Text Comparison

Documents Compared

Retirement Benefits I.pdf

Retirement Benefits II.pdf

Summary

192 word(s) added

64 word(s) deleted

5117 word(s) matched

20 block(s) matched

To see where the changes are, scroll down.

Retirement Benefits

Overview

Like other municipalities within the Commonwealth of Pennsylvania, the City of Harrisburg, a City of the Third Class which has adopted an optional third-class city charter, provides its eligible employees with a defined benefit pension plan as the principal vehicle for providing retirement income upon attainment of normal retirement age. These plans are identified in the following table.

City of Harrisburg Retirement Benefits Plans

Employees Covered	Primary Retirement Plan	Plan Name
Police Employees	Defined Benefit (DB) Plan	City of Harrisburg Police Pension Plan (the Police Plan)
Fire Employees	Defined Benefit (DB) Plan	City of Harrisburg Firefighters' Pension Plan (the Firefighters' Plan)
Non-Uniformed Employees	Defined Benefit (DB) Plan	City of Harrisburg Municipal Employees' Pension Plan (the Non-Uniformed Plan)

The Police Plan is a single employer defined benefit pension plan controlled by the provisions of Chapter 2-707 of the Codified Ordinances of the City of Harrisburg, as amended. The plan is also affected by the provisions of collective bargaining agreements between the City and its police officers as described more fully in the Workforce chapter of this Recovery Plan. The Police Plan is administered by the Police Pension Board (the Police Board), the members of which serve without compensation.

The Firefighters' Plan is a defined benefit pension plan that participates in the multiple employer Pennsylvania Municipal Retirement System (PMRS) pursuant to the terms of the City of Harrisburg Firefighters' Pension Plan Agreement (the Firefighters' PMRS Agreement) dated May 17, 2002 by and between the City and the Pennsylvania Municipal Retirement Board (PMRB). The Firefighters' Plan is also controlled by the provisions of Chapter 2-709 of the Codified Ordinances of the City of Harrisburg, as amended and is also affected by the provisions of collective bargaining agreements between the City and its firefighters as described more fully in the Workforce chapter of this Recovery Plan. The Firefighters' Plan is administered through PMRS.

The Non-Uniformed Plan is a defined benefit pension plan that participates in PMRS pursuant to the terms of the City of Harrisburg Municipal Employees' Pension Plan Agreement (the Non-Uniformed PMRS Agreement) dated December 16, 2003 by and between the City and PMRB. The Non-Uniformed Plan is also controlled by the provisions of Chapters 2-705 of the Codified Ordinances of the City of Harrisburg, as amended, and is also affected by the provisions of collective bargaining agreements between the City and its non-uniformed employees as described more fully in the Workforce chapter of this Recovery Plan. The Non-Uniformed Plan is also administered through PMRS.

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Assessment

In the defined benefit type of retirement plan, the benefits are determined based upon a formula, and the monthly benefits are guaranteed for life after vesting in the benefit has occurred. The benefit is generally based upon a percentage of final average pay using earnings history and years of service rather than contributions by the participant and market performance to provide an amount of retirement income. Therefore, the burden of funding the benefit generally falls almost completely on the employer except under those circumstances where the plan requires mandatory employee contributions.

Defined benefit pension plans were historically the principal vehicle for providing retirement income to employees in the U.S. prior to Internal Revenue Service (IRS) approval, in the 1970s, of the 401(k) defined contribution type of retirement plan. Now, in the U.S., the defined contribution retirement plan has replaced the defined benefit retirement plan as the principal vehicle for providing retirement income for employees in the private sector. Governmental employers are limited, under applicable federal U.S. tax law, from offering certain types of defined contribution plans to its employees and, coupled with a strong collective bargaining preference for defined benefit plans, the defined benefit plan continues to be the principal source of retirement income for employees of most municipalities in the Commonwealth. The City of Harrisburg is not unique among Pennsylvania municipalities with respect to utilization of defined benefit pension plans as the primary form of retirement income.

Pennsylvania municipalities are required, under the applicable governing Pennsylvania statutes, to make annual contributions to their employee pension benefit plans. As described more fully below, governmental defined benefit pension plans are exempt from many, but not all, of the provisions of the Internal Revenue Code of 1986, as amended (the Code) as well as the provisions of the Employee Retirement Income Security Act (ERISA) of 1974, as amended. Therefore, state law controls most of a governmental plan's operations. The Municipal Pension Funding Standard and Recovery Act (Act 205) is the primary source of the rules governing state aid to municipal retirement plans. The annual contributions required under Pennsylvania law are defined as the minimum municipal obligation (MMO). A municipality's MMO is funded from aid received by the municipality from the Commonwealth, employee contributions (if required under the terms of the plan), investment gain, if any, earned by the investment of prior years' contributions, as well as from the general assets of the municipality (subject to certain limitations in the governing statutes).

