees shall not participate in the surplus benefit program.

Section 21: Anchorage Municipal Code section 3.85.170 is hereby amended as follows:

3.85.165 [3.85.170] Compliance with tax laws.

Section 22: Anchorage Municipal Code section 3.85.175 is hereby amended as follows:

3.85.170 [3.85.175] Miscellaneous provisions.

C. Alienation, transfer or assignment of benefits.

[ALIENATION, TRANSFER OR ASSIGNMENT OF BENEFITS.]
Neither a member's interest in the system, nor any benefit payable to a member, including enhanced benefits, may be subject to alienation, sale, transfer, assignment, pledge, encumbrance or charge of any kind, whether voluntary or involuntary, before received by the person entitled to the benefit, except as expressly provided under this

chapter. This exemption shall also apply to garnishment, attachment and the operation of bankruptcy or insolvency law or any other process of law whatsoever except for qualified domestic relations orders and child support orders. Benefits paid under this plan shall be subject to levy under the Internal Revenue Code, to the extent provided by federal law.

D. Benefit payment to minors or guardians:

[BENEFIT PAYMENT TO MINORS OR GUARDIANS:] If any member or beneficiary is a minor or is under any other legal disability, the Retirement Board shall have the power to withhold payment of benefits until the Board is presented with proof satisfactory to the Board of the appointment of a guardian. If the Board becomes aware that any member or beneficiary is incapable of personally receiving and giving a valid receipt for any payment due under the System, the Board shall cause notice to be given to that member or beneficiary of a hearing to determine whether said benefits should continue to be paid until the appointment of a guardian. During the pendency of any such hearing, however, the Board may continue to pay benefits to the member or beneficiary and that such payment shall be a complete discharge of any liability under the System for such payment.

E. Annual examination of persons receiving disability benefits:

[ANNUAL EXAMINATION OF PERSONS RECEIVING DISABILITY BENEFITS:] Prior to the date a member becomes eligible for normal retirement benefits, [T]he Disability Committee may [SHALL] review the physical and mental condition of all persons receiving disability benefits on a periodic [AN ANNUAL] basis [OR AT MORE FREQUENT INTERVALS IF] as determined necessary by the Board. The review shall be limited to the condition which gave rise to the disability. If the Board determines that a physical or mental condition is the type of condition which could improve, the Disability Committee may require the member to submit to additional physical or mental examinations at the expense of the System. The refusal of a member to consent to such examinations shall be considered grounds for denial of further payment of those benefits.

1
2 F. Confidentiality of psychological disability files:
3

4 [CONFIDENTIALITY OF PSYCHOLOGICAL DISABILITY FILES:]
5 All documents submitted to the staff or Disability
6 Committee in connection with an application for
7 occupational or non-occupational disability benefits
8 premised upon a psychological or psychiatric
9 impairment shall be maintained in a confidential
10 manner and shall not be subject to public disclosure
11 absent the written consent of the applicant. Upon a
12 finding by the Disability Committee that
13 consideration of a claim for benefits premised upon
14 psychological or psychiatric impairment meets the
15 standard of Section 1.25.010(A) of the Anchorage
16 Municipal Code, that claim may be heard in an
17 executive session. All records shall be maintained
18 in compliance with any applicable state or federal
19 laws and as otherwise provided in this Chapter. No
20 official action may be taken in an executive
21 session.
22

23 [G. REIMBURSEMENT OF LEGAL FEES AND COSTS: A MEMBER OR
24 SURVIVOR OF A MEMBER WHOSE APPLICATION FOR BENEFITS
25 IS FORMALLY DENIED BY THE DISABILITY COMMITTEE UPON
26 "ADMINISTRATIVE" OR CLAIM REVIEW UNDER THIS CHAPTER
27 SHALL BE ENTITLED TO RECEIVE AN AWARD OF ACTUAL
28 REASONABLE ATTORNEY'S FEES AND COSTS IF, ON FORMAL
29 HEARING, THE DISABILITY COMMITTEE GRANTS BENEFITS.
30 IF THE DISABILITY COMMITTEE'S DENIAL OF BENEFITS IS
31 APPEALED TO THE SUPERIOR COURT AND BENEFITS ARE
32 AWARDED BY THE COURT, ATTORNEY FEES AND COSTS
33 SPECIFIED ABOVE SHALL BE PAID BY THE RETIREMENT
34 SYSTEM. IF THE APPEAL TO THE SUPERIOR COURT RESULTS
35 IN REMAND TO THE DISABILITY COMMITTEE, NO FEES ARE
36 PAYABLE UNLESS THE DISABILITY COMMITTEE, UPON
37 RECONSIDERATION, GRANTS THE CLAIMED BENEFITS.
38 ATTORNEY FEES AND COSTS REIMBURSED UNDER THIS
39 SECTION ARE LIMITED TO THOSE FEES AND COSTS INCURRED
40 AFTER THE MEETING DURING WHICH THE APPLICATION IS
41 FIRST DENIED BY THE DISABILITY COMMITTEE.
42 REIMBURSEMENT OF ATTORNEY FEES AND COSTS UNDER THIS
43 SECTION SHALL BE MADE BY THE RETIREMENT SYSTEM IN
44 ADDITION TO ANY BENEFITS THAT ARE PAID TO THE
45 SUCCESSFUL APPLICANT.]
46

