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Councillor Walter Sullivan

Ordered:

That the Cambridge Retirement Board be and hereby is requested to determine whether or not the City Council has accepted C. 138 of the acts of 1968, C. ⁶⁰⁷300 of the acts of 1970 and C. 300 of the acts of 1971, all of which relate to increasing retirement allowances for certain former employees retired for superannuation, ordinary disability or accidental disability and be it further

Ordered:

That should it be determined
said provisions of state law have been
accepted, the Retirement Board is requested
to provide the City Council with an estimate
of the cost of funding such provisions, and
let it further

Ordered:

That said report be submitted to the
City Council through the City Manager,
within 60 days.

v/v

C-32590C

C. 138 Act. 1968
Accepted 7/29/68

* Increasing retirement allowance of certain former employees retired for superannuation.

C-32590D

C. 300 Act. of 1971
Accepted 12/20/71

* Increasing retirement allowances of certain former employees retired for ordinary disability.

C-32590K

C. 607 Act. of 1970
NOT ACCEPTED

* Increasing allowances of former employees retired for accidental disability.
pk

June 22, 1989

TO: THE HONORABLE BOARD OF ALDERMAN

FROM: JOHN E. MURPHY, JR., CHAIRMAN
SOMERVILLE RETIREMENT BOARD

Dear Board Members:

I would be most appreciative if you would amend the Ordinance #
accepting MGL Chapter 32, Section 90 A, C & D.

Acceptance must be by two-thirds roll call vote.

Also ordinance should read retirement allowance of certain retired members will
be adjusted on September 1 of each calendar year ~~via of Board of Alderman
vote.~~

AUTOMATICLY
Members, where applicable, must have 25 years of service with the City of
~~Somerville.~~
CAMBRIDGE

AUTOMATICLY *FULL*
Allowance will be adjusted in accord with ~~base~~ salary in effect on September
1 of each calendar year.

~~After passing of ordinance as stated above, please vote to adjust the retire-
ment allowance of persons on attached list as of 9/1/89. Retirement
allowance will reflect Cost of Living adjustments.~~



CITY OF SOMERVILLE

In Board of Aldermen April 27, 1989

ORDERED:— That the Board of Aldermen in session assembled is hereby
in favor of the acceptance of Chapter 32, Sec 90, A.~~S.~~^{4D}.C, as
pertains to Retirement Benefits paid to certain city employees.

Submitted by.....

Alderman John R. Buonomo

150769

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~~33~~
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ORDER

BOA in favor of acceptance
of Ch 32, S 90, A C+D
as it pertains to retirement
benefits of city employees.

DATE MAY 31 1989
A TRUE COPY ATTEST:
Arthur Bonicare
CITY CLERK

IN BOARD OF ALDERMEN,
MAY 25 1989

Arthur Bonicare
Clerk

APPROVED
Ray B...
MAYOR

In Board of Aldermen
MAY 25 1989

Taken from course - adopted

Arthur Bonicare

- Mayor
- Auditor
- Treasurer
- Assessor
- Personnel
- D.P.W.

Retirement

Chap. 137. AN ACT FURTHER REGULATING THE QUALIFICATIONS OF APPLICANTS FOR A LICENSE TO PRACTICE CHIROPRACTIC.

Be it enacted, etc., as follows:

Chapter 112 of the General Laws is hereby amended by striking out section 92, as appearing in section 2 of chapter 409 of the acts of 1966, and inserting in place thereof the following section: —

Section 92. Any person licensed by a chiropractic board of any other state having at the time when said person obtained his license a standard equal to that of this commonwealth and which extends similar privileges to persons licensed by the commonwealth, or any person certified by the National Board of Chiropractic Examiners of the United States, may be registered at the discretion of the board upon the payment of a fee of one hundred dollars and the production to the board of his diploma, the license obtained in such other state by examination or the proof of his certification by said National Board of Chiropractic Examiners of the United States, and evidence satisfactory to the board that he is of good moral character. The board may accept any or all facts of the examination of said National Board of Chiropractic Examiners of the United States in lieu of equivalent subjects in the examination required under section ninety-four. Any person making application under this section under a license granted by another state shall produce evidence that he has practiced chiropractic under such license for at least three years.