The Commonwealth's portion of the funding obligation, in the form of state aid, is provided from a 2% foreign casualty insurance tax, a portion of the foreign fire insurance tax premium and any invested income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984 are eligible for state aid. If a municipal pension plan is established after that date, the sponsoring municipality must fully fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs. In addition to Act 205, the City of Harrisburg's Police Plan, Firefighters' Plan and Non-Uniformed Plan are governed by implementing regulations adopted by the Public Employee Retirement Commission (PERC) published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to the following:

- Act 147 – Special Ad Hoc Municipal Police And Firefighter Post Retirement Adjustment Act;
- Act 317 – The Third Class City Code, Act of June 23, 1931, as amended;
- Act 362 – The Third Class City Code, Act of May 23, 1945;
- Act 399 – Optional Third Class City Charter Law; and

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- Act 600 - The Municipal Police Pension Law as amended by Act 30 and Act 51.

With respect to each of the three retirement plans, City officials are responsible for establishing and maintaining an internal control structure to provide reasonable assurances that such retirement plans are administered in accordance with applicable state and federal laws, regulations, contracts, administrative procedures and local ordinances and policies. As required by the provisions of Act 205, the Auditor General of the Commonwealth is required to conduct, at prescribed intervals, an audit of each plan of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited. In addition, each municipality receiving state pension aid is required to make annual reports to the Auditor General and is required to submit biennial reports to Pennsylvania's PERC.

As required by Act 205, the City submitted the last biennial report to PERC in March 2010 for the period beginning January 1, 2009. These filings contain, among other things, a report showing the actuarial funded status of the plan, which is summarized as follows:

- The Police Plan – The Police Plan had an unfunded actuarial accrued liability of $1,992,366 because the plan's actuarial accrued liability ($65,951,752) exceeded the plan's actuarial value of assets ($63,959,386) by this amount. This required an MMO of $285,274. The Police Plan's actuarial value of assets ($63,959,386) exceeded the plan's market value of assets ($49,199,527) by $14,759,859.

- The Firefighters' Plan – The Firefighters' Plan did not have an unfunded actuarial accrued liability. In fact, the plan's actuarial value of assets ($65,332,550) exceeded the plan's actuarial accrued liability ($53,322,794) by $12,009,756. This means that an MMO was not required. The actuarial value of assets and market value of assets were identical ($65,332,550).

- The Non-Uniformed Plan – The Non-Uniformed Plan did not have an unfunded actuarial accrued liability. In fact, the plan's actuarial value of assets ($72,842,581) exceeded the plan's actuarial accrued liability ($537,645,888) by $19,077,693. This means that an MMO was not required. The actuarial value of assets and the market value of assets were identical ($72,842,581).

It should be noted that the above-described Police Plan filing was submitted prior to the effective date of significant enhancements to the Police Plan. These enhancements have the potential to significantly negatively affect the actuarial funded status of the Police Plan.

As required by Act 205, the staff of the Auditor General of the Commonwealth most recently audited each of the three pension plans maintained by the City for the period January 1, 2007 through December 31, 2008. The Auditor General issued its report to the City in January, 2010. The summary of findings for each of the three plans is as follows:

- The Police Plan - In all significant respects the Police Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures and local ordinances and policies.

- The Firefighters' Plan - In all significant respects, the Firefighters' Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures and local ordinances and policies.

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- The Firefighters' Plan - In all significant respects, the Firefighters' Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures and local ordinances and policies.

- The Non-Uniformed Plan - The City provided incorrect data to the Commonwealth pursuant to Form AG 385, which resulted in an overpayment of state aid in the amount of $22,302. The City agreed to remedy this failure by returning the overpayment, plus lost earnings, to the Commonwealth.

It should further be noted that the above-described audits were conducted prior to the effective date of certain amendments to the plans. Based upon the Act 47 Coordinator's review of these amendments, the Auditor General may find, in the next audit, that certain of these amendments, described more fully below, violate applicable provisions of Pennsylvania law.

The retirement benefits currently provided by the City under its three defined pension benefit plans are described in the chart below.