47 G. Requirements for Surviving Spouse Benefits:
48

49 In order to be eligible for surviving spouse
50 benefits, the member and spouse must have been

1 lawfully married not less than six (6) months prior
2 to the death of the member. In the event a member
3 dies a line-of-duty death, this marriage requirement
4 shall be waived.

5
6 ***

7
8 (Note to Code Revisor: Re-number subsequent sections to the
9 end.)

10
11 **Section 23:** This ordinance shall become effective immediately
12 upon passage and approval by the Assembly.

13
14
15 PASSED AND APPROVED by the Anchorage Assembly this
16 19th day of March, 2002.

17
18
19
20 ATTEST:

DeL 2
Chair of the Assembly

21
22 Guy Meyer
23 Municipal Clerk
24

MUNICIPALITY OF ANCHORAGE**2002-54 Summary of Economic Effects - General Government**

AO Number: / Title: An Ordinance Amending AMC Chapter 3.85 Clarifying Procedures and
Correcting Errors

Sponsor: Anchorage Police & Fire Retirement Board

Preparing Agency: Anchorage Police & Fire Retirement System

Others Impacted: None

CHANGES IN EXPENDITURES AND REVENUES: (Thousands of Dollars)

	FY01	FY02	FY03	FY04	FY05
Operating Expenditures	No Municipality Budget Impact				
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
TOTAL DIRECT COSTS:	No Direct Costs Associated with Any of the Changes				
Add: 6000 Charges from Others		N/A			
Less: 7000 Charges to Others		N/A			
FUNCTION COST:		N/A			
REVENUES:		N/A			
CAPITAL:		N/A			
POSITIONS: FT/PT and Temp.	No Municipality Personnel Cost Impact				

PUBLIC SECTOR ECONOMIC EFFECTS:

This Ordinance serves to correct scrivener's errors and seeks to clarify provisions of AO 2000-65 passed by the Assembly on April 18, 2000. Procedural changes improve efficiency of certain Retirement System accounting operations which will save time, effort and costs and will reduce Municipal overhead costs expended on behalf of the Retirement System. Additionally, a new Retirement Payment Option is being introduced which is designed to assist the Police Chief and the Fire Chief in their employee retention efforts. This will result to no additional cost to the Retirement System and will result in potential cost savings for the Municipality in lower recruiting, replacement and pension expenses. The changes put forth have no impact on the Retirement System Budget other than the possibility of reducing overhead/administrative cost associated with the Retirement System. All costs for administration of the Retirement System are paid from the Retirement System Trust.

SUMMARY OF ECONOMIC EFFECTS**PRIVATE SECTOR ECONOMIC EFFECTS:**

None

Prepared by: Staff of the Anchorage Police & Fire Retirement System

Telephone: X 8401

Validated by OMB: Cheryl FrascaDate: 11/14/01Approved by: C.M. Laird
(Director, Preparing Agency)Date: 6/28/01Concurred by: N/A
(Director, Impacted Agency)

Date: _____

Approved by: _____
(Municipal Manager)

Date: _____

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. AM 236-2002

Meeting Date: February 26, 2002

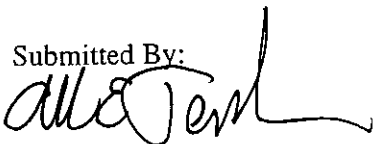
From: Assembly Chair, Dick Traini and Assembly Member Allan Tesche

Subject: AO 2002- 544, An Ordinance Amending Anchorage Municipal Code, Chapter 3.85, Relating to the Police & Fire Retirement System, Adding New and Amending Definitions, Correcting Scrivener's Errors and Mistakes and Clarifying Board Administrative Procedures of the Anchorage Police & Fire Retirement System Relating to Amendments Originally Enacted by AO 2000-65, April 18, 2000.