Approved April 8, 1968.

Chap. 138. AN ACT AUTHORIZING CITIES, TOWNS AND DISTRICTS TO INCREASE THE RETIREMENT ALLOWANCE OF CERTAIN FORMER EMPLOYEES RETIRED ON SUPERANNUATION.

Be it enacted, etc., as follows:

Chapter 32 of the General Laws is hereby amended by inserting after section 90B the following section: —

Section 90C. Any city, town or district which accepts the provision of this section in the manner hereinafter provided may, in the case of a city by two thirds vote of the city council and with the approval of the mayor, or in the case of a town by two thirds vote at the annual town meeting, or in a district by a two thirds vote of its prudential committee, increase the retirement allowance of any former employee retired under any provision of this chapter or similar provision of earlier law on account of superannuation after having served such city, town or district for a period of not less than twenty-five years to an amount not exceeding one half the rate of regular compensation payable to employees of such city, town or district holding similar positions at the time of increasing such allowance in the same grade or classification occupied by such former employee at the time of his retirement.

Approved April 8, 1968.

1968 Amendment. St.1968, c. 600, § 6, approved July 15, 1968, added proviso in first sentence of option B.
 1982 Amendment. St.1982, c. 630, § 45, an emergency act, approved Jan. 4, 1983, and by

§ 56 made effective upon passage, substituted "commissioner of public employee retirement" for "commissioner of insurance" in the third paragraph.

~~§ 89. Annuities to dependents of policemen, firemen, etc., killed in performance of duty~~

~~Law Review Commentaries
 Power to make administrative adjudication.
 John P. Clair, 11 Annual Survey of Mass. Law, Boston College, p. 159 (1967).~~

~~§ 90. Aged police officers not subject to certain laws~~

~~No provision of sections forty-one to forty-five, inclusive, of chapter thirty-one, or of section three of chapter two hundred and forty-two of the acts of nineteen hundred and twenty-three, shall apply in cities or towns in the case of members of police or fire departments whose services are terminated by retirement on pension or otherwise by reason of having attained age seventy.~~

~~Amended by St.1978, c. 393, § 16.~~

~~1978 Amendment. St.1978, c. 393, § 16, approved July 12, 1978, and by § 45 made effective January 1, 1979, substituted "sections forty-one to forty-five, inclusive," for "section forty-two A, forty-two B, forty-three or forty-five".~~

MISCELLANEOUS PROVISIONS

§ 90A. Increasing allowance of former employees retired for accidental disability.

Any city or town which accepts the provisions of this section in the manner hereinafter provided may, in the case of a city by two thirds vote of the city council and with the approval of the mayor, or, in the case of a town, by two thirds vote at the annual town meeting, increase the retirement allowance of any former employee thereof who has been retired under any provision of this chapter or similar provision of earlier law on account of injuries sustained or of hazard undergone in the performance of his duty, to an amount not exceeding one half the rate of regular compensation payable to employees of such city or town holding similar positions, at the time of increasing such allowance, in the same grade or classification occupied by such former employee at the time of his retirement.

Any metropolitan district police officer who has been retired under any provision of this chapter or similar provision of earlier law on account of injuries sustained or of hazard undergone in the performance of his duty shall have his retirement allowance increased to an amount not exceeding one half the rate of regular compensation payable to metropolitan district police officers holding similar positions, at the time of increasing such allowance, in the same grade or classification occupied by such former officer at the time of his retirement.

Amended by St.1970, c. 607, § 1.

1970 Amendment. St.1970, c. 607, § 1, approved July 30, 1970, and by § 2 made effective as of Jan. 1, 1970, added second paragraph.