City of Harrisburg Retirement Benefits Summary

	Police	Fire	Non-~~Uniformed~~[21]
Pension Eligibility – Full Retirement	Age 50 with 20 years of service (YOS)	Age 50 with 20 YOS	Age 65
Benefit Formula	50% of final average salary (minimum of $4,000/year)	50% of final average salary	2.00% of final average salary times YOS (capped at 75% of final average salary)
Service Increases	55% at 21 YOS 59% at 22 YOS 63% at 23 YOS 67% at 24 YOS 72% at 25 YOS 76% at 26 YOS 80% at 27 YOS	Additional 1.25% of final average salary per YOS (e.g., 51.25% at 21 YOS and 52.5% at 22 YOS) - no cap	None
Final Average Salary	The greater of (i) annualized basic compensation rate including longevity or (ii) average of basic compensation received including longevity for last 5 years	The greater of (i) annualized basic compensation rate, including longevity, rank differential pay, incentive pay and premium pay or (ii) highest average during 5 consecutive YOS of the 10 YOS prior to retirement	Average compensation, including longevity, overtime and shift differential payments earned during any 3 consecutive YOS
Early Retirement (Vesting)	20 YOS - eligible to begin receiving at Age 50 with no reduction	10 YOS – eligible to begin receiving at age 50 with no reduction	Age 55 with 10 YOS with actuarial reduction for each month prior to age 65
Contributions	5.0% of eligible compensation plus $1 per month	5.0% of eligible compensation plus $1 per month	5.0% of eligible compensation
Disability	50% of final average salary offset by workers' compensation benefits received if injured in line of duty	Full retirement if 20 YOS, even if not aged 50 50% of final average salary if 4 YOS or more All payments offset by	50% of final average salary offset by workers' compensation benefits received if injured in line of duty

~~21~~ This outlines current benefits for members under the Non-Uniformed Plan. There are grandfathered members under the Former Plan A, which has different benefits that are not applicable to this discussion.

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	Full retirement if 20 YOS, even if not aged 50 50% of final average salary if 4 YOS or more	workers' compensation	Grandfathered provisions for former Plan B members – 30% of final average salary if 10 YOS
Death Benefits	If dies while employed in Bureau of Police or after payments begin, 50% pension to spouse or children If dies after termination of employment but prior to payments beginning, (i) lump-sum present value if age 50 or more or (ii) payment of accumulated contributions if under age 50	If dies while employed in Bureau of Fire or after payments begin, 100% pension to spouse or children If dies after termination of employment but prior to payments beginning, (i) lump-sum present value if age 50 or more or (ii) payment of accumulated contributions if under age 50	If dies in line of duty, 50% pension to spouse If dies while employed, estate is entitled to receive full value of retirement benefit even if not married If dies after termination of employment or before eligibility for other benefit, payment of accumulated contributions
Purchasing Years	Can purchase YOS for intervening military service (only member contribution) Can purchase up to 5 years of non-intervening military service after 5 YOS (member and City contribution) Can repurchase YOS after a return to employment if withdrew accumulated contributions	Can purchase YOS for intervening military service (only member contribution) Can purchase up to 5 years of non-intervening military service after 5 YOS (member and City contribution) Can repurchase YOS after a return to employment if withdrew accumulated contributions	Can purchase YOS for intervening military service (only member contribution) Can purchase up to 5 years of non-intervening military service after 5 YOS (member and City contribution) Can repurchase YOS after a return to employment if withdrew accumulated contributions
DROP	None	None	None
Involuntary Termination	No provisions	No provisions	No provisions
Automatic Increases	No automatic increases	An annual increase equal to ½ of the percent increases in salaries of active firefighters (capped at 10% in total)	No automatic increases

As previously discussed, the provision of retirement benefits for employees of a Third Class city is governed by the provisions of the applicable Pennsylvania statutes. In addition to these statutes, the plans maintained by the City are subject to the provisions of the Code. Although governmental plans, as defined in ERISA, are generally exempt from many of the Code and ERISA requirements applicable to plans maintained by for-profit entities, a governmental plan is still subject to several provisions of the Code, including the requirements for "tax qualification" under Code Section 401(a). Unlike the for-profit sector, the failure of a governmental plan to meet the applicable requirements of the Code generally affects only plan participants and not the employer. For example, if a governmental plan is not maintained in accordance with the applicable provisions of the Code, a participant is prohibited from utilizing certain favorable federal income tax applications, including the ability to roll over amounts received from such governmental plan to an Individual Retirement Account or another for-profit or government employer's plan. In addition, the benefits may be considered to be constructively received, and subject to immediate taxation, as contributions are made and benefits are accrued instead of being taxable only upon distribution. The following provisions of the Code are generally applicable to governmental plans:

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- The Code's provisions on taxation of distributions;
- The Code's requirement for a formal plan document;
- The formal plan document must provide that all assets are used exclusively for the benefit of participants and their beneficiaries;
- Pre-ERISA minimum vesting standards;
- The written plan must provide that forfeitures are not used to increase plan benefits;
- Required minimum distribution rules;
- Code Section 415 limits on maximum benefits and the plan must so state;
- Annual compensation limits contained in the Code for purpose of determining benefit amounts and the plan must so state;
- The plan document must provide and state the actuarial assumptions in order to preclude employer discretion and provide for definitely determinable benefits; and
- The provisions of Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) with respect to participants who perform military service.

