ARTICLE XI
PENSION AND RETIREMENT SYSTEMS

Section

General Provisions for Pension and Retirement Systems

1100 Applicability.

1102 Pension and Retirement Departments and Plans.

1104 Pension and Retirement System Boards.

1106 Powers and Duties of Pension and Retirement Boards.

1108 General Manager of Pension or Retirement Systems.

1110 Control of Pension and Retirement Funds.

1112 Management Audits.

1114 Council Veto of Board Decisions.

1116 Right to Retire While on Military Leave.

1118 Gender and Number.

1120 Purchases of Real Property.

GENERAL PROVISIONS FOR PENSION AND RETIREMENT SYSTEMS

Sec. 1100. Applicability.

Each pension or retirement department or plan set forth in this Article shall be governed by the following:

(a) provisions specific to each department or plan set forth in this Article or elsewhere in the Charter; and

(b) these General Provisions for Pension and Retirement Systems.
Additionally, the General Provisions for Departments contained in Article V shall apply to the departments listed in Section 1102(a) to the extent not inconsistent with this Article.

Sec. 1102. Pension and Retirement Departments and Plans.

(a) Departments of the City. The following pension and retirement system departments, created in Section 500, are included within this Article:

- Fire and Police Pension System
- Los Angeles City Employees Retirement System (LACERS)

(b) Plan Created. The following retirement system is created within the Department of Water and Power and included within this Article:

- Water and Power Employees Retirement Plan (WPERP)

(c) Boards Created. Each of the pension and retirement system departments or plans set forth in subsections (a) and (b) shall be under the management and control of a board of commissioners. The boards shall have these names:

- Board of Fire and Police Pension Commissioners
- Board of Administration of the Los Angeles City Employees Retirement System
- Board of Administration of the Water and Power Employees Retirement Plan

Sec. 1104. Pension and Retirement System Boards.

(a) Board of Fire and Police Pension Commissioners. The Board of Fire and Police Pension Commissioners shall consist of nine members. Five shall be appointed by the Mayor, subject to the approval of the City Council. One shall be an active sworn member of the Fire Department as defined in this Article and elected by the members of the Fire Department. One shall be an active sworn member of the Police Department as defined in this Article and elected by the members of the Police Department. One shall be a retired member of the Fire Department as defined in this Article and elected by the retired members of the Fire Department. One shall be a retired member of the Police Department as defined in this Article and elected by the retired members of the Police Department.

(b) Board of Administration for LACERS. The Board of Administration for LACERS shall consist of seven members. Four members, one of whom shall be a retired member of the system, shall be appointed by the Mayor subject to the approval of the Council. Two members shall be active employee members of the system elected by the
active employee members. One shall be a retired member of the system elected by the retired members of the system.

(c) **Board of Administration for WPERP.** The Board of Administration for the WPERP shall consist of seven members. Three members shall be ex officio, three members shall be elected, and one member shall be appointed. The ex officio members shall be the General Manager of the Department, the Chief Accounting Employee of the Department, and one Board of Water and Power Commissioner selected by that board. Three elected members shall be active employee members of the system elected by the active employee members. One member shall be a retired member of the system appointed by the Board of Water and Power Commissioners.

(d) **Terms of Board Members.** For the Board of Fire and Police Pension Commissioners and the Board of Administration for LACERS, each elected board member shall serve for a term of five years. For the Board of Administration for WPERP, the appointed retired member and each elected board member shall serve for a term of three years. The terms of board members on all boards shall be staggered as determined by each board. In case of a vacancy of an appointed seat on any board, the appointing authority for the seat shall appoint a member to serve out the unexpired term of office. In case of a vacancy of an elected seat on any board that has more than six months remaining before expiration of the term, the applicable board shall conduct an election to select a member of the group represented by the vacant seat to serve out the unexpired term of office.

(e) **Restrictions on Board Membership.** No person who is employed in any capacity by the LACERS or by WPERP shall be eligible to file for election to or be appointed to the board of their respective systems.

---

**Sec. 1106. Powers and Duties of Pension and Retirement Boards.**

Consistent with Article XVI, Section 17 of the California Constitution, and any successor constitutional provision, and subject to the limitations set forth elsewhere in the Charter concerning anything other than pension and retirement system administration and control over system investments, each pension and retirement board of the City shall:

(a) **Administration of the Pension or Retirement System.** Have sole and exclusive responsibility to administer its system for the following purposes:

(1) to provide benefits to system participants and their beneficiaries and to assure prompt delivery of those benefits and related services;

(2) to minimize City contributions; and

(3) to defray the reasonable expenses of administering the system.
The duty to system participants and their beneficiaries shall take precedence over any other duty.

(b) **Assets.** Have sole and exclusive fiduciary responsibility over the assets of its system which are held in trust for the exclusive purposes of:

1. providing benefits to system participants and their beneficiaries; and
2. defraying the reasonable expenses of administering the system.

(c) **Prudent Person Standard.** Discharge its duties with respect to its system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) **Investments.** Diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

1. **Investment Statement** The board of each pension and retirement system shall adopt a statement of investment objectives and policies for the system. The statement shall include at least the desired rate of return and acceptable levels of risk for each asset class, asset allocation goals, guidelines for the delegation of authority, and information of the types of reports to be used to evaluate investment performance. At least annually, the board shall review the statement and change or reaffirm it. After each annual review, the board shall forward the statement to the Mayor and Council for informational purposes.

2. **Performance Evaluation.** At least annually, the board of each pension and retirement system shall retain an outside performance evaluation firm to calculate the returns on all of the system investments.

(e) **Actuarial Services.** Have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of its systems in accordance with recognized actuarial methods.

(f) **Rules and Regulations.** Have the power to adopt any rules, regulations, or forms it deems necessary to carry out its administration of a pension or retirement system or assets under its control.

**Sec. 1108. General Manager of Pension or Retirement Systems.**
(a) **Applicability.** Except as provided in this section, the provisions regarding general managers contained in Article V shall apply to the general managers of the pension and retirement systems of the City.

(b) **Appointing Authority.** The Board of Fire and Police Pension Commissioners and the Board of Administration of the Los Angeles City Employees Retirement System shall appoint their respective general manager subject to confirmation by the Mayor and Council and shall remove their respective general manager subject to confirmation by the Mayor. A general manager removed pursuant to the provisions of this section may appeal the removal to the Council in the manner provided in Section 508(e).

(c) **Annual Review.** The Board of Fire and Police Pension Commissioners and the Board of Administration for the Los Angeles City Employees Retirement System shall evaluate their respective general manager at least annually and shall set or adjust the compensation of the general manager with guidelines established by Council. Each board shall forward a copy of its performance evaluation and salary determination to the Mayor and Council.

### Sec. 1110. Control of Pension and Retirement Funds.

(a) **Special Funds.** Each pension and retirement board shall have a special trust fund or funds on deposit with the Treasurer for the purpose of segregating its revenues from the other money of the City.

(b) **Control of Special Funds.** The board of each pension and retirement system shall have control over their respective funds. Transfers or expenditures shall be drawn upon funds only upon demands signed by the chief accounting employee of the board. All payments from the funds shall be made upon demands prepared and approved in accordance with the provisions of the Charter.

(c) **Master Trustee or Custodian.** Each pension and retirement board, in its sole discretion, may designate one or more master trustees or custodians to hold securities and funds of the system for the purpose of carrying out the investment policies and decisions of the board.

(d) **Fund Earnings.** The money in any pension or retirement system fund shall be invested at the sole and exclusive direction of the respective board and all earnings shall be credited to the respective funds by the Treasurer or the Master Trustee or Custodian designated by the respective board.

### Sec. 1112. Management Audits.

(a) **Conduct of Audit.** The Mayor, Council, and Controller at least once in every five years, shall jointly require a management audit to be made of the business and property of each of the pension and retirement systems by an independent qualified management auditing firm. Each audit shall examine whether the pension or retirement
system is operating in the most efficient and economical manner and shall evaluate the asset allocation of the system. The firm employed to conduct the audit shall be selected by the Mayor, Council and Controller.

(b) **Audit Results.** A copy of the report of each audit shall be transmitted to the Mayor, Council and the board of the audited pension or retirement system. Upon receipt of the audit, Council may request that some or all of the audit recommendations be implemented by a board, but the board shall retain sole and exclusive authority over administration of its system and assets to the extent provided in Article XVI, Section 17 of the California Constitution.

**Sec. 1114. Council Veto of Board Decisions.**

The right of Council to veto board decisions provided in Section 245 shall not apply to decisions of the City’s pension and retirement boards.

**Sec. 1116. Right to Retire While on Military Leave.**

Any officer or employee who, while on Military Leave as defined in Section 1023 of the civil service provisions of the Charter, is or becomes entitled to retire on pension or is or becomes entitled to any benefits under any provision of this Article, may exercise such rights or claim such benefits while on Military Leave.

**Sec. 1118. Gender and Number.**

As used in this Article, the masculine, feminine, or neuter gender, and the singular or plural number, shall each be deemed to include the others unless the context clearly indicates otherwise.

**Sec. 1120. Purchases of Real Property.**

(a) **Real Estate Held in Board Name.** Notwithstanding the provisions of Sections 105 and 385 of the Charter, title to any real property or interest in real property shall be held in the name of the applicable board and any real property or interests owned by a board may be sold, leased, or encumbered by the board.

(b) **Board Names for Real Estate Purposes.** The pension and retirement boards shall hold real property in the following names:

- Board of Fire and Police Pension Commissioners of the City of Los Angeles
- Board of Administration of the Los Angeles City Employees Retirement System
- Board of Administration of the Water and Power Employees Retirement Plan of the City of Los Angeles
(c) **Voting Procedure for Real Estate Investments.** Any purchase of real property by a pension or retirement board shall require approval by a majority vote of all its members but one of the affirmative votes must be cast by an elected employee member of the board.

**PART 1**

**LOS ANGELES CITY EMPLOYEES RETIREMENT SYSTEM**

Section

1150 Los Angeles City Employees Retirement System (LACERS).

1152 Definitions.

1154 Retirement Fund.

1156 Transfer of Released Liability for Transferred Employees.

1158 Actuarial Standards.

1160 Budget.

1162 Contribution of Members.

1164 Employment by the City of a Retired Member of the System.

1166 Authority to Administer Other Retirement Plans.

1168 Establishment of Benefits by Ordinance.

1170 Benefits Not Assignable.

**Sec. 1150. Los Angeles City Employees Retirement System (LACERS).**

There is hereby created, established and adopted a retirement system for all officers and employees of the City of Los Angeles not now included within any other pension or retirement system under the provisions of this Article. The benefits of the System’s Plan shall be adopted by ordinance in accordance with Section 1168 of this Part 1 and shall be set forth in the City Administrative Code.

**Sec. 1152. Definitions.**
For the purpose of this Part 1 concerning the LACERS, the following words and phrases shall have the meaning ascribed to them in this section unless a different meaning is clearly indicated by the context:

(a) **Accumulated Contributions:** The total of the amounts paid into the fund by the member and any interest credited to the member’s account.

(b) **Beneficiary:** Persons entitled to receive a benefit from the Plan.

(c) **Member:** An employee of the City of Los Angeles who meets the membership requirements of the Plan as further defined in ordinance(s) establishing the benefits of the Plan.

(d) **Plan:** The Los Angeles City Employees Retirement System as adopted by the Council under authority of Section 1168.

(e) **Retired Member:** A member who has ceased employment with the City of Los Angeles and is receiving a regular monthly benefit payment from the Plan.

(f) **Retirement Fund:** The trust fund established for the LACERS separate and apart from the other money of the City.

(g) **System:** The Los Angeles City Employees Retirement System (LACERS).

**Sec. 1154. Retirement Fund.**

There shall be a fund known as Los Angeles City Employees Retirement Fund for the payment of administration expense, retirement allowances and other benefits of the System, which fund shall consist of all money paid into the fund in accordance with the provisions of this Part 1, and earnings from investments.

**Sec. 1156. Transfer of Released Liability for Transferred Employees.**

If any City function and System Members who perform that function are transferred to another public agency, and if the receiving public agency affords System Members the opportunity to secure retirement credit for their City service in that public agency’s retirement system, then the Released Liability to this System for the transferred System Members who elect to transfer their accumulated contributions from this System to the retirement system of the receiving public agency shall be made available for payment on account of the required employer contribution for the retirement system of the receiving public agency. The Released Liability shall be made available in the manner specified in the ordinance authorizing the transfer of the City function but in no event shall the amount of money made available exceed the required employer contributions on account of those System Members who request the transfer of their accumulated contributions.
For the purpose of this section, the phrase Released Liability shall mean the City’s share of the actuarially determined present value of benefits earned to the date of the transfer under the LACERS and shall be based upon the rates of withdrawal and other actuarial assumptions in effect on the date of the transfer and an assumed interest factor as determined by the Board of Administration which reflects, as closely as practicable, the interest rate at which member contributions and the City reserves were credited as provided in Section 1162 for the six-month period immediately preceding the date of the transfer.

Sec. 1158. Actuarial Standards.

(a) Reserve Basis. The Board of Administration shall adopt an actuarial report showing the cost of maintaining, upon a reserve basis, the System and Fund, and shall, at intervals of not to exceed five years, cause to be made an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries, and shall further cause to be made an actuarial valuation of the assets and liabilities of the Retirement Fund. The board shall keep in convenient form any data necessary for the actuarial valuation of the Retirement Fund established in Section 1154.