Standing 1.5

1. In general

Under this section and §§ 90C and 102 of this chapter governing increases in retirement allowances for retired town police officers and fire-fighters, percentage change of each annual required cost of living increase must be applied to new fixed retirement allowance including prior years' allowance increases without any compari-

Notes of Decisions

Exhaustion of administrative remedies 3

son to prior discretionary increases in retirement allowances. *Massachusetts Retired Police and Firefighters Ass'n, Inc. v. Retirement Bd. of Belmont* (1983) 445 N.E.2d 160, 15 Mass.App. 212, review denied 448 N.E.2d 766, 388 Mass. 1105.

Superior court had jurisdiction to grant declaratory relief upon petition of association representing retired police officers and firefighters of town who were challenging restrictive interpretations of sections governing increases in retirement allowances. *Id.*

Once town grants discretionary increase in retirement allowances of retired police officers and firefighters, retirement allowance of affected retiree is permanently increased and must be paid in year of increase and in subsequent years, unless required cost of living increase for any particular year is larger than discretionary increase granted in that year. *Id.*

1.5. Standing

Association representing retired police officers and firefighters of town had sufficient interest in action seeking declaration of rights of retired police officers and firefighters to increase in

retirement allowances to permit it to represent its members affected by adverse and restrictive interpretations of those rights. *Massachusetts Retired Police and Firefighters Ass'n, Inc. v. Retirement Bd. of Belmont* (1983) 445 N.E.2d 160, 15 Mass.App. 212.

3. Exhaustion of administrative remedies

Trial judge acted within his discretion in granting declaratory relief in action filed by association representing police officers and firefighters of town seeking declaration of rights of retired officers and firefighters to increase in retirement allowances even though association did not resort to administrative remedy available before contributory retirement appeal board where there were no facts to be found by board, board did not have regulatory function, issue concerning interpretation of statutes governing increases was important or novel or recurrent and decision would have public significance affecting many others. *Massachusetts Retired Police and Firefighters Ass'n, Inc. v. Retirement Bd. of Belmont* (1983) 445 N.E.2d 160, 15 Mass.App. 212.

§ 90B. Waiver of rights to portions of retirement allowance

Cross References

Special member of parole board, pension or retirement benefits, see c. 27, § 7.

Code of Massachusetts Regulations

Group insurance commission, definitions, see 805 CMR 11.00.

Notes of Decisions

1. In general

Under § 91 of this chapter, a retired state employee who waives his retirement benefits to accept employment with a municipal county government may not supplement his income by having his retirement allowance reinstated for 90 days or 720 hours during each calendar year. *Op. Atty. Gen., Feb. 2, 1979, p. 152.*

An appointed official, upon reaching mandatory retirement age, cannot continue employment

by waiving present or potential pension benefits. *Op. Atty. Gen., Dec. 22, 1976, p. 113.*

Retired state employees cannot waive their pension under this section and thereby render themselves eligible for re-employment by the state beyond the mandatory retirement age. *Id.*

This section exempts retired state employee who has executed a waiver of pension and retirement allowances due him under section 91 of this chapter, since § 91 proscribes only actual receipt of a retirement allowance contemporaneous with remuneration for services rendered, and therefore Commonwealth may make payment for services rendered by reemployed person as long as his waiver remains in force. *Op. Atty. Gen., Jan. 10, 1972, p. 76; overruling Op. Atty. Gen., Sept. 8, 1959, p. 41, appearing in main volume.*

Pursuant to this section, entire amount of a retirement allowance may lawfully be waived by a pensioner. *Op. Atty. Gen., Dec. 2, 1963, p. 144.*

§ 90C. Increasing allowance of former employees retired on superannuation

Any city, town or district which accepts the provision of this section in the manner hereinafter provided may, in the case of a city by two thirds vote of the city council and with the approval of the mayor, or in the case of a town by two thirds vote at the annual town meeting, or in a district by a two thirds vote of its prudential committee, increase the retirement allowance of any former employee retired under any provision of this chapter or similar provision of earlier law on account of superannuation after having served such city, town or district for a period of not less than twenty-five years to an amount not exceeding one half the rate of regular compensation payable to employees of such city, town or district holding similar positions at the time of increasing such allowance in the same grade or classification occupied by such former employee at the time of his retirement.

Added by St. 1968, c. 138.

3A M.G.L.A.—8
1988 PP.