Initiatives

Recent generous enhancements to the retirement plans, particularly the Police Plan, have the potential to significantly increase the City's required contributions. The percentage of income replacement under the City's three retirement plans exceeds normal-average benefit levels for municipal retirement plans (and greatly exceeds the benefit levels provided to employees in the private sector) and should be prospectively reduced. In addition, there are several problems with the three retirement plans that have the potential to lead to possible governmental sanctions and confusion as to the current level of benefits. The following initiatives are intended to address these issues.

RET01.	**Prospectively reduce the level of benefits**	
	Target outcome:	Cost reduction
	Five year financial impact:	Not available; will require actuarial study to make a determination
	Responsible party:	City Council and City Solicitor

The City shall explore the viability of prospectively replacing its pension plans with a defined contribution plan under Code Section 457 for future service. Federal tax law prohibits the use of a 401(k) plan for governmental employees, but a Code Section 457 plan, while not identical, can deliver a similar type of defined contribution retirement benefit as a 401(k) plan.

If the City concludes that a Code Section 457 plan is not a viable option, the City shall complete an actuarial study to determine if any of the following prospective changes to the City's retirement plans will reduce the amount of MMOs the City is required to contribute. If the actuarial study concludes that the change will have a positive impact on the City's MMOs, then the City shall implement the change on a prospective basis.

~~Police Plan~~* – *Prospectively cap service increments at 60%: Recent collective bargaining enhancements provide service increments well beyond what is customary for municipal pension plans. For a mere seven years of additional service, retirees are provided an additional 30% ~~of~~

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The City shall explore the viability of prospectively replacing its pension plans with a defined contribution plan under Code Section 457 for future service. Federal tax law prohibits the use of a 401(k) plan for governmental employees, but a Code Section 457 plan, while not identical, can deliver a similar type of defined contribution retirement benefit as a 401(k) plan.

If the City concludes that a Code Section 457 plan is not a viable option, the City shall complete an actuarial study to determine if any of the following prospective changes to the City's retirement plans will reduce the amount of MMOs the City is required to contribute. If the actuarial study concludes that the change will have a positive impact on the City's MMOs, then the City shall implement the change on a prospective basis.

If the City does not replace the pension plans with Code Section 457 plans, then all of the recommended cost reductions for the existing pension plans should be implemented, not just the cap on service increments. In addition to the 60% service increment cap on the Police and income replacement for a total of 80% of final average salary. As recently as 2003, service increments under the Police Plan were capped at 62.5% of final average salary, a much more reasonable and customary cap. The Police Plan shall be amended to reduce the service increment cap to 60% for all future service.

Firefighters' Plan – Prospectively cap service increments at 60%: The Firefighters' Plan does not currently have a cap on the amount of benefits that can be attained through additional years of service beyond 20. Theoretically, a firefighter will not likely exceed 30 total years of service, which would provide a benefit of 62.5% of final average salary. But there is no theoretical limit under the Firefighters' Plan to how high the benefit can go. A cap of around 60% of final average salary should be implemented for all future service.

Firefighters' Plan – Prospectively eliminate automatic increases: The Firefighters' Plan currently provides that retirees automatically receive an increase in their pension when there is an increase in the salaries of active firefighters. This is not customary practice in defined benefit pension plans and is a back door for retired employees to continue receiving benefits correlated to being actively employed. This automatic increase should be eliminated. If a cost of living increase is still desired, an increase correlated to a standard measure of inflation would be more appropriate, with a cap on how large the increase can be.

Firefighters' Plan – Reduce surviving spouse pension: The Firefighters' Plan provides a 100% surviving spouse benefit when the firefighter dies while employed by the Bureau of Fire. It is customary for municipal pension plans to provide a 50%, rather than 100%, surviving spouse benefit. In addition, the Commonwealth, through Act 51 of 2009, provides a 100% benefit for firefighters killed in the line of duty and so the 100% benefit provided by the Firefighters' Plan is redundant. The Firefighters' Plan shall be amended to reduce the surviving spouse benefit to 50%.

Non-Uniformed Plan – Prospectively reduce cap on benefits to 60%: The Non-Uniformed Plan currently provides for a benefit as large as 75% of final average salary (depending upon the member's years of service). This percentage of income replacement is well beyond what is customary for governmental defined benefit plans and shall be reduced to 60% of final average salary for all future service.