(b) Setting Actuarial Assumptions. Upon the basis of the investigation and valuation, the Board of Administration shall:

(1) adopt for the System an interest rate and mortality, service and other tables as deemed necessary by the board; and

(2) revise or change the rates of the City contributions on the basis of these mortality, service and other tables.

(c) Records. In addition to other records and accounts, the board shall keep any records and accounts necessary to show at any time:

(1) the total accumulated contributions of the Members, both individually and collectively;

(2) the total accumulated contributions of Retired Members, less the total annuity payments made to such retired members; and

(3) separately the amounts paid into the fund by the City on account of that part of the cost of the System to be borne by the City.

(d) Annual Report. The board shall prepare at the close of each fiscal year a financial statement showing the assets and liabilities of the Retirement System and Fund.

Sec. 1160. Budget.
(a) Transmittal of Budget. The board shall annually prepare and transmit to the Mayor and Controller a budget setting forth the estimated cost of maintaining the Retirement Fund. The budget shall include separate items as follows:

1. City Contributions. A sum equal to a percentage of the salaries of all members of the retirement system, which percentage shall be the same as that shown in the last actuarial report rendered, as herein before provided to be the percentage required for members of departments with no past service.

2. Liquidation of Unfunded Liabilities. A sum sufficient to liquidate, over a period of up to 30 years, any accrued unfunded liabilities assumed by the System.

3. Administrative Expenses. At the discretion of the City Council, the administrative expenses of the System.

(b) General Obligation of the City. The obligation to pay benefits of LACERS shall be a general obligation of the City of Los Angeles.

Sec. 1162. Contribution of Members.

(a) Contribution Required. Each Member shall contribute to the System by salary deduction at the rate of contribution established by ordinance.

(b) Member Accounts. The Board of Administration shall maintain an individual account of the contributions made by or for each Member. Regular interest shall be credited to the individual accounts as of the last day of each month equal to the yield of the five year Treasury Note as determined by the board.

(c) Payroll Deduction. Each Member shall be deemed to consent and agree to each deduction made as provided for in this section and the payment of each payroll check to a Member shall be a full and complete discharge and acquittance of all claims and demands whatever for the services rendered by each Member during the period covered by the payroll, except any claims that the Member has to the benefits provided for in this Part 1.

(d) Refund of Contributions. The right of each and every Member to be paid his or her accumulated contributions in the event of any subsequent repeal of this Part 1 is hereby declared to be a vested property right of each Member. Furthermore, the right of each and every Member to be paid his or her accumulated contributions upon his or her separation from the City service and the right of each and every beneficiary to be paid the Member’s accumulated contributions upon the Member’s death before retirement or his or her unused contributions upon the Member’s death after retirement are hereby declared to be vested property rights of each Member or Beneficiary.

Sec. 1164. Employment by the City of a Retired Member of the System.
(a) **Prohibition.** No person who shall have been retired from the service and employment of the City pursuant to the provisions of this System shall thereafter be paid for any service rendered as an officer or employee of the City, except for service rendered as an election officer, as an officer elected by the electors of the City, or as a Retired Member of the Board of Administration.

(b) **Exception for Temporary Service.** The Mayor may, at the request of the appointing authority, authorize employment of a Retired Member to a vacant position in a class in which he or she has been employed or, subject to the civil service provisions of the Charter, in any other position, for a period not to exceed 90 days in any fiscal year when such Member’s services are required for an emergency or to prevent a stoppage of public business or when his or her special skills are needed to perform work of a limited duration. While so employed, the Retired Member will continue to receive his or her retirement allowance as a Retired Member, but will make no further contribution to the System, and will not be subject to any change in benefits from the System as the result of the employment.

(c) **Exception for Board Fees and Employment as Election Employee.** Notwithstanding any other provision of this section, no Retired Member appointed to a board of commissioners established by the Charter or by ordinance, shall be barred by reason of retirement from receiving the attendance fee provided for the members of the board, nor shall any Retired Member be barred by reason of retirement from receiving compensation for serving not more than 120 days in any calendar year as a temporary election employee exempted from the classified civil service of the City pursuant to the provisions of Section 1001 of the Charter. No Retired Member receiving compensation described in this subsection shall be considered as an active member of this System for any purpose.

**Sec. 1166. Authority to Administer Other Retirement Plans.**

(a) **Council Authorization.** The Council may by ordinance adopted in accordance with Section 1168 authorize the Board of Administration to administer retirement plans for employees of the City who are not Members of the LACERS, or as a plan supplemental to any other pension or retirement plan established under the Charter or by ordinance. This plan or supplement shall be separate and distinct from LACERS and not subject to the definitions, conditions of entitlement or requirements applicable to LACERS.

(b) **Fund.** A separate fund administered by the Board of Administration of LACERS shall be created and established for the payment of administration expenses and benefits of any plan enacted under subsection (a). The source of funding for any such plan shall be determined by ordinance except that no assets of the LACERS Fund shall be available for such purpose. To the extent that the board is entrusted with investment responsibilities for such plans, the board shall be responsible for the investment of such funds in accordance with the standards that apply to the LACERS.
Sec. 1168. Establishment of Benefits by Ordinance.

(a) **Procedure for Adoption of Benefits.** Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the Council, subject to the veto of the Mayor and override by Council by three-fourths of Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held.

(b) **Limitation on Council Authority to Increase or Modify Benefits.** The Council may, by an ordinance adopted pursuant to the requirements contained in subsection (a) modify or add to the benefits set forth in the Administrative Code or change conditions of entitlement. However, the Council may not increase or modify benefits if doing so would violate limitations imposed by federal or state law. As a further condition to the final adoption of benefit modifications, it shall be required that the Council be advised in writing by an enrolled actuary as to the cost of benefit increases.

Any ordinance adopted pursuant to this section shall go into effect upon publication, but the Council may provide that the terms of the ordinance, or portions of it, shall be operative at a later date or dates. Ordinances adopted pursuant to this section shall be codified in the Los Angeles Administrative Code.

An allowance which becomes effective after the publication of an ordinance adopted pursuant to this section but prior to the operative date shall be modified or increased only from and after the operative date of the providing ordinance.

Sec. 1170. Benefits Not Assignable.

The right of every Member and of every Beneficiary to receive and be paid any money under any of the provisions of the LACERS is a right personal to the Member or Beneficiary which cannot be assigned to any other person, in any manner or for any purpose, the intent being that payments shall in all cases be made directly to the Member or Beneficiary.

**PART 2**

**WATER AND POWER EMPLOYEES RETIREMENT PLAN**

Section

1180 Applicability of the Plan.

1182 Definitions.

1184 Retirement from Active Service.
Sec. 1180. Applicability of the Plan.

(a) **Water and Power Department Employees and Beneficiaries.** The Water and Power Employees Retirement Plan (WPERP) created in Section 1102(b) of this Article shall be binding in its entirety upon all employees of the Water and Power Department and all beneficiaries of the Plan. All benefits under the retirement, disability and death benefit features of the Plan shall be granted only upon the terms and conditions set forth in the Plan.

(b) **Intermittent, Occasional and Temporary Employees.** Under no circumstances shall persons employed by the Department of Water and Power to render services of an intermittent or occasional character be eligible for the benefits of the Plan. Any employee, who shall have been excluded from participation in the benefits of the Plan on account of his or her temporary employment status, shall be permitted to participate in the benefits upon the terms and conditions provided by the Plan.

Sec. 1182. Definitions.

For the purpose of this Part 2 concerning the Water and Power Employees Retirement Plan, the following words and phrases shall have the meaning ascribed to them in this section unless a different meaning is clearly indicated by the context:

(a) **Beneficiary:** A person entitled to receive a benefit from the Plan.

(b) **Member:** An employee of the Department of Water and Power who meets the membership requirements of the Plan as further defined in Plan.

(c) **Plan:** The Water and Power Employees Retirement Plan adopted by the Board of Administration pursuant to Section 1186.

(d) **Retired Member:** A member who has ceased employment with the Department of Water and Power and is receiving a regular monthly benefit payment from the Plan.

(e) **System:** The Water and Power Employees Retirement Plan.

Sec. 1184. Retirement from Active Service.
(a) **Normal Retirement.** The normal retirement date for a Member shall be the first day of the calendar month which next follows the Member’s 60th birthday. A Member shall be retired from the service of the Department of Water and Power on the person’s normal retirement date or on the first day of any calendar month thereafter, upon his or her written application filed with the Board not less than 30 days prior to the date of retirement.

(b) **Early Retirement.** Any Member may be retired from the service of the Department of Water and Power prior to his or her normal retirement date upon his or her written application if the retirement is recommended by the general manager of the department and approved by the Board of Water and Power Commissioners in accordance with rules and regulations set forth in the Plan.

**Sec. 1186. Amendment of Plan and Provision of Health and Welfare Benefits.**

The provisions of the Plan may be amended from time to time to provide retirement, disability or death benefits upon the approval of the Board of Water and Power Commissioners and adoption by the Board of Administration. Prior to the adoption of any benefit change, a report from the Plan’s actuary must be presented to both the Board of Administration and the Board of Water and Power Commissioners analyzing the cost impact of the proposed changes upon the Plan.

**Sec. 1188. Water and Power Employees Retirement Fund.**

(a) **Creation of Fund.** The Water and Power Employees Retirement Fund, the Water and Power Employees Disability Fund, and the Water and Power Employees Death Benefit Fund are created.

(b) **Member Contributions.** All contributions of employees and the Department of Water and Power under the Plan shall be paid into the Water and Power Employees Retirement Fund. The board, as authorized in Section 1110, may segregate revenues, contributions, and expenses of the various benefit programs of the Plan including Retirement, Disability, and Death Benefits.

(c) **General Obligation.** The obligation to pay benefits of WPERP shall be a general obligation of the Department of Water and Power and any of its successors.

**Sec. 1190. Actuarial Survey.**

The Board of Administration of WPERP shall, at regular intervals not to exceed five years, secure a general survey and actuarial report of the Plan.
PART 3
FIRE AND POLICE PENSION PLAN
GENERAL PROVISIONS

(Title amended by Charter Amendment A § 1, approved June 5, 2001, effective July 10, 2001.)

Section

1200 Applicability.

1202 Definitions.

1204 Consolidation of General Manager and Secretary.

1206 Persons Not Entitled to Fire and Police Pension.

1208 Repeal of Limitations on Surviving Spouse Benefits.

1210 Budget.

1212 Effect of Receipt of Workers Compensation.

1214 Domestic Partner Benefits.

1216 Pension Benefits in Connection with Mergers and Contracts for Fire and Police Services.

1218 Authority of City Council to Establish a Deferred Retirement Option Plan (DROP) by Ordinance.

1220 Merger and Coordination of Separate Tiers.

1222 Authority of City Council to Establish a New Pension Tier by Ordinance.

1224 Authority of City Council to Reactivate Surviving Spouse Benefits to Persons Who Remarried Prior to December 5, 1996.

1226 Authority of City Council to Allow Retired Members of Tiers 3, 4, and 5 to Return to Active Duty.

1228 Authority to Amend Tier 5 Subsidy Provisions.
Authority of City Council to Allow a City Defrayal of Employee Contributions by Ordinance.

Authority of City Council to Amend Tier 5 of the Fire and Police Pension Plan to Include Sworn Port Police Officers.

*Fire and Police Pension Plans - Tier 1*

1300 Tier 1 Members.

1302 Definitions.

1304 Service Pension.

1306 Return or Recall to Active Duty.

1308 Maximum Tier 1 Pension.

1310 Disability Pension – Service Connected.

1312 Disability Pension – Nonservice Connected.

1314 Survivor Pension – Service Connected Member’s Death.

1316 Survivor Pension – Nonservice Connected Member’s Death.

1318 Election of Pension.

1320 Tier 1 Pension Funds.

1322 Actuarial Standards.

1324 Member Contributions – Tier 1.

1326 Overtime Work.

1328 Cost of Living Adjustment.

1330 Authority of Council to Establish Certain Benefits by Ordinance.

1332 Compliance with Certain Internal Revenue Code Provisions.

*Fire and Police Pension Plans – Tier 2*

1400 Tier 2 Members.
1402 Request to Become a Tier 2 Member.

1404 Request by a Reactivated Member under Tier 1 to Become a Tier 2 Member.

1406 Definitions.

1408 Service Pension.

1410 Return or Recall to Active Duty.

1412 Disability Pensions.

1414 Survivorship Pensions.

1416 Tier 2 Pension Funds.

1418 Actuarial Standards.

1420 Member Contributions – Tier 2.

1422 Cost of Living Adjustments.

1424 Cost of Living Adjustments to Pensions Formerly Excluded.

1426 Minimum Tier 2 Pensions and Other Cost of Living Adjustments.

1428 Authority of Council to Establish Certain Benefits by Ordinance.

1430 Compliance with Certain Internal Revenue Code Provisions.

1432 Miscellaneous Provisions.

1434 Overtime Work.

**Fire and Police Pension Plans - Tier 3**

1500 Tier 3 Members.

1502 Definitions.

1504 Service Retirement and Vesting.

1506 Disability Pensions.

1508 Survivorship Pensions.
Tier 3 Pension Funds.

Actuarial Determinations and Tier 3 Unfunded Liabilities.

Member Contributions – Tier 3.

Cost of Living Adjustments.

Provision of Certain Subsidy Payments by Ordinance.

Compliance with Certain Internal Revenue Code Provisions.

Compensation Limits.

Council Authority to Maintain Tax-qualified Status of Plan.