1968 Enactment. St.1968, c. 138 was approved April 8, 1968.

Notes of Decisions

In general / 1
Exhaustion of administrative remedies 3
Standing 2

1. In general

Under § 90A and 102 of this chapter governing increases in retirement allowances for retired town police officers and firefighters, percentage change of each annual required cost of living increase must be applied to new fixed retirement allowance including prior years' allowance increases without any comparison to prior discretionary increases in retirement allowances. *Massachusetts Retired Police and Firefighters Ass'n, Inc. v. Retirement Bd. of Belmont* (1983) 445 N.E.2d 160, 15 Mass.App. 212, review denied 448 N.E.2d 766, 388 Mass. 1105.

Superior court had jurisdiction to grant declaratory relief upon petition of association representing retired police officers and firefighters of town who were challenging restrictive interpretations of sections governing increases in retirement allowances. *Id.*

Once town grants discretionary increase in retirement allowances of retired police officers and firefighters, retirement allowance of affected retiree is permanently increased and must be

paid in year of increase and in subsequent years, unless required cost of living increase for any particular year is larger than discretionary increase granted in that year. *Id.*

2. Standing

Association representing retired police officers and firefighters of town had sufficient interest in action seeking declaration of rights of retired police officers and firefighters to increase in retirement allowances to permit it to represent its members affected by adverse and restrictive interpretations of those rights. *Massachusetts Retired Police and Firefighters Ass'n, Inc. v. Retirement Bd. of Belmont* (1983) 445 N.E.2d 160, 15 Mass.App. 212.

3. Exhaustion of administrative remedies

Trial judge acted within his discretion in granting declaratory relief in action filed by association representing police officers and firefighters of town seeking declaration of rights of retired officers and firefighters to increase in retirement allowances even though association did not resort to administrative remedy available before contributory retirement appeal board where there were no facts to be found by board, board did not have regulatory function, issue concerning interpretation of statutes governing increases was important or novel or recurrent and decision would have public significance affecting many others. *Massachusetts Retired Police and Firefighters Ass'n, Inc. v. Retirement Bd. of Belmont* (1983) 445 N.E.2d 160, 15 Mass.App. 212.

§ 90D. Increasing allowance of former employees retired on ordinary disability

Any city, town or district which has accepted the provisions of section ninety C, and accepts the provisions of this section in the manner hereinafter provided, may, in the case of a city by a two thirds vote of the city council and with the approval of the mayor, or in the case of a town by a two thirds vote at the annual town meeting, or in a district by a two thirds vote of its prudential committee, increase the retirement allowance of any former employee retired under any provision of this chapter or similar provision of earlier law on account of ordinary disability after having served such city, town or district for a period of not less than twenty-five years to an amount not exceeding one half the rate of regular compensation payable to employees of such city, town or district holding similar positions at the time of increasing such allowance in the same grade or classification occupied by such former employee at the time of his retirement.

Added by St.1971, c. 300.

1971 Enactment. St.1971, c. 300, was approved May 13, 1971.

Library References

Municipal Corporations §220(9).

C.J.S. Municipal Corporations § 727.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 90E. Increasing allowance of former employees whose classification has been abolished

If the classification under which a former employee retired has been abolished since his retirement, a city, town or district, which accepts the provisions of sections ninety A, ninety C or ninety D, may increase the retirement allowance of such employee to an amount as nearly equal as possible to the increases which have been made and which shall

RETIREMENT — PENSIONS

32 § 90F
Note 1

be made in the retirement allowance of employees who were retired in the same grade as such former employee regardless of classification.

Added by St.1974, c. 108.

1974 Enactment. St.1974, c. 108, was approved April 11, 1974.

C.J.S. Municipal Corporations § 727.
C.J.S. Towns §§ 71, 72.