Non-Uniformed Plan – Prospectively revise compensation definition: The Non-Uniformed Plan currently provides that a member's final average salary is the average of the highest three consecutive years of service. This shall be revised to be the average of the last three years of service.

RET02.	**Freeze benefit levels for all plans**	
	Target outcome:	Cost containment
	Five year financial impact:	Not available; will require actuarial study to make a determination
	Responsible party:	General Counsel

The City shall not consider any further pension benefit enhancements in the collective bargaining process or otherwise. Any potential increases in the salary base used for pension benefit calculations, including base pay, wages, longevity pay and other automatic, seniority-based pay

Firefighters' Pension Plans, this includes eliminating automatic increases under the Firefighters' Plan, reducing the surviving spouse pension under the Firefighters' Plan, reducing the cap on benefits under the Non-Uniformed Plan to 60% and revising the definition of compensation under the Non-Uniformed Plan.

***Police Plan* – Prospectively cap service increments at 60%:** Recent collective bargaining enhancements provide service increments well beyond what is customary for municipal pension plans. For a mere seven years of additional service, retirees are provided an additional 30% of income replacement for a total of 80% of final average salary. As recently as 2003, service increments under the Police Plan were capped at 62.5% of final average salary, a much more reasonable and customary cap. The Police Plan shall be amended to reduce the service increment cap to 60% for all future service.

Firefighters' Plan – Prospectively cap service increments at 60%: The Firefighters' Plan does not currently have a cap on the amount of benefits that can be attained through additional years of service beyond 20. Theoretically, a firefighter will not likely exceed 30 total years of service, which would provide a benefit of 62.5% of final average salary. But there is no theoretical limit under the Firefighters' Plan to how high the benefit can go. A cap of around 60% of final average salary should be implemented for all future service.

Firefighters' Plan – Prospectively eliminate automatic increases: The Firefighters' Plan currently provides that retirees automatically receive an increase in their pension when there is an increase in the salaries of active firefighters. This is not customary practice in defined benefit pension plans and is a back door for retired employees to continue receiving benefits correlated to being actively employed. This automatic increase should be eliminated. If a cost of living increase is still desired, an increase correlated to a standard measure of inflation would be more appropriate, with a cap on how large the increase can be.

Firefighters' Plan – Reduce surviving spouse pension: The Firefighters' Plan provides a 100% surviving spouse benefit when the firefighter dies while employed by the Bureau of Fire. It is customary for municipal pension plans to provide a 50%, rather than 100%, surviving spouse benefit. In addition, the Commonwealth, through Act 51 of 2009, provides a 100% benefit for firefighters killed in the line of duty and so the 100% benefit provided by the Firefighters' Plan is redundant. The Firefighters' Plan shall be amended to reduce the surviving spouse benefit to 50%.

Non-Uniformed Plan – Prospectively reduce cap on benefits to 60%: The Non-Uniformed Plan currently provides for a benefit as large as 75% of final average salary (depending upon the member's years of service). This percentage of income replacement is well beyond what is customary for governmental defined benefit plans and shall be reduced to 60% of final average salary for all future service.

Non-Uniformed Plan – Prospectively revise compensation definition: The Non-Uniformed Plan currently provides that a member's final average salary is the average of the highest three consecutive years of service. This shall be revised to be the average of the last three years of service.

increases shall be reviewed and applied to the applicable provisions in the retirement plan in order to determine their true cost.

RET03.	**Consolidate administration of the City's three retirement plans**	
	Target outcome:	Cost reduction
	Five year financial impact:	Not available; will require benefit study to make a determination
	Responsible party:	General Counsel

The Police Plan is administered by the Police Board. Although the Police Board serves without compensation, outside vendors (such as actuaries, investment consultants, trustees, investment managers and legal counsel) receive compensation for performing various services. Information with respect to the costs associated with utilizing these outside vendors is not available in the City's records. The Firefighters' Plan and Non-Uniformed Plan, on the other hand, are administered through PMRS, which receives an annual administrative fee of $20 per active member and $20 per annuitant or beneficiary receiving benefits. In addition to providing day-to-day administration, PMRS also relieves these plans from the expenses of other outside vendors (e.g., actuaries, investment consultants, trustees, investment managers and legal counsel).

The City shall conduct a study comparing the total cost of administering the Police Plan (using the Police Board in conjunction with outside vendors) to the costs of administering the Firefighters' and Non-Uniformed Plans (using PMRS without additional vendors) to see which model is most cost-effective. That model should then be used for all three plans. All assets from the three plans shall be consolidated into one master trust, with one set of service providers. This consolidated structure may result in significant cost efficiencies.