Miscellaneous Provisions.

Social Security Participation.

Fire and Police Pension Plans - Tier 4

Tier 4 Members.

Definitions.

Service Retirement and Vesting.

Disability Pensions.

Survivorship Pensions.

Tier 4 Pension Funds.

Actuarial Determinations and Tier 4 Unfunded Liabilities.

Member Contributions – Tier 4.

Cost of Living Adjustments.

Provision of Certain Subsidy Payments by Ordinance.

Compliance with Certain Internal Revenue Code Provisions.

Compensation Limits.
Sec. 1200. Applicability.

Each Tier of the Fire and Police Pension Plan shall be governed by the following:

(a) provisions specific to each Tier as set forth in this Article; and

(b) these General Provisions for the Fire and Police Pension Plan.

SECTION HISTORY


Sec. 1202. Definitions.

For the purposes of the Tiers of the Fire and Police Pension Plan set forth in this Part 3, the following words and phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated by the context.

(a) City: The City of Los Angeles.

(b) Board: The Board of Fire and Police Pension Commissioners.

(c) Plan or System: The Fire and Police Pension Plan administered by the Board. Any reference in this Part to “Fire and Police Pension Plans” shall be deemed a reference to the Fire and Police Pension Plan.

(d) Beneficiary: Person entitled to receive a benefit from the Plan.

(e) Department Member: A person who is a sworn Member of the Fire Department or a sworn Member of the Police Department or a sworn Member of the Harbor Department who is a Tier 5 Plan Member.

(f) Retired Plan Member: A person who is a former Plan Member whose active duty status has been terminated and is receiving a regular monthly benefit payment from any Tier of the Fire and Police Pension Plan.

(g) Tier: Any one of the several benefit structures denominated as a “Tier” within the Fire and Police Pension Plan.
(h) **Outside Agency**: Any governmental entity other than the Fire or Police Departments of the City of Los Angeles.

(i) **Transferring Employees**: Employees of an Outside Agency who become Department Members pursuant to a merger or contract for fire or police services authorized by action of the Council.

### SECTION HISTORY


**Sec. 1204. Consolidation of General Manager and Secretary.**

The positions of general manager of the Fire and Police Pension Department and of secretary to the Board may be consolidated, in the discretion of the Board.

**Sec. 1206. Persons Not Entitled to Fire and Police Pension.**

A deputized, reserve or auxiliary police officer or firefighter hired by the City of Los Angeles to perform duties on a part-time basis shall:

(a) not be a Plan Member or System Member of any Tier for any purpose;

(b) not be entitled, and the surviving spouse or surviving minor or dependent children or dependent parent(s) shall not be entitled to payment of any benefit or pension provided by the Fire and Police Pension Plans; and

(c) not have any deductions made for pension purposes from any moneys earned or paid by the City.

**Sec. 1208. Repeal of Limitations on Surviving Spouse Benefits.**

After December 5, 1996, the survivor benefit of a Qualified Surviving Spouse under any Tier of the Fire and Police Pension Plan shall not be discontinued due to the subsequent remarriage of a Qualified Surviving Spouse.

**Sec. 1210. Budget.**

(a) **Adoption of Annual Budget.** The Board of Fire and Police Pension Commissioners shall adopt a budget each year setting forth the administration expense for each Tier of the Fire and Police Pension Plan. The budget shall be adopted at a meeting open to the public. At the discretion of the Council, administrative expense, which includes investment management expense, may be paid from the assets of the Plan.

(b) **Separate Items of Budget.** The Board shall annually prepare and transmit to the Mayor, Council and Controller a budget setting forth the estimated cost of
maintaining the Fire and Police Pension Plan. The budget shall include each of the following separate items, whether such item is a positive number or a negative number:

1. Fire and Police Pension Plan - Tier 1.

   (a) A sum equal to that percentage of the salaries of all Tier 1 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of new entrants into Tier 1. The entry age cost is defined as the level percentage of compensation of new Tier 1 entrants which must be paid into the Plan from their date of entry in order to provide the benefits under the Plan, less the contributions to be made by new entrants during the period of their membership as provided in Section 1324.

   (b) A sum, which may be a positive number or a negative number, equal to the dollar amount shown in the last actuarial valuation to be required to amortize the unfunded liabilities of the Plan allocable to Tier 1 for the purpose of preparation of the budget. The unfunded liabilities to be allocated are the present value of all of the assumed obligations under Tier 1 of the Plan, less

      (i) the present value of the future contributions to be made by the City under the preceding subsection and by the members under Section 1324, and

      (ii) the assets of the Plan allocated for this purpose to the Fire and Police Tier 1 Service Pension Fund and to the Fire and Police Tier 1 General Pension Fund. The amortization period shall be 70 years beginning with the fiscal year 1967-1968.

   (c) A sum sufficient to cover the cost, if any, as determined by an actuarial estimate, of benefits granted by the Council under the authority of Section 1330 of Tier 1.

2. Fire and Police Pension Plan - Tier 2.

   (a) A sum equal to that percentage of the salaries of all Tier 2 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of new System Member entrants into Tier 2. The entry age cost is defined as the level percentage of salary of Tier 2 entrants which must be paid into the Plan from their respective dates of entry in order to provide the benefits pursuant to this Plan, less the deductions to be made from the salaries of new entrants, while they are Tier 2 Members, as provided by Section 1420.
(b) A sum, which may be a positive number or a negative number, equal to that percentage of the aggregate salaries of all members of the Fire Department and of the Police Department who are included under the provisions of Tiers 1, 2, 3 and 4 of this Plan, as shown in the last actuarial valuation required to amortize the unfunded liabilities of the Plan allocable to Tier 2 for the purpose of preparation of the budget, which sum will remain level as a percentage of salary, but which will increase in dollar amount in accordance with the aggregate salary increase assumption. The unfunded liabilities to be allocated are the present value of all of the assumed obligations under Tier 2 of the Plan less:

(i) the present value of the future contributions to be made by the City pursuant to the preceding subsection (2) (a);

(ii) the present value of the deductions to be made from the salaries of the Tier 2 Members; and

(iii) the assets of the Plan allocated for this purpose to the Fire and Police Tier 2 Service Pension Fund and the Fire and Police Tier 2 General Pension Fund.

The amortization period shall be 70 years beginning with the fiscal year 1967-68, except the Board shall assume that the unfunded liabilities of Tier 2 shall be $258,000,000 as of July 1, 1967. Notwithstanding the foregoing, in the event that the unfunded liability as of any fiscal year beginning on or after July 1, 2001 with respect to Tier 2 is greater than zero, the amortization period for such unfunded liability shall be 30 years if less than the period specified in the preceding sentence. The amortization period for any increases in the unfunded liability for any subsequent fiscal year shall be the amortization period of 70 years beginning with the fiscal year 1967-68 or, if shorter, 30 years with respect to increases in unfunded liabilities resulting from amendment to the Plan and 15 years with respect to increases in unfunded liabilities resulting from actuarial experience losses; the amortization period for any decreases in unfunded liabilities shall remain unchanged.

(c) A sum sufficient to cover the cost, if any, as determined by actuarial estimate, of benefits granted by the Council under the authority of Section 1428 of this Tier 2.

(3) Fire and Police Pension Plan - Tier 3.

(a) A sum equal to that percentage of the salaries of all Tier 3 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of Tier 3 Member entrants into the Fire and Police Pension Plan - Tier 3. The entry age cost being defined as the level percentage of salary of new Tier 3 Member entrants.
which must be paid into the Plan from their respective dates of entry in order to provide the benefits pursuant to the Tier 3 provisions, less the deductions to be made from the salaries of new entrants while they are Tier 3 Members.

(b) A sum, which may be a positive number or a negative number, equal to that percentage of salaries of all Tier 3 Members shown in the last actuarial valuation to be required to amortize the unfunded liabilities of the Plan allocable to Tier 3 for the purpose of preparation of the budget. The unfunded liabilities to be allocated are the present value of all the assumed obligations under Tier 3 of the Plan less:

(i) the present value of the future contributions to be made by the City under the preceding subsection 3(a);

(ii) the present value of the deductions to be made from the salaries of the Tier 3 Members; and

(iii) the assets of the Plan allocated for this purpose to the Fire and Police Pension Plan - Tier 3.

(c) A sum sufficient to cover the cost, if any, as determined by an actuarial estimate, of benefits granted by the City Council by ordinance as authorized by Tier 3.

(4) Fire and Police Pension Plan - Tier 4.

(a) A sum equal to that percentage of the salaries of all Tier 4 Members shown in the last actuarial valuation to be required to cover the entry age cost to be paid by the City on account of Member entrants into Tier 4. The entry age cost is defined as the level percentage of salary of new Tier 4 Member entrants which must be paid into the Plan from their respective dates of entry in order to provide the benefits pursuant to the Tier 4 provisions, less the deductions to be made from the salaries of new entrants while they are Tier 4 Members.

(b) A sum, which may be a positive number or a negative number, equal to that percentage of salaries of all Tier 4 Members shown in the last actuarial valuation to be required to amortize the unfunded liabilities of the Plan allocable to Tier 4 for the purpose of preparation of the budget. The unfunded liabilities to be allocated are the present value of all the assumed obligations under Tier 4 of the Plan less:

(i) the present value of the future contributions to be made by the City pursuant to the preceding subsection 4(a);
(ii) the present value of the deductions to be made from the salaries of the Tier 4 Members; and

(iii) the assets of the Plan allocated for this purpose to the Fire and Police Pension Plan - Tier 4.

(c) A sum sufficient to cover the cost, if any, as determined by an actuarial estimate, of benefits granted by the Council by ordinance as authorized by Tier 4.

(c) General Obligation of the City. For the purpose of providing funds to meet the budget of the Fire and Police Pension Plan, the Council annually shall provide from revenues available to it, funds sufficient to provide the total amount of all positive items, reduced by the total amount of all negative items, in the budget submitted by the Board, such reduction subject to any restrictions imposed by Section 401(h) of the Internal Revenue Code.

SECTION HISTORY


Sec. 1212. Effect of Receipt of Workers Compensation.

(a) Definition. For the purposes of this section, “compensation” is defined as every payment provided for by any general law granting benefits for injury, sickness or death caused by or arising out of employment, and also includes payments made to satisfy any claim for damages to the extent that the payments relieve the obligation to pay compensation under that general law.

(b) Coordination of Pension Benefits. If, pursuant to general law, an award of compensation is made or compensation is paid on account of injury, sickness or death caused by or arising out of employment as a Department Member, then the total amount of any disability or survivor pension granted pursuant to any Tier of the Fire and Police Pension Plans shall be reduced by the total amount of the awarded compensation and the amount remaining after reduction shall be the pension granted.

(c) Payment Procedure. If the reduction provided in subsection (b) of this section is applicable to a pension:

(1) Applied First to Compensation Award. Any pension payments made under any Tier of the Fire and Police Pension Plans shall be deemed to be, and shall be, payments of the compensation award and shall be first applied as payments of the compensation award. Any pension payments not applied as satisfaction of the compensation award shall be deemed to be, and shall be, applied as payments of the pension granted.
(2) **Payments Made to the Extent They Exceed Award.** Pension payments shall be made only to the extent that the cumulative sum of the payments of disability or survivor pension provided in any Tier exceed the cumulative sum of the compensation award.

(3) **Limit on Installment Basis.** Compensation awards may be deducted on an installment basis if no installment is less than 25% of any monthly pension amount payable to the Retired Plan Member.

(d) **Service Pensions Not Affected.** The reduction provided in subsection (b) of this section shall not apply to any service pension granted under any Tier of the Fire and Police Pension Plans. Nor shall any pension be reduced by any compensation which shall be awarded or paid to any Retired Plan Member receiving a service pension under any Tier of the Fire and Police Pension Plans or to any Plan Member who shall die while eligible to retire. Any deductions made from the salary of any Plan Member and deposited to the credit of any Tier of the Fire and Police Pension Plans shall be applied solely to the cost of service pensions granted under that Tier and never shall cover, directly or indirectly, the cost of any compensation award.

**Sec. 1214. Domestic Partner Benefits.**

(a) **Council Authority.** The Council may by ordinance provide survivor benefits for domestic partners of members of Tiers 2, 3 and 4 of the Fire and Police Pension Plans, subject to any conditions of entitlement set forth in any ordinance adopted in accordance with the provisions of this section. The authority granted in this section shall include the authority to expand the definition of “qualified surviving spouse” for purposes of the Fire and Police Pension Plans to include a domestic partner.

(b) **Mode of Adoption.** Ordinances adopted under this section shall be adopted in the same manner as provided in Section 1618(b), but Council shall be advised in writing by an enrolled actuary as to the cost of the proposed benefits.

**Sec. 1216. Pension Benefits in Connection with Mergers and Contracts for Fire and Police Services.**

(a) **Council Authority.** The Council may by ordinance establish pension benefits for persons who leave the employment of an Outside Agency to become Department Members of the Fire or Police Department pursuant to a merger or contract for fire or police services which is authorized by action of the Council. Except as limited in subsection (c), Council shall have broad authority to enact ordinances necessary for the provision and funding of pension benefits for Transferring Employees.

(b) **Examples of Council Authority.** The broad authority granted to Council includes, but is not limited to:
(1) Different Benefits Allowed. The authority to provide Transferring Employees with benefits other than those provided in the Fire and Police Pension Plans, whether by contracting for coverage with a non-City pension plan, by providing for alternative benefits to be administered by the Board or by other means as the Council shall determine;

(2) Transfer of Assets and Liabilities. The authority to provide for the transfer of pension assets and liabilities in connection with mergers and contracts.

