

Date: 8-12-03

Submitted by: Assemblymember Tesche  
Prepared by: Anchorage Police & Fire  
Retirement Board  
For reading: July 15, 2003

ANCHORAGE, ALASKA  
AO NO. 2003-112

1 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING  
2 ANCHORAGE MUNICIPAL CODE CHAPTER 3.85, RELATING TO THE POLICE & FIRE  
3 RETIREMENT SYSTEM; PROVIDING ADDITIONAL DEFINITIONS; CLARIFYING THE  
4 PROCEDURES FOR PAYMENT OF RETIREMENT BENEFITS WHEN PLAN MEMBERS  
5 WHO RETIRE ARE REEMPLOYED BY THE MUNICIPALITY OF ANCHORAGE;  
6 PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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9 WHEREAS it is the Retirement Board's fiduciary duty and intent to, at all times, comply with  
10 Internal Revenue Service Codes and Regulations in order to sustain the tax-qualified status of the  
11 Retirement System Trust; and

12  
13 WHEREAS the Retirement Board has previously adopted Policies and Procedures related to  
14 distribution of retirement benefits following separation from service; and

15  
16 WHEREAS the Retirement Board requested a Private Letter Ruling from the Internal Revenue  
17 Service (IRS) regarding separation from service rules and the IRS has declined to respond to the  
18 request; and

19  
20 WHEREAS the Board of Trustees of the Retirement System has determined that the proposed  
21 amendments are appropriate to clarify separation from service rules under the Municipal Code rather  
22 than in Board Policies and Procedures; and

23  
24 WHEREAS the Assembly concurs in the recommendation of the Board of Trustees;

25  
26 NOW, THEREFORE, THE ANCHORAGE ASSEMBLY ORDAINS:

27  
28 Section 1. Anchorage Municipal Code section 3.85.015 is hereby amended by amending and  
29 adding definitions to read as follows (*the remainder of the definitions are not affected and are*  
30 *therefore not set out*):

31  
32 3.85.15      Definitions.

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I. Break in service means a separation from the municipal workforce including termination, resignation, layoff, or retirement for a period of time and under conditions specified in this chapter. [OR TRANSFER TO A POSITION WHICH IS NOT INCLUDED IN THE PROVISIONS OF THIS CHAPTER.]

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II. Meaningful consequences means as a result of a break in service, the reemployed member suffers losses to employment indicia including loss of rank or grade, loss of pay, loss of seniority, loss of longevity pay and establishment of a new employment date for leave accrual purposes.

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

BBB[AAA]. Separation from service means a withdrawal from service with the Municipality of Anchorage through termination, resignation, retirement, or death.[OR TRANSFER TO A JOB CLASSIFICATION NOT COVERED BY THE PROVISIONS OF THIS CHAPTER.]

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

**Section 2.** Anchorage Municipal Code section 3.85.065 is hereby amended as follows:

**3.85.065 Service retirement benefits - Plans I and II.**

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G. In order to be eligible to receive pension benefits from the system, a Plan I or Plan II member must have a Separation from Service.

H. A Command Officer in the Police Department (Rank of Lieutenant and above) or a Command Officer in the Fire Department (Battalion Chief or above), who retires from the system and is reemployed by the Municipality of Anchorage into a Command position, must have a break in service of not less than 30 consecutive days between the retirement date and the reemployment date.

I. A Police Officer, Firefighter or Paramedic, who is not in a Command position, who retires from the system and is reemployed by the Municipality into a Command position, must have a break in service of not less than 30 consecutive days between the retirement date

1 and the reemployment date.

2  
3 J. A Police Officer, Firefighter or Paramedic, who is not in a Command Position, who  
4 retires from the system and is reemployed by the Municipality into other than a Command  
5 position, must have a break in service in accordance with municipal personnel rules, and  
6 experience Meaningful Consequences upon reemployment as defined in this chapter.

7  
8 K. Plan I and Plan II members who retire and are reemployed by the Municipality under  
9 these circumstances will be required to execute a certificate of understanding and waiver  
10 regarding the known and potential tax consequences associated with the reemployment  
11 action.

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14 Section 3. Anchorage Municipal Code section 3.85.070 is hereby amended to read as follows:

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16 **3.85.070 Service retirement benefits - Plan III.**

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19  
20 G. In order to be eligible to receive pension benefits from the system, a Plan III member  
21 must have a Separation from Service.

22  
23 H. A Command Officer in the Police Department (Rank of Lieutenant and above) or a  
24 Command Officer in the Fire Department (Battalion Chief or above), who retires from the  
25 system and is reemployed by the Municipality of Anchorage into a Command position, must  
26 have a break in service of not less than 30 consecutive days between the retirement date and  
27 the reemployment date.

28  
29 I. A Police Officer, Firefighter or Paramedic, who is not in a Command position, who  
30 retires from the system and is reemployed by the Municipality into a Command position,  
31 must have a break in service of not less than 30 consecutive days between the retirement date  
32 and the reemployment date.

33  
34 J. A Police Officer, Firefighter or Paramedic, who is not in a Command Position, who  
35 retires from the system and is reemployed by the Municipality into other than a Command  
36 position, must have a break in service in accordance with municipal personnel rules, and  
37 experience Meaningful Consequences upon reemployment as defined in this chapter.

38  
39 K. Plan III members who retire and are reemployed by the Municipality under these  
40 circumstances will be required to execute a certificate of understanding and waiver regarding  
41 the known and potential tax consequences associated with the reemployment action.