RET04.	**Seek IRS determination letter for Police Plan**	
	Target outcome:	Minimize disqualification and sanction risk to Police Plan
	Five year financial impact:	Not available; impossible to project cost savings as disqualification expense is negotiated with IRS
	Responsible party:	General counsel

The City has previously received a determination from the IRS that the terms of the Non-Uniformed Plan meet the applicable qualification provisions of the Code. PMRB has informed the Act 47 Coordinator that it filed an application for determination with the IRS in January 2011 seeking tax qualification for all plans that it administers, including the Firefighters' Plan and the Non-Uniformed Plan. It appears that the City has not directly sought a determination from the IRS that the Police Plan is qualified under the applicable provisions of the Code based upon the assumption that the plan is not required to be tax-qualified. This is incorrect. As discussed above, governmental plans, while subject to different tax-qualification rules than private employer plans, are still subject to numerous Code requirements. Therefore, the City shall seek a favorable determination letter for the Police Plan. Depending upon the timeliness of certain amendments in the past, it may be necessary for the City to utilize the IRS' Employee Plan Compliance Resolution System for Governmental

RET02.	**Freeze benefit levels for all plans**	
	Target outcome:	Cost containment
	Five year financial impact:	Not available; will require actuarial study to make a determination
	Responsible party:	General Counsel

The City shall not consider any further pension benefit enhancements in the collective bargaining process or otherwise. Any potential increases in the salary base used for pension benefit calculations, including base pay, wages, longevity pay and other automatic, seniority-based pay increases shall be reviewed and applied to the applicable provisions in the retirement plan in order to determine their true cost.

RET03.	**Consolidate administration of the City's three retirement plans**	
	Target outcome:	Cost reduction
	Five year financial impact:	Not available; will require benefit study to make a determination
	Responsible party:	General Counsel

The Police Plan is administered by the Police Board. Although the Police Board serves without compensation, outside vendors (such as actuaries, investment consultants, trustees, investment managers and legal counsel) receive compensation for performing various services. Information with respect to the costs associated with utilizing these outside vendors is not available in the City's records. The Firefighters' Plan and Non-Uniformed Plan, on the other hand, are administered through PMRS, which receives an annual administrative fee of $20 per active member and $20 per annuitant or beneficiary receiving benefits. In addition to providing day-to-day administration, PMRS also relieves these plans from the expenses of other outside vendors (e.g., actuaries, investment consultants, trustees, investment managers and legal counsel).

The City shall conduct a study comparing the total cost of administering the Police Plan (using the Police Board in conjunction with outside vendors) to the costs of administering the Firefighters' and Non-Uniformed Plans (using PMRS without additional vendors) to see which model is most cost-effective. That model should then be used for all three plans. All assets from the three plans shall be consolidated into one master trust, with one set of service providers. This consolidated structure may result in significant cost efficiencies.

Plans in order to correct any defects in plan compliance prior to seeking an IRS determination. In light of the IRS' active audit program of governmental plans, this will minimize the potential for significant penalties at a later date.

RET05.	**Update Police Plan governing documents based upon results of actuarial study**	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

Since the primary Police Plan ordinance was adopted by Ordinance 5 of 2001, two amendments to the collective bargaining agreement (one effective January 2, 2007 and the other effective January 2, 2009) have greatly expanded the cap on pension benefits under the Police Plan. Based upon Police Plan ordinances provided by the City prior to the preparation of this analysis, Chapter 2-207 of the Codified Ordinances (specifically, Section 2-707.16) has not been amended to reflect the amendment that increased the cap for service increments. The City shall remedy this discrepancy. The remedy depends upon the results of the actuarial cost study required under Act 205, evidence of which was not submitted by the City to the Act 47 Coordinator. If the actuarial cost study concludes that these enhancements are not actuarially sound, the enhancements in the collective bargaining agreement shall be rescinded. On the other hand, if the actuarial cost study concludes that these enhancements are actuarially sound, then the Police Plan ordinances shall be updated to reflect the collective bargaining amendments.