Should it be necessary for the City to assume responsibility for the provision of pension benefits to persons other than the Transferring Employees in order to facilitate a merger or contract, then the Council’s authority shall include the authority to provide benefits to these other persons if the future annual costs attributable to the provision of these benefits is clearly identified in the actuary’s report and any ordinance providing these benefits must prescribe a mechanism for funding the cost of these benefits. The funding mechanism may include, but is not limited to, the transfer of assets from another pension plan and/or reimbursements from the Outside Agency.

(c) Limitation Upon Council Authority. The authority given to the Council to establish pension benefits herein is specifically limited as follows:

(1) No City Service Credit. The Council may not provide service credit to a Transferring Employee for service performed prior to becoming a Department Member if the Transferring Employee is receiving or will be entitled in the future to receive pension benefits from another pension plan based upon prior service.

(2) Funding of Costs of Service Credit Granted. Any ordinance adopted pursuant to this section which provides for a Transferring Employee to receive service credit for prior service must prescribe a mechanism for funding the costs attributable to this prior service which may include, but is not limited to, the transfer of assets from another pension plan and/or reimbursements of costs from the Outside Agency.

(d) Mode of Adoption. Ordinances adopted under this section shall be adopted in the same manner as provided in Section 1618(b), but Council shall be advised in writing by an enrolled actuary as to the cost of the proposed benefits.

Sec. 1218. Authority of City Council to Establish a Deferred Retirement Option Plan (DROP) by Ordinance.

(a) Council Authority. The Council may by ordinance adopted in accordance with the provisions of this section establish a program whereby a deferred retirement option plan (DROP) is created and offered to sworn members of the Fire and Police Departments on a voluntary basis as an alternative method of benefit accrual in the Fire and Police Pension Plans. The authority granted in this section shall include the authority to make necessary modifications to requirements of other Charter provisions of the
various Fire and Police Pension Plans for the specific and limited purpose of implementing a DROP.

(b) Limitations of DROP. The authority given to the Council to establish a DROP is specifically limited as follows:

1. DROP Shall Be Cost Neutral to the City. Members who elect to participate in the program will have access to a lump sum benefit in addition to their normal monthly retirement allowance at their actual retirement. With regard to plan funding, DROP shall be cost neutral to the City of Los Angeles as defined by the Plan’s actuary. DROP shall be designed to ensure that the implementation of the program will not adversely affect the tax-qualified status of the Fire and Police Pension Plans.

2. Five Year Window Period for Enrollment. There shall be a five-year window period for enrollment, after which the City may review and evaluate DROP and at its sole discretion determine to continue DROP by ordinance.

3. Operability of this Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted. Courts of law shall have the exclusive authority to resolve disputes over whether an ordinance authorized by this section meets the cost neutrality requirement established by this section or satisfies any other legal requirement.

(c) Mode of Adoption. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in section 1618(b), but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

SECTION HISTORY


Editor’s Note: Refer to Los Angeles Administrative Code Division 4, Chapter 21 (§§ 4.2100 et seq.) for provisions regarding the Deferred Retirement Option Plan.

Sec. 1220. Merger and Coordination of Separate Tiers.

Notwithstanding any provision of this Part 3 to the contrary, effective July 1, 2001:

(a) The separate Tiers of the Plan shall be merged together and shall thereafter be the single Fire and Police Pension Plan;
(b) The assets of the separate Service Pension Funds, General Pension Funds and other funds described in this Part 3 shall become the assets of the single Plan, but the funds may be accounted for separately by the Board for record keeping, actuarial and other administrative purposes. If the total of the items calculated under Section 1210(b) with respect to a single Tier is a negative number, the assets allocated to that Tier shall be reduced by the amount of such negative number that is applied as an offset to a positive total of items for another Tier. In addition, such offset shall be treated as an increase of assets allocated to such other Tier; and

(c) All of the assets in the Plan, regardless of the fund to which they may be assigned for record keeping, actuarial or other administrative purposes, shall be available to pay any of the benefits provided for under the Plan, except as otherwise provided by Section 401(h) of the Internal Revenue Code.

(d) Notwithstanding the preceding subsections of this section, Member Contributions shall be paid into the applicable Service Pension Fund, and the moneys in the Service Pension Fund(s) shall continue to be applied solely to the payment of service pensions and, if applicable, refunds to Members.

(e) The Council is hereby authorized to provide by ordinance conforming and technical changes to this Part to implement the intention of this Section that the Tiers function as different benefit structures within the single Plan. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b) of this Charter.

SECTION HISTORY


Sec. 1222. Authority of City Council to Establish a New Pension Tier by Ordinance.

(a) Council Authority. The Council shall by ordinance adopted in accordance with the provisions of this section establish a new tier to be known as Tier 5 to the Fire and Police Pension Plan. Such ordinance shall be adopted by the Council no later than December 31, 2001.

(b) Provisions of Tier 5. The new tier to the Fire and Police Pension Plan shall include the following provisions:

(1) Eligibility for Membership: Each person who shall be appointed as a Department Member on or after January 1, 2002, shall become a Tier 5 member. In addition, any Plan Member currently in Tiers 2, 3, or 4, as of January 1, 2002, hired prior to that date who makes an irrevocable election in writing during a six to twelve month time period to be specified by the Board of Fire and Police
Pension Commissioners after adoption of this section shall become a Tier 5 member.

(2) Service Pension Formula. Normal Retirement shall be with a minimum of 20 years of service and a minimum age of 50 years. The minimum service pension payable shall be equal to 50% of Final Average Salary at age 50 with 20 years of service. For each year of service after 20 years, an amount of 3% of Final Average Salary shall be provided per year of service, with the exception of the 30th year, in which 4% shall be provided. The maximum percentage of Final Average Salary payable, regardless of length of service, shall be 90% of Final Average Salary. The definition of Final Average Salary shall be the same definition as contained in Tier 3. Notwithstanding the above, a Tier 5 member may elect a deferred retirement with at least 20 years of service, however, the retirement formula will be identical to that contained in Tier 3.

(3) Member Contributions. Each Tier 5 Member shall contribute by salary deduction at a rate of 9% of the amount of his or her salary, except that further contributions shall not be required from a Tier 5 Member who has served as a Plan Member more than 33 years. The City shall pay 1% of this contribution contingent on the Fire and Police Pension Plan remaining at least 100% actuarially funded for pension benefits. In the event Section 1220 of the Charter becomes inoperative, employee contributions shall increase by one-half the increase in the Normal Cost of Tier 5 over the Normal Cost of Tier 3, immediately prior to the inception of Tier 5, as defined by the Plan’s actuary.

(4) Refund of Contributions. Tier 5 Members shall upon termination of employment be entitled to a refund of contributions.

(5) Cost-of-Living Adjustments. The annual cost of living adjustment shall be the equivalent to the provisions of Tier 3, except that there shall also be included a provision providing for the banking of amounts above the maximum annual increase and a provision crediting such banked amounts to members pensions during years when the applicable Consumer Price Index is less than the maximum permitted.

(6) Recall to Active Duty. The recall to active duty provisions shall be substantially identical to those currently provided for in Tier 2, Charter Section 1410(b).

(7) Compliance with Certain Internal Revenue Code Provisions. Tier 5 shall contain substantially identical provisions regarding compliance with Internal Revenue Code provisions as those set forth in Section 1520 of this Charter.

(8) Other Provisions and Definitions. All other provisions and definitions of Tier 5 not otherwise described herein shall be substantially identical to those of Tier 3. Notwithstanding the above, Tier 2 Members who elect to transfer into
Tier 5, shall retain the existing Tier 2 Survivorship pension benefits contained in Section 1414 of this Charter, subject to the cost of living adjustment described in subsection (5), except that the active duty death survivor benefits shall be calculated at the higher rate currently contained in Tier 3.

(c) Technical Corrections. The Council is hereby authorized to provide conforming and technical changes to Tier 5 that do not result in any additional costs to the Fire and Police Pension Plan.

(d) Operability of the Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted. Courts of law shall have the exclusive authority to resolve disputes over whether an ordinance authorized by this section satisfies any legal requirement.

(e) Mode of Adoption. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b) of this Charter, but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

SECTION HISTORY


Editor’s Note: Refer to Los Angeles Administrative Code Division 4, Chapter 20 (§§ 4.2000 et seq.) for provisions regarding Fire and Police Pension Plan Tier 5.

Sec. 1224. Authority of City Council to Reactivate Surviving Spouse Benefits to Persons Who Remarried Prior to December 5, 1996.

(a) Council Authority. The Council may by ordinance adopted in accordance with the provisions of this section reactivate the survivor benefit of a Qualified Surviving Spouse under any Tier of the Fire and Police Pension Plan who had remarried prior to December 5, 1996, and, as a result thereof, had their survivor benefit discontinued.

(b) Limitations of Ordinance. The authority given to the Council to reactivate the survivor benefit is specifically limited as follows:

(1) No benefits shall be paid for any period prior to the effective date of this Charter amendment.

(2) Operability of this Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by
law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted.

(c) **Mode of Adoption.** Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in section 1618(b), but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

**SECTION HISTORY**


**Sec. 1226. Authority of City Council to Allow Retired Members of Tiers 3, 4, and 5 to Return to Active Duty.**

(a) **Council Authority.** The Council may, by ordinance adopted in accordance with the provisions of this section, authorize the return to active duty of Retired Plan Members who retired from Tiers 3, 4, and 5.

(b) **Limitations on Council Authority.** The authority given to the Council herein is specifically limited as follows:

1. A retiree's pension shall be terminated when he or she returns to active duty.

2. The return to active duty provisions shall be substantially similar to those contained in Charter Section 1410 for Tier 2.

3. The Retired Plan Member shall return to active duty as a member of the tier from which he or she retired.

4. Notwithstanding the requirement that return to duty applications must be filed within three years of retirement, the ordinance may provide that Retired Plan Members of Tiers 3, 4, and 5 whose three year period after retirement expired between January 1, 2004 and the effective date of the ordinance implementing these return to work provisions will be allowed to file an application to return to active duty no later than a date specified in the ordinance but in no event later than six months after the effective date of the ordinance implementing these provisions.

5. Members of Tiers 3, 4, and 5 who participated in the Deferred Retirement Option Program (DROP) shall not be eligible to return to active duty.

6. Rehired Members of Tiers 3, 4, and 5 are ineligible to participate in DROP until three years following return to active duty.
(c) **Mode of Adoption.** Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in section 1618(b), but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed change.

**SECTION HISTORY**

Added by Charter Amendment 2, approved March 8, 2005, effective April 6, 2005.

**Sec. 1228. Authority to Amend Tier 5 Subsidy Provisions.**

The Council may by ordinance amend Tier 5 to establish maximum subsidy payments for beneficiaries and to authorize the Board to increase or decrease subsidy payments on the same terms and conditions that apply to subsidy payments for members of Tier 4 in Section 1618 of this Charter. Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b) of this Charter, but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed program.

**SECTION HISTORY**

Added by Charter Amendment 2, approved March 8, 2005, effective April 6, 2005.

**Sec. 1230. Authority of City Council to Allow a City Defrayal of Employee Contributions by Ordinance.**

(a) **Council Authority.** The Council may, by ordinance adopted in accordance with the provisions of this section, authorize payment of a portion of employee contributions to Tiers 3, 4, and 5 of the Fire and Police Pension Plan, not to exceed a portion of the required contributions under Charter Sections 1514 and 1614 and Los Angeles Administrative Code Section 4.2014 equal to 2% of salary, pursuant to labor-management Memoranda of Understanding (MOU) for members of the Fire and Police Pension Plan. Provided that a defrayal of an amount equal to no more than 1% of salary may be negotiated as part of each MOU and that such defrayal shall not be considered salary for purposes of computing Final Average Salary or for any other purpose. Funds paid by the City as a defrayal of member contributions pursuant to this section shall be paid into the appropriate Fund of the Fire and Police Pension Plan, but shall not be credited to members' individual contribution accounts, nor shall such funds be refundable to any member, former member or beneficiary. The defrayal of employee contributions authorized in this section shall be in addition to the contribution payment authorized under Charter Section 1222 in an amount equal to 1% of salary; should that payment cease by operation of the terms of Charter Section 1222, this shall not affect the authority granted to the Council under this section.

(b) **Mode of Adoption.** Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in section 1618(b), but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed defrayal.
Sec. 1232. Authority of City Council to Amend Tier 5 of the Fire and Police Pension Plan to Include Sworn Port Police Officers.

(a) **Council Authority.** The Council may, by ordinance adopted in accordance with the provisions of this section, provide for mandatory Tier 5 membership in the Fire and Police Pension Plan (Plan) for sworn Port Police employees with Peace Officer status under Penal Code Section 830.1 (Sworn Port Police Officers) appointed on or after the operative date of the ordinance, and provide Sworn Port Police Officers who were appointed prior to the operative date of the ordinance the right to irrevocably elect Tier 5 Plan membership. The authority granted in this section shall include the authority to make necessary modifications by ordinance to Tier 5 of the Plan, to the Deferred Retirement Option Plan (DROP), to the Pension Savings Plan for Part-Time, Seasonal and Temporary Employees, and to the Los Angeles City Employees' Retirement System (LACERS) in order to implement this membership change. Such ordinance shall be adopted by the Council no later than December 31, 2005 and shall specify an operative date that is the first day of a payroll period.