The purpose of this memorandum is to request Assembly approval of an amending ordinance for Chapter 3.85, the Anchorage Police & Fire Retirement System. The Anchorage Assembly enacted AO 2000-65 on April 18, 2000. This was the ordinance that terminated and immediately re-established the Anchorage Police & Fire Retirement System allowing for the reversion of \$40 Million in Trust Assets to the Municipality, the settling of major litigation actions, the creation of additional benefits for members and the granting of additional authority to the Board in the administration of the System. From the time of approval of the settlement by the courts in March to the passage of the ordinance, there was very little time to create the new "plan document" which is AMC 3.85. As a result of this good-intentioned haste, there were a number of typographical errors, omissions, misstatements, inadvertent changes and other problems that require amendment or clarification.

Following the adoption of AO 2000-65, the Board and Staff of the Retirement System conducted a comprehensive review of AMC 3.85, with assistance from Legal Counsel and key Municipal Directors and Officers, and developed the amending language related to corrections, general content and order, purchasing, accounts payable, staff administration and other accounting functions covered by this ordinance. The material provisions of the amending ordinance are outlined in Sections 1 through 22 in the enclosed document along with a memorandum summarizing the changes prepared by the Retirement Board's Consulting Attorney, Mr. Robert D. Klausner.

Submitted By:



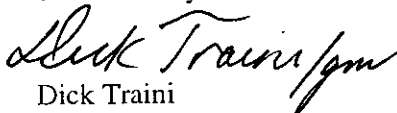
Allan Tesche
Assembly Member

Concur:



Joe Caswell
Chair, Police & Fire Retirement Board

Submitted By:



Dick Traini
Assembly Chair

Prepared by:



Charles M. Laird
Director

November 14, 2001

Honorable Members of the Assembly
Municipality of Anchorage
City Hall
632 W. 6th Avenue,
Anchorage, AK 99520

Re: Technical Amendments Ordinance
Our File No. 105-91

Dear Assembly Members:

I am writing to assist you in your review of the legal issues which may be presented in the attached ordinance amending Chapter 3.85, AMC. This ordinance is the product of a substantial cooperative effort involving many branches of the Municipal government. The ordinance was thoroughly reviewed by the Municipal Attorney, who offered substantial assistance in the preparation of the final product. A comprehensive review was also had with the Chief Fiscal Officer, the Purchasing Officer and the Personnel Director. For the reasons which follow, the ordinance is fully in accord with Alaska law and the Municipal Charter and Code. I will review each section below:

1. Section 1 - Changes have been made to the definitions section to catch certain terms of art which were not addressed, due simply to oversight, in the 2000 plan re-write. Primarily, existing policies regarding treatment of retroactive pay, definitions related to disability, and survivorship rules have been clarified. As the Municipal Attorney noted in his assistance on the original re-write, it is preferable to have "policies and practices" codified wherever possible. In addition, certain sections of the definitions section, at the suggestion of the Municipal Attorney, have been relocated to the substantive sections of Chapter 3.85
2. Section 2 - This section clarifies the reimbursement policy of the Board and the procedures when trustees are contacted by counsel for plan participants. It should be noted that since the termination and restatement of the System, all expenses of administration are now borne by the members and not MOA. This section also defines the Board's Executive Committee, which may make certain administrative decisions between meetings of the full Board of Trustees.

3. Section 3 - This section clarifies the powers of the Board concerning the management of budgeted expenses, particularly the paying of contractors and staff. Exceptions for independent agencies, e.g., the telephone utility (6.50.040 AMC), from the Titles 3 and 6 procedures is common and fully in accordance with the Charter. Section 5.07 of the Charter expressly empowers the Assembly to set powers of Boards and agencies. Sections 13.08 and 13.09 provide that budgeting powers and duties are to be set by ordinance. This is consistent with the inherent legislative power vested in the Assembly under Section 4.01 of the Charter. This change is also consistent with the separation created by the Assembly in the 2000 plan restatement which eliminates any Municipal contribution to System expenses, shifting that responsibility to the participants. Under the prior ordinance establishing a compensation plan for the Director and staff was already vested in the Board. The revisions give the Board discretion to set staff compensation, within the maximums established in the denoted Municipal pay classifications. The Board will select its own professional contractors, a practice it generally performs now and which is supported by the Purchasing Department. Professional contracts will not need Assembly approval, but an Assembly memorandum outlining terms and cost will be provided for each contract. Procurement of supplies and non-professional services will follow the procedures set forth in Title 7.
4. Section 4 - This provision allows for direct purchase of fiduciary insurance. Many general liability carriers decline to write this coverage and direct procurement has been determined to be the most efficient and cost effective. This language clarification was crafted by the current Purchasing Officer.
5. Section 5 - This section relocated necessary Tax Code compliance language from the definition section to the sections relating to compensation, as recommended by the Municipal Attorney.
6. Section 6 - This Section corrects a scrivener's error in the 2000 re-write. Some of the text of the Plan III COLA was inadvertently excluded from the April 18, 2000.
7. Section 7 - This section revises the Disability Committee to address certain Charter concerns addressed by the Municipal Attorney. This section also addresses temporary disability. The payment of temporary benefits has always been a ministerial function. To avoid the delay attendant to the convening of a Board meeting, this non-discretionary process will be delegated to the Director.
8. Section 8 - This Section contains some grammatical correction and relocates the attorneys fee provision without substantive change. The section also revises and clarifies disability hearing procedures.

