

CHARLOTTE FIREFIGHTERS' RETIREMENT SYSTEM

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SPECIAL BENEFITS COMMITTEE MINUTES

August 27, 2020

PRESENT: Melinda Manning - Chair, Lee Thompson, Ryan Pope and, Sheila Simpson (left at 9:10 a.m.)

ALSO: Staff - Sandy Thiry, Desire' Dixon, Tony Bass, Ty Phelps and Legal Counsel Lisa Flowers

GUEST: Marvin Wilson

CALL TO ORDER

Mrs. Manning called the meeting to order at 8:00 a.m. Due to the gathering restrictions surrounding COVID-19, the Benefits Committee meeting took place via teleconference. Attendance was taken via roll call and all Committee members were in attendance.

I. ACT AMENDMENTS

The Committee discussed possible changes to the Act for updates including provisions that impact the long-term funding levels, including the employer contribution, final average salary and service purchases. Lisa Flowers reviewed each of the suggested language changes in the Act using a drafted red line version to indicate the recommended changes as previously discussed by the Committee. Lisa reminded the Committee that the Board will vet these topics as well to either approve or deny before any recommendations are presented to the City.

- a) Section 2 – Definitions – Updated 2(2) "basic benefit" to "Basic Benefit" as a defined term related to Section 17 and referenced throughout the document. Added Section 2(11a) Final Average Salary. Legal inserted draft language as a placeholder in the red line version so if the City proposed a change to the averaging period, the language would be ready for Board/Committee's discussion. The Committee discussed and determined that since this has not been a recommendation by the Committee, remove this section.
- b) Section 4 – Periods of Workers' Compensation & Accident and Sickness, Family Medical Leave Act, and Long-Term Disability Benefits – Recommendation to add the language to be consistent with the update to Section 24. The Committee discussed the proposed language, "...% or such other percentage rate as may be determined from time to time by the City upon recommendation of the Board of Trustees in accordance with Section 39 and the Board's Funding Policy.". They determined since there was not a formal Funding Policy adopted yet, suggested the removal of "and the Board's Funding Policy" and replace with "..Section 39 and in accordance with any funding policies adopted by the Board".
- c) Section 6 – Return from Active Military Duty - Recommendation to update the Act in recognition that the USSERA laws are amended from time to time; and include the acronym "USERRA" for Uniformed Services Employment and Reemployment Rights Act, which is referenced throughout the document.

- d) Section 7(a) – Purchase of Membership Service Credit – Recommendation to change the cost of military purchases to be consistent with the language in Section 7(b) and 7(c). Also updated for consistent use of “Membership Service Credit” within this section.
- e) Section 12 (c) – Failure to Return From Active Military Duty – Recommendation to change “benefit accrual” to reference the defined term, “Accrued Benefit”
- f) Section 17 – Recommendation to add “Basic Benefit” as Section title, clarify salary language to include “*not to exceed the salary*” related to IRS requirements, and change “basic benefit” to the defined term “Basic Benefit” for consistency throughout the document.
- g) Section 19 (c) – Disability Retirement in the Line of Duty – Recommendation to change the language of “...by the disability retirement regulations” to “*in accordance with the Disability Regulations*” for consistency. Also change reference to disability retirement regulations to the Board’s properly named Disability Regulations to reference the Board's formal name for regulations. Likewise, similar changes to Section 20(b) and 20(c) Disability Retirement not in the Line of Duty.
- h) Section 23 – Post-Retirement Adjustments – Recommendation to move Section 25(d) to Section 23(b2) due to the similarity of the material in this section.
- i) Section 24 – Member Contributions – Recommendation to add the language of “*% or such other percentage rate as may be determined from time to time by the City upon recommendation of the Board of Trustees in accordance with Section 39*” which would allow the Board to recommend updates to the Employee Contribution Rate as they occur, without having to amend the Act. The Committee discussed and suggested edit also reference “any funding policies adopted by the Board” along with Section 39.
- j) Section 25 (a) – City of Charlotte Contributions – Recommendation based on the Committee’s discussions to change the contribution rate consistent with current practice of 14% and provides for an incremental 2% increase up to 24% over the next five years with a floor of 14%. “*Effective July 1, 2020, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Member's Compensation multiplied by 14% for each and every payroll of such Member to be increased each Plan Year by 2% for the next five years to a maximum contribution rate of 24% for each and every payroll of such Member. The contribution rate shall remain at 24% until there is no actuarially determined unfunded liability for the System. Once there is no unfunded liability, the City’s contribution shall be the Actuarially Determined Employer Contribution (ADEC) or such other percentage rate as may be determined from time to time by the City upon recommendation of the Board of Trustees in accordance with Section 39.*” The Committee discussed this suggested language and recommended to remove “*until there is no actuarially determined unfunded liability for the System*” and replace with “*unless the Actuarial Determined Employer Contribution (ADEC) rate falls below 24% in a Plan Year; in that case, the contribution rate shall be the ADEC rate or such other percentage as may be determined by the City upon recommendation of the Board of Trustees in accordance with Section 39 and any funding policies adopted by the Board but in no case shall the contribution rate be less than 14%.*”
- k) Section 29 (a)(v) and (a)(vi) – Board of Trustees – Recommendation to change the language to “*Election Regulations adopted by the Board*” to reference the Board's formal name for the regulations.