(b) **Limitations on Council Authority.** The authority given to the Council to implement this membership change is specifically limited as follows:

1. **Sworn Port Police Officers** includes only employees serving in Port Police civil service classifications with the Harbor Department requiring Peace Officer status under Penal Code Section 830.1.

2. Each person regularly appointed as a Sworn Port Police Officer on or after the operative date of the ordinance shall become a member of Tier 5 upon appointment, provided that person has previously completed academy training required by the Harbor Department. The Council retains the authority to determine if, and on what terms and conditions, such persons may be allowed to transfer prior sworn service in the Harbor Department from LACERS to Tier 5.

3. Each Sworn Port Police Officer who was regularly appointed and completed the required academy training prior to the operative date of the ordinance and who was employed in that capacity on such date may elect to become a member of Tier 5. The election to transfer to Tier 5 membership must be made no later than one year after the operative date of the ordinance and shall be conditioned upon the person agreeing to pay an amount as determined by a labor-management Memorandum of Understanding as the employee contributions for all periods of service transferred to Tier 5 from LACERS. Employees who elect to change retirement plans shall have all sworn service with the Harbor Department in classifications included in subsection (1) above transferred to Tier 5 from LACERS. Only actual service with the Harbor Department shall be transferred; prior service with other City departments transferred for purposes of...
Charter Section 1014 to the Harbor Department shall not be transferred. Further, all funds on deposit in LACERS attributable to service transferred to Tier 5 on behalf of these employees shall be transferred to the Plan. The amount of funds due to the Plan from LACERS shall be mutually agreed upon between the Plan and LACERS and is to include, but not necessarily be limited to: employee contributions, City contributions, and earnings to cover all funded accrued liability. All transferring employees shall pay the full amount of contributions required under Tier 5 retroactive to the operative date of the ordinance, provided that the City shall pay 1% as provided in Charter Section 1222, if applicable. An employee who is eligible to become a Tier 5 member, but chooses to remain in LACERS, will continue as a LACERS member even if subsequently appointed to a different Sworn Port Police Officer civil service classification.

(4) Sworn Port Police Officers who become members of Tier 5 of the Plan shall not be eligible to retire from LACERS while remaining employed as Sworn Port Police Officers. Charter section 1164 prohibits retired members of LACERS from thereafter being paid for any services rendered as an officer or employee of the City, except as expressly provided therein.

(5) The Harbor Department shall pay the Plan for all costs and expenses incurred by the Plan as a result of amending Tier 5 of the Plan to include Sworn Port Police Officers, including any unfunded liability incurred by the Plan. The Harbor Department shall also pay LACERS for all costs and expenses incurred by LACERS in connection with transfers between LACERS and Tier 5 related to these Sworn Port Police Officers.

(6) Inclusion of Sworn Port Police Officers in Tier 5 of the Plan shall not trigger the elimination of the 1% payment by the City of Tier 5 employee contributions as provided in Charter Section 1222 and Los Angeles Administrative Code Section 4.2014. The determination of 100% funded status required by Charter Section 1222 and Los Angeles Administrative Code section 4.2014 shall be made without regard to any impact resulting from the inclusion of this group of employees in Tier 5 of the Plan and any other group of employees from other Outside Agencies included in Tier 5 in the future.

(c) Technical Corrections. The Council is hereby authorized to make conforming and technical changes to Tier 5 that do not result in any additional costs to the Plan.

(d) Operability of the Section. This section shall become inoperative in the event that a demand is made by a bargaining unit representing employees affected by this section that an impasse over a proposed ordinance authorized by this section be resolved by binding arbitration if such arbitration is authorized by law. In such event, pension benefits shall again be determined by Charter provisions in effect at the time this section was adopted. Courts of law shall have the exclusive authority to resolve disputes over whether an ordinance authorized by this section satisfies any legal requirement.
(e) **Mode of Adoption.** Ordinances adopted pursuant to this section shall be adopted in the same manner as provided in Section 1618(b) of this Charter, but the City Council shall be advised in writing by an enrolled actuary as to the cost of the proposed changes.

**SECTION HISTORY**

Added by Charter Amendment 1, approved March 8, 2005, effective April 6, 2005.

**FIRE AND POLICE PENSION PLANS - TIER 1**

(Formerly Article XVII)

**Sec. 1300. Tier 1 Members.**

A Plan Member hired on or before January 28, 1967, shall be a Fire and Police Pension Plan – Tier 1 Member.

**Sec. 1302. Definitions.**

In addition to the words and phrases defined in the Fire and Police Pension Plans General Provisions in Part 3 and for the purposes of this Tier 1, the following words and phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated by the context.

(a) **Member of Fire or Police Department.** A “Member of the Fire Department” shall consist of all persons duly and regularly appointed in the Fire Department under civil service rules and regulations to perform the duties of a regular firefighter in the City of Los Angeles, under whatever designation they may be described in any salary or departmental ordinance providing compensation for the Fire Department; and a “Member of the Police Department” shall consist of all members of the Police Department appointed under civil service rules and regulations and sworn in, as provided by law, to perform the duties of a regular police officer of the City of Los Angeles, under whatever designation that they may be described in any salary or departmental ordinance providing compensation for the members of the Police Department. The provisions of Tier 1 shall apply to all members of the Fire and Police Departments as defined in this Tier 1, and to all members of these departments who have been granted pensions pursuant to this Tier 1.

(b) **Eligible Widow.** An “eligible widow” means the widow of a deceased member of the Fire Department or the Police Department who, as such, is entitled to a pension.

On or before December 5, 1996 any eligible widow, who remarried and thereby ceased to be an eligible widow, shall be reinstated as an eligible widow as of the latest of:
A reinstated eligible widow shall be entitled to the reinstatement of her pension effective as of the latest of such dates, whichever shall be applicable, but shall not be entitled to the payment of any pension for the period prior to such applicable date and subsequent to the date of the marriage ceremony. The pension paid to any other person during or for the period of the marriage or purported marriage of such reinstated eligible widow or during or for any period after the dissolution thereof shall cease when her pension shall be reinstated. However, should such reinstated eligible widow thereafter be a party to another marriage ceremony her pension as such shall cease and never again shall be reinstated regardless of whether such marriage ceremony shall result in a valid marriage or in a voidable or void marriage and whether or not the same legally shall be terminated. The pension which shall become payable to any reinstated eligible widow shall commence in the same monthly amount which then would have been payable if she never had ceased to be an eligible widow and thereafter it shall be adjusted as otherwise provided in Section 1328 relating to Cost of Living Adjustments.

The provisions of Sections 1314 and 1316 relating to Service and Nonservice Connected Survivor Pensions hereafter shall be construed and applied in accordance with the provisions of this subsection.

(c) **Dependent Child.** A “dependent child” means a person, but not including a person who is an illegitimate child of a deceased member of the Fire Department or the Police Department who had not been legitimated by such member, who is a legitimate child, a legitimated child or an adopted child of such member, and who had not been adopted by a person of the same gender as such member prior to the date of his death, who is not married and who, while under the age of 21 years, had become disabled, either prior or subsequent to the date of death of such member, from earning a livelihood for any cause or reason whatsoever, other than by reason of his own moral turpitude or as a result thereof. Such person shall be a dependent child only until he:

(1) shall be adopted by a person of the same gender as such member or shall marry, whichever shall be the earlier, regardless of his age at the time of the occurrence of either such event and whether or not he then is disabled from earning a livelihood;
(2) shall attain the age of 18 years if neither of the events mentioned in (1) had occurred prior thereto and if, at that time, he is not disabled from earning a livelihood; or

(3) shall cease to be disabled from earning a livelihood if none of the events mentioned in (1) or (2) had occurred prior thereto.

The Board shall have the power to determine whether or not a child of a deceased member is a Dependent Child and to determine, from time to time, the fact of whether or not a child who had been determined by it to be a Dependent Child continues to be a Dependent Child.

The provisions of Section 1314 and 1316 relating to Service and Nonservice Connected Survivor Pensions hereafter shall be construed and applied in accordance with the provisions of this subsection.

(d) Assignment Pay. “Assignment Pay” means any additional gross monthly pay or 1/12 of any additional gross annual pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest thereof within the member’s rank, shall be provided therefor by ordinance, upon the conditions therein set forth, as of the date of the termination of such member’s status as a member of the Fire Department or the Police Department.

Any such assignment pay shall not be considered as “the highest salary (exclusive of any amount payable by reason of assignment to special duty) attached to the rank of policeman or fireman” for the purposes of either Section 1312 or Section 1316 relating to Nonservice Connected Disability and Survivor Pensions. Any such assignment pay hereafter shall be included in “the average monthly rate of salary assigned to the ranks or positions held by such member” in the case of a member who shall retire upon a service pension or in the case of a member who shall die while eligible for a service pension if he had received the same immediately preceding the date of his retirement or death or upon the last day he had performed duties as a member of the Fire Department or the Police Department or, if he had not received the same at either such time but had received such pay at some time prior thereto, 10% of the assignment pay which he had received at the time of the termination of his last assignment to such duties for each year in the aggregate of his assignment to such duties not exceeding, however, 10 years in the aggregate.

The provisions of Section 1304 relating to Service Pensions, Section 1306 (a)(4)(M) relating to Return or Recall to Active Duty, and Section 1314 relating to Service Connected Survivor Pensions hereafter shall be construed and applied in accordance with the provisions of this subsection.

(e) Partial Year of Service. “Partial Year of Service” means any period of less than 12 months for which the member, if it had been a complete year, would have been entitled to credit toward retirement.
In the case of any member who had become such on or subsequent to January 17, 1927, any such partial year of service shall be calculated from the end of the member’s last completed year of service to the end of the payroll period immediately prior to the date of his retirement and shall be counted as part of his years of service for his retirement upon a service pension hereafter granted or for a pension hereafter granted to his widow, minor child or children, dependent child or children or dependent parent or parents if he hereafter shall die while eligible for a service pension prior to having served 25 years in the aggregate.

Any such partial year of service, in case of a member who shall have had less than 25 years of service, shall be credited in the same ratio of 2% of the average monthly rate of salary assigned to the ranks or positions held by him immediately preceding the date of his retirement or death as such partial year shall bear to a complete year and, in the case of a member who shall have had 25 years of service or more, shall be credited in the same ratio 1 2/3% of such average rate of salary as such partial year shall bear to a complete year.

The provisions of Section 1304 relating to Service Pensions, Section 1306 (a)(4)(M) relating to Return or Recall to Duty, and Section 1314 relating to Service Connected Survivor Pensions hereafter shall be construed and applied in accordance with the provisions of this section.

Sec. 1304. Service Pension.

Any member of the Fire or Police Department who shall have served in such department for 20 years or more in the aggregate in any capacity or rank whatever, on his request, or by order of the Board, if it be deemed for the good of the department, shall be retired from further service in such department, and such member shall thereafter, during his lifetime, be paid in equal monthly installments a pension as follows:

(a) **Twenty Years Service:** For 20 years aggregate service, 40% of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement;

(b) **Twenty up to Twenty-Five Years Service:** And an additional 2% of the average rate of salary for each year over 20 and less than 25 years in the aggregate served by the member before retirement;

(c) **Twenty-Five Years Service:** For 25 years aggregate service, 50% of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement;

(d) **Twenty-Five up to Thirty-Five Years Service:** And an additional 1 2/3% of the average rate of salary for each year over 25 and less than 35 years in the aggregate served by the member before retirement;
(e) **Thirty-Five or More Years Service:** For 35 years or more aggregate service, two-thirds of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement.

(f) **Hires Prior to January 17, 1927 with Thirty Years Service:** Any member of the Fire or Police Department who shall have become a member of such department prior to January 17, 1927, who shall have served in such department for 30 years in the aggregate in any capacity or rank whatever, shall, on his request, or by order of the Board, if it be deemed for the good of the department, be retired from further service in such department, and he shall thereafter, during his lifetime, be paid in equal monthly installments a pension equal to two-thirds of the average monthly rate of salary assigned to the ranks or positions held by such member during the three years immediately preceding the date of his retirement.

(g) **Hires Prior to January 17, 1927 with Twenty Years Service:** After 20 years aggregate service, on request of a member who shall have become a member of such department prior to January 17, 1927, or by the Board for the good of the department, such member shall be retired and paid in equal monthly installments a limited pension as follows:

1. **Twenty Years Service.** For 20 years aggregate service, 50% of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement;

2. **Twenty up to Thirty Years Service.** An additional 1 2/3% of the average rate of salary for each year over 20 years and less than 30 years in the aggregate served by the member before retirement.

In computing the aggregate period of service of a member of the Fire or Police Department for the purposes of this section, there shall be included the period or periods of time, if any, while the member was on disability retirement pursuant to the provisions of Sections 1310 or 1312 relating to Service and Nonservice Connected Disability Pensions of this Charter.

The provisions of this section are subject to the further conditions set forth in Section 1308 relating to the Maximum Tier 1 Pensions of this Charter.

**Sec. 1306. Return or Recall to Active Duty.**

(a) **Return to Active Duty.**
(1) **Conditions for Return to Active Duty.** A retired member, whenever retired, may file, with the Chief of the department from which he retired, a written application to be returned to active duty therein only upon the conditions:

(A) **Service Retirement and Former Rank.** That his original retirement had been pursuant to Section 1304 relating to Service Pensions and had been from the Fire Department while holding a rank no higher than Engineer or from the Police Department while holding a rank no higher than Sergeant; and

(B) **Time Since Original Retirement and Age.** That, as of the filing date of the application, the period of his original retirement had been no longer than three years and he shall be under the age of 55 years; and

(C) **Medical Exam.** That he satisfactorily had passed a medical examination not more than 30 days prior to the effective date of his original retirement, but the Chief, if the effective date thereof had been prior to May 2, 1969, may waive the condition contained in this subsection.