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9. Section 9 - This section relocates language from the definitions section. Additionally, the presumptive disease clause has been conformed to meet the requirements of Section 104(a) of the Internal Revenue Code, which allows more favorable tax treatment of occupational disability benefits.
10. Section 10 - This section seeks to standardize the calculation methodology to the common monthly factor in use for all other plan benefits. It also removes some language that is in conflict with Municipal employee management rights.
11. Section 11 - This section is the same as Section 10, above.
12. Section 12 - This change is the same as Section 10, but relates to Plan III.
13. Section 13 - This change conforms the plan to long standing practice.
14. Section 14 - See explanation for Sections 10 and 12.
15. Section 15 - This section corrects a scrivener's error.
16. Section 16 - See explanation for Section 10.
17. Section 17 - This section clarifies the current practice on the payment of death benefits which was part of the April 2000 settlement agreement.
18. Section 18 - This repeals obsolete language on the payment of death benefits now addressed, as indicated in Section 17 above.
19. Section 19 - This section clarifies, as dictated by the Tax Code, that deferred vested members may not receive a premature distribution.
20. Section 20 - This section concerning child support domestic relations orders has been clarified, following consultation with the Attorney General, to conform to Alaska state law on the payment of benefits from a qualified plan.
21. Section 21 - This section is re-numbered.
22. Section 22 - This section contains editorial re-numbering and conforms the plan to long standing practices on maintenance of records. Revised or relocated sections have been deleted. A new section relating to spousal survivor benefits has been added requiring a minimum of six months of marriage.

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As noted above, this ordinance is the product of significant effort over a substantial period of time. As was the case with the 2000 ordinance, I would be pleased to participate in an Assembly workshop as well as attending the regular Assembly session to address any questions or concerns regarding this ordinance. It is the Board's belief that this round of amendments, which provides for substantial reporting and disclosure to the Assembly could well be the last legislative effort necessary to complete the transition of the police and fire retirement program begun last year.

Sincerely,



ROBERT D. KLAUSNER

cc: Board of Trustees
Office of the Mayor
Municipal Manager
Municipal Attorney

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
AGENDA DOCUMENT CONTROL SHEET

AO 2002-54

1	SUBJECT OF AGENDA DOCUMENT	DATE PREPARED <i>2-26-02</i>
	<i>Amending AMC 3.85 Police & Fire Retirement System</i>	INDICATE DOCUMENTS ATTACHED
		<i>AO AM SEE Attachments</i>
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Dick Traini
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER
4	COORDINATED WITH AND REVIEWED BY	INITIALS
	DATE	
	Mayor	
	Heritage Land Bank	
	Merrill Field Airport	
	Municipal Light & Power	
	Port of Anchorage	
	Solid Waste Services	
	Water & Wastewater Utility	
	Municipal Manager	
	Cultural & Recreational Services	
	Employee Relations	
	Finance, Chief Fiscal Officer	
	Fire	
	Health & Human Services	
	Office of Management and Budget	
	Management Information Services	
	Police	
	Planning, Development & Public Works	
	Development Services	
	Facility Management	
	Planning	
	Project Management & Engineering	
	Street Maintenance	
	Traffic	
	Public Transportation Department	
	Purchasing	
	Municipal Attorney	
	Municipal Clerk	
	Other	
5	SPECIAL INSTRUCTIONS/COMMENTS	
	<i>Addendum</i>	
	<i>9. F. Introduction</i>	
6	ASSEMBLY MEETING DATE <i>2-26-02</i>	7
		PUBLIC HEARING DATE REQUESTED <i>3-19-02</i>

2002 FEB 26 AM 11:19
 CLERK'S OFFICE
 M.O.A.