- l) Section 30 – Election of Member Trustees – Recommendation to add “Retiree” to the title and change the language “Rules and Regulations” to “the Election Regulations”. Additional changes in this section would clarify section references.
- m) Section 31 – Oath of Office – Recommendation to add the language “or the Mayor’s designee” which will allow flexibility to the administration of the oath of office.
- n) Section 32(e) – Vacancy on Board of Trustees – Recommendation to add “*Notwithstanding the above, the Board of Trustees may allow a vacancy of an elected Trustee for longer than 90 days if it finds it would be more practical to wait for the next election to fill the vacancy*”. This provides flexibility in cases where there is a short unexpired term, or the practical timing of a special election competes with a regular election.
- o) Section 35 – Meetings – Recommendation to (b) to add “electronic mail” and grammar corrections. Add new section (b1) “*The Board of Trustees may allow remote participation of a Trustee member in Board and Committee meetings pursuant to policies and procedures adopted by the Board.*” Add to (c) “*or, in the case of a vacancy, a majority of the current Trustees*”...remove “*at least six*”...and add “*from the majority of the Trustees in attendance*”. This language follows common practice.
- p) Section 36 (b) – Employment of Professional Services – Recommendation to add “*pursuant to Sections 19 and 20*” which references the disability sections.
- q) Section 51 – Restrictions – Recommendation of change reference to proper defined terms and formal regulation name.
- r) Section 54 – Errors – Recommendation to add “*If the benefit was mistakenly set too low, the System shall make a lump sum payment to the recipient of an amount equal to the difference between the benefits that should have been paid and those actually paid, plus interest at the effective rate from the date the unpaid amounts accrued to the date of payment. If the benefit was mistakenly set too high, the System may recover the amount overpaid from the recipient thereof, either directly or by deducting such amount from the remaining benefits payable to the recipient. However, if (1) the amount of the benefit was mistakenly set too high, and (2) the error was undiscovered for 3 years or longer, and (3) the error was not the result of incorrect information supplied by the affected member or beneficiary, then upon discovery of the mistake the benefit shall be adjusted to the correct level, but the recipient of the benefit need not repay to the System the excess amounts received in error.*” This section was brought to the Administrator’s attention when the prior Board’s chair was reviewing the Act for updating a few years ago. Adding this language would limit the time frame that the System can recover benefit overpayments from recipients unless the error is due to fraudulent information provided by the Member or the Beneficiary. Legal explained that pensions are treated as a contract. If the System had to sue to recoup overpayment, courts would most likely only permit a three-year period, however the Board could make longer period than three years. There was discussion with how long the limit period would be, such as three or five years. The Benefits Committee agreed to bring this topic to the Board and let the Board decide.

Lisa Flowers stated that she would be reviewing the changes with an ERISA attorney and will follow up. Sandy Thiry and Lisa Flowers will create a matrix of the recommended changes.

Motion – Lee Thompson motioned for The Benefits Committee to present the Board with all Act amendment recommendations with the noted edits as discussed to Sections 2 11(a), 4, 24, 25, and 54. Ryan Pope seconded the motion. The motion carried unanimously via roll call with Lee Thompson, Ryan Pope, and Melinda Manning in attendance.

Lee Thompson motioned to adjourn at 9:37 a.m. and Ryan Pope 2nd the motion. Roll call was taken, and motion carried unanimously with Lee Thompson, Ryan Pope, and Melinda Manning in attendance.

Next Regular Meeting is scheduled for Thursday, September 10, 2020 at 8:00 a.m.

cc: Vanessa Heffron -Chair
John Carr – Vice Chair
Lisa Flowers – Sr. City Attorney