(2) **Subsequent Conditions for Return to Active Duty.** The Chief may approve any application only upon the conditions that, after the filing date thereof, the retired member:

(A) **Medical Exam.** Had passed a medical examination from which it had been determined that he would be capable of performing the duties which would be assigned to him if he were to be returned to active duty, if the determination had been approved or concurred in by the Board; and

(B) **Certification.** Had certified, in writing, that he had read and understands the provisions of this section and Section 1404 relating to Requests of Reactivated Members of Tier 1 to Become Tier 2 System Member.

(3) **Return to Rank at Original Retirement.** The Chief, if he were to approve the application, may return the retired member to active duty only in or to a vacant position in the rank held by him at the effective date of his original retirement.

(4) **Status of a Reactivated Member of Tier 1.** A retired member, if he were to be returned to active duty, thereafter shall be known as a “reactivated member” and, as such:

(A) **Privilege, Not An Appointment.** His return to active duty shall be a privilege only and not an appointment as a Department Member as provided by Section 1400 relating to Plan Members for the purposes of
Tier 2, he shall be on probation for one year from and after the effective
date thereof regardless of any other provision of law contained in the
Charter or otherwise, and the Chief may terminate his service at any time
during such year;

(B) **Original Pension Terminated.** His pension, granted by reason of
his original retirement, shall be terminated by the Board as of the effective
date of his return to active duty;

(C) **Method of Calculating Years of Service.** His service after the
effective date of his return to active duty, for the purposes of this Tier 1
and regardless of any other provision of law contained in the Charter or
otherwise, shall consist of only

(i) the days for which he shall be paid for performing his
assigned duties;

(ii) his days of vacation with pay; and

(iii) his regular days off duty with pay,

and one year of such service shall consist of a total of 365 such days;

(D) **Years of Service for Purposes of Civil Service and Related
Purposes.** His aggregate years of service, for the purposes of his
eligibility to advancement in accordance with civil service rules and
regulations and the payment of his salary and longevity pay or merit pay,
shall consist of only his years of service prior to the effective date of his
original retirement and his service after the effective date of his return to
active duty;

(E) **Years of Service for Purposes of Tier 1.** His aggregate years of
service, for the purposes of this Tier 1 and regardless of any other
provision of law contained in the Charter or otherwise, shall consist of
only his years of service prior to the effective date of his original
retirement and his service subsequent to the effective date of his return to
active duty. Such service shall be for not less than one year as defined in
subsection (a)(4)(C) of this section;

(F) **Salary, Longevity, & Merit Pay.** He shall be assumed to have a
satisfactory standard of service and shall be paid the salary provided for
his rank and the longevity pay or merit pay provided for his aggregate
years of service as defined in subsection (a)(4)(E) of this section, subject,
however, to all provisions applicable to the termination of payment of
longevity pay or merit pay;
(G) **Payroll Deduction.** He shall have deductions made for pension purposes, pursuant to Section 1324 relating to Member Contributions – Tier 1, from his salary and longevity pay or merit pay;

(H) **Prohibition of Nonservice Connected Pensions.** He never shall be entitled to a subsequent retirement pursuant to Section 1312 relating to Nonservice Connected Disability Pensions and his widow, his minor child or children (hereafter referred to in this subsection as “his child”) or his dependent parent or parents (hereafter referred to in this subsection as “his parent”) never shall be granted a pension pursuant to Section 1316 relating to Nonservice Connected Survivor Pensions;

(I) **Allowance of Service Connected Pensions.** He shall be entitled to a subsequent retirement pursuant to Section 1310 relating to Service Connected Disability Pensions if he were to become eligible therefor and upon his death, if he theretofore had had such a subsequent retirement, a pension shall be granted pursuant to applicable provisions of Section 1314 relating to Service Connected Survivor Pensions to his widow, (if she shall have been married to him for at least one year prior to the effective date of his original retirement or for at least one year after the effective date of his return to active duty and prior to the effective date of his subsequent retirement), or to his child or to his parent;

(J) **Allowance of Service Related Survivor Pension.** His widow or his child or his parent, if he were to die while a reactivated member from any cause arising out of or from the performance of his duties, shall be granted a pension pursuant to applicable provisions of Section 1314 relating to Service Connected Survivor Pensions;

(K) **Allowance of Survivor Pension Upon Death of Re-activated Member.** His widow, (if she shall have been married to him for at least one year prior to the effective date of his original retirement or for at least one year after the effective date of his return to active duty and prior to the date of his death), or his child or his parent, if he were to die while a reactivated member from any cause other than a cause arising out of or from the performance of his duties, shall be granted the same pension she would have received pursuant to applicable provisions of Section 1314 relating to Service Connected Survivor Pensions;

(L) **Reinstatement of Original Pension.** His pension, granted by reason of his original retirement, if his service were to be terminated during the one year from and after the effective date of his return to active duty for any reason other than by reason of his subsequent retirement pursuant to Section 1310 relating to Service Connected Disability Pensions, shall be reinstated by the Board, as of the effective date of the termination of his service, at the amount of pension which then would
have been payable to him if he had not returned to active duty and, upon
his death, the pension which shall be granted pursuant to Section 1314
relating to Service Connected Survivor Pensions to his widow (if she shall
have been married to him for at least one year prior to the effective date of
his original retirement), or to his child or to his parent, shall be calculated
upon the salary upon which his pension had been calculated as of the
effective date of his original retirement; and

(M) Retirement as Reactivated Member. He shall be entitled to a
subsequent retirement pursuant to Section 1304 relating to Service
Pensions, based upon his aggregate years of service as defined in
subsection (a)(4)(E) and his pension shall be calculated upon a sum equal
to the salary upon which his pension had been calculated as of the
effective date of his original retirement (hereinafter referred to as “such
salary”), plus a percentage of the difference between such salary and his
salary as of the effective date of his subsequent retirement, for his years of
service subsequent to the effective date of his return to active duty as
declared in subsection (a)(4)(C), so that such sum shall be:

(i) such salary plus 20% of such difference for one such year,

(ii) such salary plus 40% of such difference for two such
    years,

(iii) such salary plus 60% of such difference for three such
    years,

(iv) such salary plus 80% of such difference for four such
    years and

(v) such salary plus 100% of such difference for five or more
    such years or the equivalent of his salary as of the effective date of
    his subsequent retirement and upon his death, if he previously had
    had such a subsequent retirement,

the pension which shall be granted pursuant to Section 1314 relating to Service
Connected Survivor Pensions to his widow, (if she shall have been married to him
for at least one year prior to the effective date of his original retirement or for at
least one year after the effective date of his return to active duty and prior to the
effective date of his subsequent retirement), or to his child or to his parent, shall
be calculated upon the sum upon which his pension had been calculated as of the
effective date of his subsequent retirement.

(5) Applicability of Tiers 1 & 2 to Reactivated Members. The provisions of
this Tier 1 and of Section 1400 of Tier 2 hereafter shall be construed and applied,
as to a reactivated member, his widow, his child and his parent, in accordance
with respectively applicable provisions of subsection (a)(4) of this section.

(b) Recall to Active Duty.

(1) Rules for Recall to Active Duty. The Chief shall promulgate rules and
set standards as he may deem to be necessary or desirable with respect to recalling
a retired member to active duty.

(2) Conditions for Recall to Active Duty. A retired member, whenever
retired, shall be eligible to be recalled to active duty in the department from which
he retired only upon the conditions:

(A) Service Retirement and Former Rank. That his original
retirement has been pursuant to Section 1304 relating to Service Pensions
and had been from the Fire Department while holding a rank lower than
Fire Chief or from the Police Department while holding a rank lower than
Chief of Police;

(B) Certification. That he had certified, in writing, that he had read
and understands the provisions of this section; and

(C) Consent to Recall. That he voluntarily had consented to be
recalled to active duty.

(3) Limitations on Recall. The Chief may recall a retired member to active
duty:

(A) Rank at Retirement. Only in or to a vacant position in the rank
held by him at the effective date of his original retirement;

(B) 90 day Limit. For not to exceed 90 days in any one calendar
year; and

(C) Status Defined in this Section. The salary, benefits and other
terms and conditions of employment of any recalled member shall be as
provided under subsections (b)(5) and (b)(6) of this section.

(4) No Recall of Police Exceeding 12 Months Without Loss of Pension.
Recall of retired members of the Police Department may be approved for a period
in excess of 90 days but not for more than 12 consecutive months, without loss of
pension, in which case the salary, benefits and other terms and conditions of
employment for recalled police officers shall be established by ordinance.

(5) Status of Recalled Member. A retired member, if he were to be recalled
to active duty, thereafter shall be known as a “recalled member” and, as such:
Privilege Only. His recall to active duty shall be a privilege only and the Chief may terminate his service at any time;

Existing Pension Continues. His pension shall be paid during the period of his recall to active duty;

Salary Amount. He shall be paid the salary provided for his rank and the longevity pay or merit pay provided for his aggregate years of service prior to the effective date of his original retirement;

No Contributions Deducted. He shall have no deductions made for pension purposes, pursuant to Section 1324 relating to Member Contributions – Tier 1, from his salary and longevity pay or merit pay; and

No Survivor Pension for Recalled Service. He, his widow, his minor child or children or his dependent parent or parents never shall be entitled to any pension benefits provided by Tier 1 or Tier 2 by reason of his service as a recalled member.

Tier 1 Conceived with Recalled Members Rules. The provisions of this Tier 1 hereafter shall be construed and applied, as to a recalled member, his widow, his minor child or children and his dependent parent or parents, in accordance with applicable provisions of subsection (b)(5) of this section.

Sec. 1308. Maximum Tier 1 Pension.

The limitations of the amount of maximum pension payable pursuant to Section 1304 relating to Service Pensions of Tier 1 shall apply uniformly to all members of the Fire and Police Departments.

Sec. 1310. Disability Pension – Service Connected.

Service Connected Disability Pension. Whenever any member of the Fire or Police Department shall become so physically or mentally disabled by reason of bodily injuries received in, or by reason of sickness caused by the discharge of his duties in such department as to necessitate his retirement from active service, the Board shall order and direct that the member be retired from further service in such department; and thereafter the member so retired shall, during his lifetime, be paid a pension in an amount to be determined by the Board. The pension shall be equal to not less than 50%, nor more than 90%, of the salary attached to the rank or position held by him in such department at the date of the retirement order. The pension shall be paid in equal monthly installments.

Termination of Disability Pension. Any pension granted to any member of the Fire or Police Department for disability or sickness, as provided for in this section, shall cease when the disability or sickness ceases and such member shall, subject to civil service and other provisions of the Charter governing the appointment of City employees,
have been restored to active duty in such department of which such person was a member at the time of disability retirement to the same rank or position he previously held.

(c) **Board Investigation and Findings.** The Board of Pension Commissioners shall have the power to hear and determine all matters pertaining to the granting and termination of any pension award as provided for in this section. The Board shall make its findings in writing, based upon the report of at least three regularly licensed, practicing physicians, and such other evidence concerning the disability as it may have before it. The Board shall determine the degree of disability and the determination shall govern the amount of pension to be awarded to the disabled member.

(d) **Petition for Reconsideration.** Upon the written request of any such retired member, or upon its own motion, the Board shall have the power, at any time prior to the restoration of the retired member to active service, to consider new evidence pertaining to the case of the retired member and to increase or decrease the amount of pension award to be thereafter paid.

**Sec. 1312. Disability Pension – Nonservice Connected.**

(a) **Nonservice Connected Disability Pension.** Any member of the Fire or Police Department who shall have served in such department for five years or more in the aggregate from the date of his last appointment to such department and who has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of his duties in such department, and who is incapable as a result thereof from performing his duties, shall be retired upon written application of such person or of any person acting in his behalf or of the head of the department in which the member is employed.

(b) **Board Investigation and Pension Amount.** The Board shall cause the member to be examined by and a written report thereon rendered by three regularly licensed, practicing physicians selected by the Board, and shall hear such other evidence relating to such disability of such member as may be presented to the Board. If, upon considering the report of such physicians and such other evidence as shall have been presented to it, the Board finds that the member has become physically or mentally incapacitated by reason of the injuries or sickness other than injuries received or sickness caused by the discharge of the duties of the member in such department, and he is incapable as a result thereof of performing his duties, and if the Board finds that such disability was not due to or caused by the moral turpitude of the member, he shall be retired from further service in such department, and thereafter the member so retired shall, during his lifetime, be paid a pension in an amount equal to 40% of the highest salary (exclusive of any amount payable by reason of assignment to special duty) attached to the rank of policeman or fireman at the date of the retirement order. The pension shall be paid in equal monthly installments.

(c) **Termination of Disability Pension.** Any pension granted to any member of the Fire or Police Department for disability or sickness as provided in this section shall cease...
when the disability or sickness ceases, and such member shall, subject to civil service and other provisions of the Charter governing the appointment of City employees, have been restored to active duty in such department of which such person was a member at the time of disability retirement to the same rank or position he previously held. The Board of Pension Commissioners shall have the power to hear and determine all matters pertaining to the granting and termination of any pension award as provided for in this section.