If an actuarial cost study was not completed for these enhancements, a direct violation of Act 205 has occurred and it could jeopardize the effectiveness of the collective bargaining amendment as well as the state aid provided under Act 205 if discovered during the next audit of the plan by the Auditor General. The applicable provisions of the Third Class City Code (which are applicable to a city that has adopted an optional Third Class city charter) provide that normal retirement benefits cannot exceed 50% of final average salary except if a plan provided a normal retirement benefit in excess of 50% of final average salary prior to June 19, 2002. There is a difference of opinion among benefit practitioners as to the effect of this limitation in the Third Class City Code for plans that exceeded 50% of final average salary prior to June 19, 2002. The Act 47 Coordinator interprets this provision as not giving the municipality the discretion to further increase the benefit above the benefit percentage that existed as of June 19, 2002. However, the Act 47 Coordinator understands that several municipalities have taken the position that the municipality can continue to increase the percentage, in its discretion, subject to Act 205's funding study requirements described above. The Auditor General has inconsistently applied this provision in audits.

RET04.	Seek IRS determination letter for Police Plan	
	Target outcome:	Minimize disqualification and sanction risk to Police Plan
	Five year financial impact:	Not available; impossible to project cost savings as disqualification expense is negotiated with IRS
	Responsible party:	General counsel

The City has previously received a determination from the IRS that the terms of the Non-Uniformed Plan meet the applicable qualification provisions of the Code. PMRB has informed the Act 47 Coordinator that it filed an application for determination with the IRS in January 2011 seeking tax qualification for all plans that it administers, including the Firefighters' Plan and the Non-Uniformed Plan. It appears that the City has not directly sought a determination from the IRS that the Police Plan is qualified under the applicable provisions of the Code based upon the assumption that the plan is not required to be tax-qualified. This is incorrect. As discussed above, governmental plans, while subject to different tax-qualification rules than private employer plans, are still subject to numerous Code requirements. Therefore, the City shall seek a favorable determination letter for the Police Plan. Depending upon the timeliness of certain amendments in the past, it may be necessary for the City to utilize the IRS' Employee Plan Compliance Resolution System for Governmental Plans in order to correct any defects in plan compliance prior to seeking an IRS determination. In light of the IRS' active audit program of governmental plans, this will minimize the potential for significant penalties at a later date.

This initiative needs review by its Law Bureau, and such review shall be completed as soon as possible.

RET05.	Update Police Plan governing documents based upon results of actuarial study	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

Since the primary Police Plan ordinance was adopted by Ordinance 5 of 2001, two amendments to the collective bargaining agreement (one effective January 2, 2007 and the other effective January 2, 2009) have greatly expanded the cap on pension benefits under the Police Plan. Based upon Police Plan ordinances provided by the City prior to the preparation of this analysis, Chapter 2-207 of the Codified Ordinances (specifically, Section 2-707.16) has not been amended to reflect the amendment that increased the cap for service increments. The City shall remedy this discrepancy. The remedy depends upon the results of the actuarial cost study required under Act 205, evidence of which was not submitted by the City to the Act 47 Coordinator. If the actuarial cost study concludes that these enhancements are not actuarially sound, the enhancements in the collective bargaining agreement shall be rescinded. On the other hand, if the actuarial cost study concludes that these enhancements are actuarially sound, then the Police Plan ordinances shall be updated to reflect the collective bargaining amendments.

RET06.	Update PMRS Agreement to reflect recent changes in the Firefighters' Plan	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

Since the effective date of the Firefighters' PMRS Agreement, the City amended the Firefighters' Plan by Ordinance 12 of 2008, which amended Section 2-709.21(a) of the Codified Ordinances. Based upon information provided by the City, it does not appear that the Firefighters' PMRS Agreement was likewise amended even though PMRS has indicated that they have provided the City with a proposed, updated Agreement. Since PMRS administers the Firefighters' Plan pursuant to the terms of the Firefighters' PMRS Agreement, the City shall update this Agreement to reflect the current terms of the Firefighters' Plan. This should be remedied as soon as possible.

RET07.	Resolve discrepancies between the Non-Uniformed Plan and the Non-Uniformed PMRS Agreement	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

The City provided documents that indicate that the Non-Uniformed Plan was amended by Ordinance 35 of 2003, which also approved the adoption of an amended Non-Uniformed PMRS Agreement. Upon review, the Act 47 Coordinator identified certain inconsistencies between the Non-Uniformed Plan, as amended, and the new Non-Uniformed PMRS Agreement. For example, Ordinance 35 of 2003 amends section 2-705.13(c) of the Codified Ordinances to state that mandatory member contributions "shall be treated as the member's contribution in determining tax treatment under the United Stated [sic] Internal Revenue Code for federal tax purposes." The Non-Uniformed PMRS Agreement, on the other hand, states that mandatory member contributions "shall be treated as the employer's contributions in determining tax treatment under the United States Internal Revenue Code for federal tax purposes." The City shall resolve these inconsistencies.