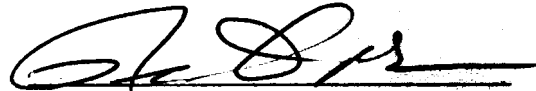
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**Section 4.** This ordinance shall become effective immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 12<sup>th</sup> day of August,  
2003

  
Chair

ATTEST:

  
Municipal Clerk

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

A0 Number: 2003- *112* Title: **AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.85, RELATING TO THE POLICE & FIRE RETIREMENT SYSTEM, PROVIDING ADDITIONAL DEFINITIONS, CLARIFYING THE PROCEDURES FOR PAYMENT OF RETIREMENT BENEFITS WHEN PLAN MEMBERS WHO RETIRE ARE REEMPLOYED BY THE MUNICIPALITY, PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.**

Sponsor: Anchorage Police & Fire Retirement Board  
Preparing Agency: Anchorage Police & Fire Retirement Board  
Others Impacted: None

**CHANGES IN EXPENDITURES AND REVENUES:** (in thousands)

	FY02	FY03	FY04	FY05	FY06
Operating Expenditures					
1000 Personal Services		No Municipality Budget Impact			
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
<b>TOTAL DIRECT COSTS:</b>		No Direct Costs Associated with this Change			
Add: 6000 Charges from Others		NA			
Less: 7000 Charges to Others		NA			
<b>FUNCTION COST:</b>		NA			
<b>REVENUES:</b>		NA			
<b>CAPITAL:</b>		NA			
<b>POSITIONS: FT/PT and Temp.</b>		No Municipality Personnel Cost Impact			
<b>PUBLIC SECTOR ECONOMIC EFFECTS:</b>					
<b>PRIVATE SECTOR ECONOMIC EFFECTS:</b>					

Prepared by: Charles M. Laird

Telephone: 343-8401

Validated by OMB: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

Harry Kieling, Municipal Manager



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

### AM NO. 591-2003

Meeting Date: July 15, 2003

**From:** The Anchorage Police & Fire Retirement Board

**Subject:** AO 2003-112, An Ordinance of the Municipality of Anchorage Amending Anchorage Municipal Code Chapter 3.85, Relating to the Police & Fire Retirement System, Providing Additional Definitions, Clarifying the Procedures for Payment of Retirement Benefits when Plan Members who Retire are Reemployed by the Municipality, Providing for Codification and Providing an Effective Date.

The purpose of this memorandum is to request Assembly approval of an amending ordinance for Chapter 3.85, the Anchorage Police & Fire Retirement System. A "Companion" ordinance has also been submitted by Employee Relations at the request of the Assembly Chair which would make corresponding amendments to Anchorage Municipal Code, Chapter, 3.30, the Personnel Rules.

This ordinance seeks to place into the Municipal Code rules and procedures that the Retirement Board has previously administered under uniform Policies and Procedures dealing with how and when to pay retirement benefits when a Plan Member separates from service with the Municipality and then is reemployed by the Municipality. IRS Rules, governing separation from service, have been viewed as lacking specificity for "Public Safety" Plans. The Retirement Board requested a Private Letter Ruling (PLR) from the IRS but the Service declined to issue a ruling.

Prior to requesting the PLR, the Board developed its Policy using other IRS Private Letter Rulings and Revenue Rulings for guidance. Those documents seemed to indicate that payment of retirement benefits could occur to a retired/reemployed Member so long as the Member suffered "Meaningful Consequences" as a result of the separation. However, later separations in the Anchorage Police Department involving officers who retired from APFRS and were rehired into "Command" positions appeared to lack sufficient consequences. The Retirement Board then modified its policy to follow the State of Alaska PERS model of requiring a separation of at least 30 consecutive days in order to be eligible for pension payments from APFRS.

At the request of APFRS Plan Members, the Board now seeks to codify the rules for paying benefits using a two-tier approach: Requiring "Meaningful Consequences" for reemployments into non-command positions, and requiring a 30-consecutive day break in service for command reemployment actions. At all times the intent of the Retirement Board has been, and continues to be, to protect the "Tax-Qualified" status of the Retirement System Pension Trust Fund. A failure in this regard could result in the IRS disqualification of the Trust creating significant tax issues for its Members.

AO 2003-112

Prepared by:

Charles M. Laird  
Director

Submitted By:

Allan Tesche  
Assemblymember

Concur:

John M. Gentile  
Chair, Police & Fire Retirement Board

<b>2</b>	<b>Police &amp; Fire Retirement Board</b>		<b>Chuck Laird</b>
	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER
<b>3</b>	<b>Charles Laird</b>		
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<b>INITIALS</b>	<b>DATE</b>
	<b>Mayor</b>		
	Heritage Land Bank		
	Merrill Field Airport		
	Municipal Light & Power		
	Port of Anchorage		A
	Solid Waste Services		
	Water & Wastewater Utility		
	<b>Municipal Manager</b>		
	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		
	<b>Municipal Attorney</b>		
	<b>Municipal Clerk</b>		
	<b>Other</b>		
<b>5</b>	<b>Special Instructions/Comments</b>		
	<i>Interviewer</i>		
<b>6</b>	ASSEMBLY HEARING DATE REQUESTED 7/15/03	<b>7</b>	PUBLIC HEARING DATE REQUESTED <i>8/12/03</i>