(d) **Applicability of Section.** This section shall be applicable only where a member is not entitled to a disability pension under the provisions of Section 1310 relating to Service Connected Disability Pensions.

Sec. 1314. Survivor Pension – Service Connected Member’s Death.

(a) **Service Connected Survivor Pension.** Whenever any member of the Fire or Police Department shall die as a result of any injury received during the performance of his duty, or from sickness caused by the discharge of such duty, or after retirement, or while eligible to retire from such department on account of years of service, then an annual pension shall be paid in equal monthly installments to his widow, or child or children, or dependent parent or parents, in an amount equal to one-half of the average monthly rate of salary assigned to the ranks or positions held by such member during the three years immediately preceding the time of his death or the date of his retirement from active duty in such department.

(b) **Persons Entitled to Pension.** The pension described in subsection (a) shall be paid to the widow during her lifetime, and thereafter the same pension amount shall be paid in equal monthly installments, to the legally appointed guardian of the child or children of such deceased member until such child or children shall have attained the age of 18 years, or to his child or children should there be no widow until such child or children shall have attained the age of 18 years, or to his dependent parent or parents during their lifetime or during such dependence, should there be no widow or child.

(c) **Additional Amounts for Children.** During the lifetime of such widow an additional amount shall be paid to such widow for each child during the lifetime of such child, or until such child shall have married or reached the age of 18 years, as follows:

1. For one child: twenty-five percent (25%) of the pension in subsection (a);
2. For two children: forty percent (40%) of such pension; and
3. For three or more children: fifty percent (50%) of such pension.

(d) **Pension Entitlement or Termination.** No widow of a pensioner shall be entitled to a pension unless she shall have been married to such deceased pensioner at least one year prior to the date of his retirement. No widow of a member of the Fire or
Police Department eligible for retirement from such department, who dies from causes other than those arising out of or from the performance of his duties, shall be entitled to a pension unless she shall have been married to such deceased member for at least one year prior to the date of his death. If such child or children shall marry, then the pension paid to the person so marrying shall cease. Should the dependency of such parent or parents terminate, then the pension paid to such dependent parent or parents shall cease.

(e) **Limitation on Certain Pensions.** The pension payable hereunder to the widow, child or children or dependent parent or parents of a member of the Fire or Police Department who became a member of such department on or after January 17, 1927, who, after retirement on account of years of service, but having served less than 25 years in the aggregate prior to the time of such retirement, or who, while eligible to retire from such department on account of years of service, but prior to having served 25 years in the aggregate shall die from causes other than those arising out of or from the performance of his duties, shall not exceed the amount of the pension which such retired member was receiving at the time of his death or which such member eligible for retirement would have been eligible to receive at the date of his death under the provisions of Sections 1304 relating to Service Pensions and 1308 relating to Maximum Tier 1 Pensions of this Charter, and the additional amount payable to such widow on account of children pursuant to the provisions of this section shall be the applicable percentage hereinabove set forth of a pension in such maximum amount.

Sec. 1316. Survivor Pension – Nonservice Connected Member’s Death.

(a) **Nonservice Connected Survivor Pension.** Whenever any member of the Fire or Police Department (other than a member retired on account of years of service or a member eligible to retire on account of years of service, but including a member retired on account of disability pursuant to the provisions of Section 1312 of this Tier 1) who shall have served in such department for five years or more in the aggregate from the date of his last appointment to such department, shall die from causes other than those arising out of or from the performance of his duties, then an annual pension shall be paid in equal monthly installments to his widow, or child or children, or dependent parent or parents, in an amount equal to 40% of the highest salary (exclusive of any amount payable by reason of assignment to special duty) attached to the rank of police officer or fire fighter at the date of such member’s death.

(b) **Persons Entitled to Pension.** The pension described in subsection (a) shall be paid to the widow during her lifetime and thereafter a pension in the same amount shall be paid in equal monthly installments to the legally appointed guardian of the child or children of such deceased member until such child or children shall have attained the age of 18 years, or to his child or children should there be no widow until such child or children shall have attained the age of 18 years, or to his dependent parent or parents during their lifetime or during such dependence, should there be no widow or child. During the lifetime of such widow an additional amount shall be paid to such widow for each child during the lifetime of such child, or until such child shall have married or reached the age of 18 years, as follows:
(1) For one child: 25% of the pension allowed in subsection (a);

(2) For two children: 40% of such pension; and

(3) For three or more children: 50% of such pension.

(c) Limitation on Widow Pensions. No widow shall be entitled to a pension pursuant to the provisions of this section unless she shall have been married to such deceased member for at least one year prior to the date of his death. No widow of a member who shall die while on disability retirement pursuant to the provisions of Section 1312 relating to Nonservice Connected Disability Pensions of the Charter shall be entitled to a pension pursuant to the provisions of this section unless she shall have been married to such deceased member for at least one year prior to the date of his death.

Sec. 1318. Election of Pension.

(a) Election. Upon the death of a retired member retired pursuant to Section 1312 relating to Nonservice Connected Disability Pensions, any person entitled to a pension pursuant to Section 1316 relating to Nonservice Connected Survivor Pensions must make and file with the Board a written election to have the amount thereof calculated either upon the salary specified in Section 1316 relating to Nonservice Connected Survivor Pensions or upon the salary specified in Section 1312 relating to Nonservice Connected Disability Pensions and the Board shall grant the pension in accordance therewith.

(b) Election for Incompetent Person or Minor Child. Any such election, on behalf of any incompetent person or on behalf of a minor child of such member, must be made by the guardian of his estate and shall be either authorized or approved by a court order, a certified copy of which shall be filed with the Board. Section 1316 relating to Nonservice Connected Survivor Pensions hereafter shall be construed and applied in accordance with this section.

Sec. 1320. Tier 1 Pension Funds.

(a) Creation of Funds. Two entirely separate and distinct funds hereby are created and established for the payment of pension benefits pursuant to this Tier 1 and certain other benefits as may be authorized from time to time pursuant to the enabling provisions of Section 1330 of Tier 1, one of which shall be known as the “Fire and Police Tier 1 Service Pension Fund” and the other of which shall be known as the “Fire and Police Tier 1 General Pension Fund.”

(b) Fire and Police Tier 1 Service Pension Fund. The Fire and Police Tier 1 Service Pension Fund shall consist of:

(1) contributions made, pursuant to Section 1324 concerning Member Contributions, from the salaries of members of the Fire Department and of the Police Department; and
(2) all interest, earnings and profits resulting from investments of such moneys.

(c) **Fire and Police Tier 1 General Pension Fund.** The Fire and Police Tier 1 General Pension Fund shall consist of:

(1) all moneys appropriated to the fund by the Council;

(2) all interest, earnings and profits resulting from investments of fund moneys; and

(3) all moneys transferred from the Fire and Police Tier 2 General Pension Fund created and established by Tier 2 of this Article.

(d) **Use of Funds.** The moneys in the Fire and Police Tier 1 Service Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of service pensions granted pursuant to Section 1304 concerning Service Pensions. The moneys in the Fire and Police Tier 1 General Pension Fund shall be used, other than for the investment thereof and except as provided in subsection (e), exclusively for the payment of all pensions other than service pensions and such other benefits as may be provided by ordinance adopted pursuant to the provisions of Section 1330 of this Tier 1.

(e) **Transfer to Service Pension Fund.** In the event that the moneys in the Fire and Police Tier 1 Service Pension Fund should be insufficient, at any time, to pay all service pensions, then the Board shall have the power and authority to cause the Controller of the City to transfer to the fund sufficient moneys therefor from the Fire and Police Tier 1 General Pension Fund. In no other event shall any of the moneys in either of these funds be commingled with any of the moneys in the other of these funds, whether as moneys or cash on deposit or as moneys invested.

**Sec. 1322. Actuarial Standards.**

(a) **Reserve Basis of System.** The Fire and Police Pension Plan – Tier 1 shall be maintained on a reserve basis which, for the purposes of this Tier 1 shall mean one which provides for the accumulation and maintenance of the Fire and Police Tier 1 Service Pension Fund and the Fire and Police Tier 2 General Pension Fund which together will at all times be equal to the difference between the present value of the obligations assumed and the present value of the moneys to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of moneys with which they are to be paid in accordance with the provisions of Sections 1210(b)(1) concerning Fire and Police Pension Plans Budget and 1324 concerning Member Contributions. The Board shall retain a competent consulting actuary for the purpose of making the necessary actuarial studies and reports on the required investigations and valuations.
(b) **Actuarial Investigation and Valuation.** The Board shall secure an actuarial valuation showing the cost of maintaining the system and funds on such reserve basis and, at intervals of not to exceed five years, shall cause to be made an actuarial investigation including, but not limited to, the mortality, service and salary experience of the members and beneficiaries and shall further cause to be made annually an actuarial valuation of the assets and liabilities of the funds.

(c) **Assumed Rate of Interest.** The Board, from time to time and with the advice of the investment counsel, shall establish an assumed rate of interest as in its judgment seems proper in the light of the experience and prospective earnings on the investments of the funds.

(d) **Unrealized Profits and Losses.** With the advice of the consulting actuary and of the investment counsel, the Board, for the purpose of the actuarial valuations, shall provide by rule for the manner and to the extent to which any unrealized profits or losses in the equity-type investments of the funds shall be taken into consideration.

Sec. 1324. Member Contributions – Tier 1.

(a) **Required Contributions.** Each member of the Fire Department and of the Police Department included within the pension provisions of this Tier 1 shall contribute to the Fire and Police Tier 1 Service Pension Fund in the manner provided in this section, except that further contributions to the Fund shall not be required from an employee who has served as a member of the Fire Department or of the Police Department for more than 30 years.

(b) **Payroll Deduction.** The administrative head of each such department shall cause to be shown on each and every payroll of the department a deduction of six percent (6%) of the amount of salary, as shown on each such payroll, of each such member whose name appears thereon, and shall certify to the Controller on each such payroll the amount to be deducted from the compensation of each such member whose name appears thereon, and shall cause to be drawn a payroll check in favor of the “Board of Fire and Police Pension Commissioners” for the total amount of deduction shown on each payroll of such department, and the Board shall deposit the payroll check to the credit of the Fire and Police Tier 1 Service Pension Fund. It shall be the duty of the administrative head of each department to cause to be furnished a copy of each and every payroll to the Board.

(c) **Deemed Consent to Deduction.** Each member shall be deemed to consent and agree to each deduction made as provided for herein and the payment of each payroll check to such member shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by each member during the period covered by such payroll, except such claims as a member has to the benefits or payments provided for in this Tier 1.

(d) **Maintenance of Individual Accounts.** Starting July 1, 1982, the Board shall maintain an individual account of the contributions by each member, as hereinabove
provided. Regular interest shall be credited to such individual accounts as of the last day of June and December of each year after July 1, 1982, at such rate as the Board may deem proper in light of the earnings of the funds of the Fire and Police Pension Plan – Tier 1, exclusive of profits and losses on principal resulting from sales of securities. No such interest shall be credited at any other time, except such interest shall be credited to the individual account of a member whose employment is terminated for any reason for any period of service between the next preceding last day of June or December and the end of the pay period preceding the date of such termination at the rate at which regular interest was last credited to members' individual accounts.

(e) **Refund of Individual Account Balance.** Every person who is a member of the Fire and Police Pension Plan – Tier 1 on July 1, 1982 shall, upon termination of employment be entitled to a refund of contributions made by him or her pursuant to the provisions of this section. A person not a member on July 1, 1982 and whose employment terminated prior to that date, shall not be entitled to a refund of contributions made by him or her during periods of membership prior to July 1, 1982.

The refund of contributions shall be subject to the following conditions and limitations:

(1) **Refund on Termination.** Upon termination of employment as a member of the Fire Department or the Police Department for any reason except retirement pursuant to the provisions of this Tier 1, a member shall be entitled to have refunded to him or her all contributions made by such member to the Fire and Police Tier 1 Service Pension Fund (and any predecessor funds) prior to July 1, 1982, plus 6% per annum interest on such contributions calculated in the same manner as if interest had regularly been credited to the member’s contributions, compounded as of the last day of the last pay period of December and to the end of the last pay period preceding the effective date of termination of employment.

(2) **Forfeiture of Pension.** Members who elect to receive a refund of contributions, forfeit the right to benefits provided in this Tier 1. After payment of any pension benefit has commenced, a member forfeits the right to a refund of the member’s contributions. Members who return to active duty from a disability pension may not thereafter have contributions made by them prior to their retirement on such disability pension refunded.

(3) **Beneficiary Designation.** Members shall have the right to designate persons who shall be entitled to receive monies to which a member would otherwise be entitled upon termination of employment, to be payable to such designated person or persons upon the member’s death; except that no such monies shall become payable if any person should be entitled to any other benefit provided in this Tier 1. The Board shall adopt appropriate forms for the designation by members of persons who shall be a member’s beneficiaries.

**Sec. 1326. Overtime Work.**
(a) **Time Off With Pay.** Whenever a member, for overtime work, shall take a period of time off with pay:

(1) a deduction for pension purposes shall be made from such pay but only in the same amount as that which would have been deducted from his regular salary if such period had been one of regular work;

(2) such pay shall be part of the salary assigned or attached to the rank or position held by him but only in the same amount as that which would have been his regular salary if such period had been one of regular work; and

(3) such period shall be part of his years of aggregate service.