Library References

Municipal Corporations ⇨220(9).
Towns ⇨29.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 90F. Continuation of employees past mandatory retirement age; conditions; physical examinations; compensation

Any member in service classified in Group 1, or any other person who would be classified in Group 1 except for the fact that he is not a member, shall continue in service, at his option, notwithstanding the fact that he has attained age seventy; provided, however, that he is mentally and physically capable of performing the duties of his office or position. Such member or other person shall annually, at his own expense, be examined by an impartial physician designated by the retirement authority to determine such capability. No deductions shall be made from the regular compensation of such member or other person under the provisions of this chapter for service after he has attained age seventy and upon retirement such member or other person shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired at age seventy.

Added by St.1977, c. 735. Amended by St.1979, c. 791; St.1980, c. 46, § 2; St.1985, c. 751, § 2.

1977 Enactment. St.1977, c. 735, was approved Nov. 15, 1977.

1979 Amendment. St.1979, c. 791, repealed by St.1980, c. 46, § 2, in the first sentence inserted "or those Group 2 employees classified as district engineering inspectors, state building inspectors and state elevator inspectors," following "Group 1".

St.1979, c. 791 was approved Nov. 14, 1979. Emergency declaration by the Governor was filed Nov. 16, 1979.

1980 Amendment. St.1980, c. 46, § 2, an emergency act, approved March 31, 1980, and by § 3 made effective as of Nov. 14, 1979, repealed St.1979, c. 791 which had inserted in the first sentence "or those Group 2 employees classified as district engineering inspectors, state building inspectors and state elevator inspectors," following "Group 1".

Section 1 of St.1980, c. 46 provided:

"Any member in service, classified in Group 2, who is a district engineering inspector, a state building inspector or a state elevator inspector, shall continue in service, at such members option, notwithstanding such member is mentally and physically capable of performing the duties of such office or position. Such member shall annually, at such members own expense, be examined by an impartial physician designated by the retirement authority to determine such capability. No deductions shall be made from the regular compensation of each member under the provisions of this chapter for service after such member has attained age sixty-five and upon retirement such member shall receive a super-

annuation retirement allowance equal to that to which such member would have been entitled had such member retired at age sixty-five."

1985 Amendment. St.1985, c. 751, § 2; approved Jan. 6, 1986, in the first sentence, inserted "or any other person who would be classified in Group 1 except for the fact that he is not a member," and inserted "or other person" throughout the section.

Section 4 of St.1985, c. 751, provides:

"The provisions of this act shall not be deemed to allow any person to become a member of the contributory retirement system who is not otherwise authorized to do so. The provisions of this act shall not be deemed to increase or decrease the retirement rights of any member of the contributory retirement system."

Library References

Officers ⇨50.
C.J.S. Officers §§ 42 to 44.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

In general 1
Court officers 2

1. In general
Differentiating between members and non-members of state retirement system as regards

Arlington

?

Waltham

Newton

Brookline

Lynn

Wellesley

Somerville



City of Cambridge

54.

IN CITY COUNCIL

August 7, 1989

COUNCILLOR WALTER SULLIVAN

- ORDERED: That the Cambridge Retirement Board be and hereby is requested to determine whether or not the City Council has accepted Chapter 138 of the Acts of 1968, Chapter 607 of the Acts of 1970 and Chapter 300 of the Acts of 1971, all of which relate to increasing retirement allowances for certain former employees retired for superannuation, ordinary disability or accidental disability; and be it further
- ORDERED: That should it be determined said provisions of state law have been accepted, the Retirement Board is requested to provide the City Council with an estimate of the cost of funding such provisions; and be it further
- ORDERED: That said report be submitted to the City Council through the City Manager within sixty (60) days.

In City Council August 7, 1989.
Adopted by the affirmative vote of nine members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

Joseph E. Connarton
Joseph E. Connarton, City Clerk.

C.W.J. Sullivan order re: that the Cambridge Retirement Board be requested to determine if the Council has accepted Ch. 138 of the Acts of 1968; Ch. 607 of the Acts of 1970 & Ch. 300 of the Acts of 1971, all relating to increasing retirement allowances for certain former employees retired for superannuation, ordinary disability or accidental disability & should it be determined these provisions of State law have been accepted the Board provide an estimate of the cost of funding same.

In City Council,
August 7, 1989

8-7-89

TO I
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ORDER ADOPTED