RET08.	Amend Non-Uniformed collective bargaining agreement	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

Since the primary Non-Uniformed Plan ordinance was adopted by Ordinance 35 of 2003, one amendment to the collective bargaining agreement (effective January 2, 2009) (i) significantly

If an actuarial cost study was not completed for these enhancements, a direct violation of Act 205 has occurred and it could jeopardize the effectiveness of the collective bargaining amendment as well as the state aid provided under Act 205 if discovered during the next audit of the plan by the Auditor General. The applicable provisions of the Third Class City Code (which are applicable to a city that has adopted an optional Third Class city charter) provide that normal retirement benefits cannot exceed 50% of final average salary except if a plan provided a normal retirement benefit in excess of 50% of final average salary prior to June 19, 2002. There is a difference of opinion among benefit practitioners as to the effect of this limitation in the Third Class City Code for plans that exceeded 50% of final average salary prior to June 19, 2002. The Act 47 Coordinator interprets this provision as not giving the municipality the discretion to further increase the benefit above the benefit percentage that existed as of June 19, 2002. However, the Act 47 Coordinator understands that several municipalities have taken the position that the municipality can continue to increase the percentage, in its discretion, subject to Act 205's funding study requirements described above. The Auditor General has inconsistently applied this provision in audits.

~~This initiative needs review by its Law Bureau, and such review shall be completed as soon as possible.~~

RET06.	**Update PMRS Agreement to reflect recent changes in the Firefighters' Plan**	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

Since the effective date of the Firefighters' PMRS Agreement, the City amended the Firefighters' Plan by Ordinance 12 of 2008, which amended Section 2-709.21(a) of the Codified Ordinances. Based upon information provided by the City, it does not appear that the Firefighters' PMRS Agreement was likewise amended even though PMRS has indicated that they have provided the City with a proposed, updated Agreement. Since PMRS administers the Firefighters' Plan pursuant to the terms of the Firefighters' PMRS Agreement, the City shall update this Agreement to reflect the current terms of the Firefighters' Plan. This should be remedied as soon as possible.

RET07.	**Resolve discrepancies between the Non-Uniformed Plan and the Non-Uniformed PMRS Agreement**	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

The City provided documents that indicate that the Non-Uniformed Plan was amended by Ordinance 35 of 2003, which also approved the adoption of an amended Non-Uniformed PMRS Agreement. Upon review, the Act 47 Coordinator identified certain inconsistencies between the Non-Uniformed Plan, as amended, and the new Non-Uniformed PMRS Agreement. For example, Ordinance 35 of 2003 amends section 2-705.13(c) of the Codified Ordinances to state that mandatory member reduced the eligibility requirements for full retirement, (ii) increased the multiplier to determine normal retirement benefits and (iii) modified the provisions for death benefits. Based upon Non-Uniformed Plan ordinances provided by the City prior to the preparation of this analysis, as well as the Non-Uniformed PMRS Agreement, the City has not amended the Non-Uniformed Plan to reflect these changes. The Act 47 Coordinator discussed these inconsistencies with representatives of PMRS, who indicated that these amendments were not formally effective since they were conditioned upon a satisfactory result of an actuarial study. As a result of the unsatisfactory conclusions of the study, PMRS continues to administer the plan in accordance with all prior Ordinances. Because of this, the City shall take action to formally revoke the amendment.

contributions "shall be treated as the member's contribution in determining tax treatment under the United Stated [sic] Internal Revenue Code for federal tax purposes." The Non-Uniformed PMRS Agreement, on the other hand, states that mandatory member contributions "shall be treated as the employer's contributions in determining tax treatment under the United States Internal Revenue Code for federal tax purposes." The City shall resolve these inconsistencies.

RET08.	**Amend Non-Uniformed collective bargaining agreement**	
	Target outcome:	Ensure compliance and consistency
	Five year financial impact:	Not available
	Responsible party:	General Counsel

Since the primary Non-Uniformed Plan ordinance was adopted by Ordinance 35 of 2003, one amendment to the collective bargaining agreement (effective January 2, 2009) (i) significantly reduced the eligibility requirements for full retirement, (ii) increased the multiplier to determine normal retirement benefits and (iii) modified the provisions for death benefits. Based upon Non-Uniformed Plan ordinances provided by the City prior to the preparation of this analysis, as well as the Non-Uniformed PMRS Agreement, the City has not amended the Non-Uniformed Plan to reflect these changes. The Act 47 Coordinator discussed these inconsistencies with representatives of PMRS, who indicated that these amendments were not formally effective since they were conditioned upon a satisfactory result of an actuarial study. As a result of the unsatisfactory conclusions of the study, PMRS continues to administer the plan in accordance with all prior Ordinances. Because of this, the City shall take action to formally revoke the amendment.