(b) **Cash Payment.** Whenever a member, for overtime work, shall receive a cash payment:

(1) a deduction for pension purposes shall not be made from such payment;

(2) such payment shall not be part of the salary assigned or attached to the rank or position held by him; and

(3) the period of overtime work for which he shall receive such payment shall not be part of his years of aggregate service except that any period of a member’s overtime work, for which he shall not have taken time off with pay, shall be credited, by the Board, as part of his years of aggregate service, upon his or his survivor’s written request therefor, to the same extent as he would have been entitled to take therefor time off with pay but only to the extent, and not in excess thereof, that he, while a member, shall have had any period of absence from work without pay. Such request shall be accompanied with payment of the amount which would have been deducted for pension purposes from his regular salary if the period of overtime work, to the extent credited, had been one of regular work.

**Sec. 1328. Cost of Living Adjustment.**

(a) **Service, Disability and Survivor Pensions to Remain Unaffected Except as Adjusted for Cost of Living.** That all pensions granted in accordance with the provisions of Sections 1304, 1310, 1312, 1314 and 1316 concerning Service, Disability and Survivor Pensions shall remain in full force and effect for the period granted, and any increase or decrease of salaries of active members of the Fire and Police Departments shall not in any way affect the amount of the pensions to be paid to retired members of such departments, or to any other person pensioned pursuant to the provisions of this Tier 1, nor shall the amount of such pensions be changed for any other reason, except as otherwise specifically provided in this Tier 1.
(b) **Cost of Living Adjustment.** From and after July 1, 1961, pension payments on account of service-connected disability or death granted prior to June 30, 1960, shall be increased as follows:

1. **Service Connected Disability Pension.** In the case of a disability pensioner retired under the provisions of Section 1310 concerning Service Connected Disability Pensions, the amount payable as of June 30, 1960, calculated, however, on the degree of disability as of June 26, 1961, shall be increased in the ratio which the consumer price index for the month of June, 1960, bears to the consumer price index for the month in which such pension became effective. The power vested in the Board under the provision of Section 1310 to change the amount of pension by reason of the degree of disability, as therein provided, is expressly continued and in the event of any such change after June 26, 1961, the amount established hereunder shall be increased or decreased in the ratio which the newly determined degree of disability bears to the degree of disability immediately preceding such change.

2. **Service Connected Survivor Pension.** In the case of a widow, or child or children, entitled to a pension based on service-connected disability or death pursuant to Section 1314 concerning Service Connected Survivor Pensions, the amount payable, calculated as of June 30, 1960, shall be increased in the ratio which the sum of the consumer price indexes for the three-year period ending June 30, 1960, or lesser period where the original pension was calculated on a period of less than three years, bears to the sum of such indexes for the period during which salary was originally taken into account in determining the amount of such pension. In the case of a widow receiving an additional amount on account of a child or children pursuant to Section 1314 concerning Service Connected Survivor Pensions, the increase provided by this section shall first be calculated upon the amount due her, exclusive of such additional amount and the applicable percentage increase on account of children shall then be applied to her new pension amount.

(c) **Applicable Index.** The consumer price indexes referred to in this section shall be those published by the Bureau of Labor Statistics for the Los Angeles area (all items and commodity groups 1947-49 =100 base) and for those months for which a monthly index is not published, monthly indexes shall be established by a straight line interpolation between the published monthly indexes.

(d) **Inapplicability to Fluctuating Pensions.** This section shall not apply to any pension payment which fluctuates with the current salaries established for the several ranks and positions in the Fire or Police Department and in the event it is held by any final judgment or decree of a court of competent jurisdiction, after the effective date of this section that any person granted an increase under the provisions of this section is entitled to a fluctuating pension based upon such salary rates, then, from and after the effective date of such adjudication, this section shall have no further force or effect as to such person.
The additional liabilities assumed by Tier 1 under this section, shall be funded under the provisions of Section 1210(b)(1) concerning the Tier 1 Budget.

(e) **Minimum Pension Amount.** Each pension granted pursuant to this Tier 1, regardless of the type of the pension, which shall be less in amount than $250 per month as of January 26, 1967 shall be increased to the amount of $250 per month as of February 1, 1967, and the monthly amount of such pension thereafter shall not be reduced to a monthly amount less than such increased monthly amount except pursuant to Section 1212 concerning Worker’s Compensation.

(f) **Implementation of Minimum Pension Provisions.** Subject to and upon the conditions contained in this section, the minimum monthly amount of pension provided by subsection (e) shall be applicable, from and after July 1, 1967, to all pensions heretofore or hereafter granted pursuant to this Tier 1. The monthly amount of each pension which, as of August 1, 1967, is in a lesser monthly amount than the minimum monthly amount of pension provided by subsection (e), as augmented pursuant to subsection (g), shall be increased, effective as of the first day of the month, to the minimum monthly amount of pension so provided and as so augmented. Each pension granted after August 1, 1967, shall be in a monthly amount not less than the minimum monthly amount of pension provided, as of the effective date of the pension, by subsection (e), as augmented pursuant to subsection (g). The monthly amount of any pension which is or shall be affected by the minimum monthly amount of pension provided by subsection (e), as augmented pursuant to subsection (g):

1. shall be subject to be reduced pursuant to Section 1212 concerning Worker’s Compensation despite any other provisions of this Tier 1; and

2. shall be subject to be reduced pursuant to Section 1310, Section 1314 or Section 1316 concerning certain disability and survivor pensions, whichever shall be applicable.

Any such reduction under subsection (f)(2) shall be made only if it shall not reduce the monthly amount of the pension to a lesser monthly amount than the monthly amount of pension to which it had been increased pursuant to subsection (b) or to a lesser monthly amount than the minimum monthly amount of pension provided by subsection (e), as augmented pursuant to subsection (g) effective as of the date of any such reduction, whichever shall be the greater.

(g) **Cost of Living Adjustments for Service and Survivor Pensions.** The Board, before May 1st of each year commencing with the year 1967, shall determine the percentage of the annual increase or decrease in the cost of living as of March 1st of that year from March 1st of the preceding year, as shown by the consumer price index published by the Bureau of Labor Statistics for the area in which the City of Los Angeles is located. If any such index were not to reflect the cost of living as of a particular March 1st, then the next preceding such index which had done so shall be used. If there were to be any change in the statistical method or the components which were used in any such
index from those which were used in any such index of the preceding year with which a comparison is to be made, then the Board, to the extent possible, shall adjust any such differences therein for the purpose of determining the percentage of increase or decrease in the cost of living.

Commencing as of July 1st of the year in which the Board shall so determine the percentage of increase or decrease in the cost of living, the amounts of certain pensions, as hereinafter identified and upon the conditions hereunder stated therefor, shall be increased or decreased by reason of such determined percentage of increase or decrease in the cost of living but not to exceed, however, two percent (2%) in any given year. Such determined percentage of increase or decrease in the cost of living, as so limited, shall be applied to the amounts of such pensions which shall be payable for the preceding month of June, including any previous percentage of increase or decrease in the cost of living made with respect thereto.

The percentage of increase or decrease in the cost of living first shall be applied to:

1. **Minimum Pensions Under Subsection (e).** The pension of any person, whose pension shall be increased pursuant to subsection (e) on July 1, 1967;

2. **Nonfluctuating Service Pensions of Persons Retired Prior to July 1, 1967.** The pension of any retired member who had been retired or who shall be retired pursuant to Section 1304 concerning Service Pensions prior to July 1, 1967, upon a pension which shall not increase or decrease upon the basis of any increase or decrease in the salaries of active members of the Fire Department or of the Police Department, upon July 1, 1967, if he shall have attained the age of 55 years prior to that date, or, if he shall not have attained such age prior to that date, upon the July 1st following the date upon which he shall have attained such age;

3. **Nonfluctuating Service Pensions of Persons Retired After July 1, 1967.** The pension of any retired member who shall be retired pursuant to Section 1304 concerning Service Pensions after July 1, 1967, upon a pension which shall not increase or decrease upon the basis of any increase or decrease in the salaries of active members of the Fire Department or of the Police Department, upon the July 1st following the effective date of his pension if he shall have attained the age of 55 years prior to that date or, if he shall not have attained such age prior to that date, upon the July 1st following the date upon which he shall have attained such age;

4. **Survivor Pensions Granted Prior to July 1, 1967 and Based Upon Nonfluctuating Service Pensions.** The pension of any widow, minor child or children or dependent parent or parents which had been or shall be granted pursuant to Section 1314 concerning Service Connected Survivor Pensions prior to July 1, 1967, following the death of a retired member who had been retired pursuant to Section 1304 with a Service Pension or of an active member who had become eligible to retire pursuant thereto, and which pension shall not increase or
decrease upon the basis of any increase or decrease in the salaries of active members of the Fire Department or of the Police Department, upon July 1, 1967, if such retired member or such active member, as the case may be, would have attained the age of 55 years prior to that date if he had been alive on that date or, if he would not have attained such age prior to that date if he had been alive on that date, upon the July 1st following the date upon which he would have attained such age if he had been alive on that date; and

(5) **Survivor Pensions Granted After July 1, 1967 and Based Upon Nonfluctuating Service Pensions.** The pension of any widow, minor child or children or dependent parent or parents which shall be granted pursuant to Section 1314 concerning Service Connected Survivor Pensions after July 1, 1967, following the death of a retired member who had been retired pursuant to Section 1304 with a Service Pension or of an active member who had become eligible to retire pursuant thereto, and which pension shall not increase or decrease upon the basis of any increase or decrease in the salaries of active members of the Fire Department or of the Police Department, upon the July 1st following the effective date of such pension if such retired member or such active member, as the case may be, would have attained the age of 55 years prior to that date if he had been alive on that date or, if he would not have attained such age prior to that date if he had been alive on that date, upon the July 1st following the date upon which he would have attained such age if he had been alive on that date.

The amount of any pension referred to in subsections (g)(1), (2), (3), (4) or (5) hereof never shall be reduced, by reason of the application thereto of this section, to an amount less than the amount to which any pension referred to in subsection (e) shall be increased or to an amount less than the amount thereof originally granted.

(h) **Carryover of Excess Cost of Living Adjustment From Year to Year.** If the percentage of increase or decrease in the cost of living in any year, as determined by the Board, were to exceed 2% as compared with the cost of living as of March 1st of the preceding year, the percentage of increase or decrease in the cost of living in excess of 2% shall be carried over and added to or subtracted from the percentage of increase or decrease in the cost of living in the succeeding year, and such procedure shall be complied with from year to year.

(i) **Application of Cost of Living Adjustment to Other Pensions.** The provisions of subsection (g), if otherwise not applicable as of July 1, 1967 to any pension referred to in subsection (f), shall be applicable thereto, from and after July 1, 1967, to the same extent and in the same manner as they are applicable to any pension referred to in subsection (e). Any adjustments provided to be made in monthly amounts of pensions pursuant to subsection (g) shall be applicable to the monthly amounts of other pensions which are not referred to in that section or in the foregoing provisions of this section whenever the monthly amounts of any such other pensions otherwise would be in lesser monthly amounts than the minimum monthly amount of pension provided by subsection (e), as then augmented pursuant to subsection (g).
(j) Additional Cost of Living Adjustments for Disability and Survivor Pensions.

(1) Special Definitions. Wherever used in this subsection:

   (A) “the pension” shall mean, unless subsection (g) shall be mentioned in conjunction therewith, only a pension which is not identified in subsection (g), is not referred to in subsection (i) and is in an amount which shall not increase or decrease by reason of any increase or decrease in the salary of any active member;

   (B) “the July 1st following” shall mean only a July 1st after May 2, 1969; and

   (C) “person” shall include its plural.

(2) Application of Subsection (g) Adjustments. The percentage of increase or decrease in the cost of living hereafter shall be applied pursuant to subsection (g) and the terms and conditions contained in this section:

   (A) Disability Pensions. To the pension of any retired member, ever retired pursuant to:

      (i) Section 1310 concerning Service Connected Disability Pensions, upon the July 1st following the date of this retirement or the effective date of this paragraph of this section, whichever shall be the later; or

      (ii) Section 1312 concerning Nonservice Connected Disability Pensions, upon the July 1st following the date he shall have attained the age of 55 years or the fifth anniversary of the effective date of the pension, whichever shall be the earlier;

   (B) Survivor Pensions. To the pension of any person,

      (i) ever granted pursuant to Section 1314 or Section 1316 concerning Survivor Pensions upon the death of an active member not eligible to retire pursuant to Section 1304 concerning Service Pensions,

      (ii) ever granted pursuant to Section 1314 concerning Service Connected Survivor Pensions upon the death of an active member eligible to retire pursuant to Section 1304 concerning Service Pensions and which pension of such person is identified in subsection (g)(4) or (5),
(iii) heretofore granted pursuant to Section 1316 concerning Nonservice Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1312 concerning Nonservice Connected Disability Pensions, or

(iv) hereafter granted pursuant to Section 1316 concerning Nonservice Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1312 concerning Nonservice Connected Disability Pensions where the amount of the pension shall be calculated upon the salary specified in Section 1316 by reason of such person’s written election therefor pursuant to Section 1318, upon the July 1st following: the date such member shall have attained the age of 55 years, the date such member would have attained such age if he then had been alive, or the fifth anniversary of the effective date of the pension of such person, whichever shall be the earliest. Pensions described in subsection (j)(2)(D) shall be adjusted upon the effective date specified in that subsection;

(C) *Other Survivor Pensions.* To the pension of any person,

(i) ever granted pursuant to Section 1314 concerning Service Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1310 concerning Service Connected Disability,

(ii) ever granted pursuant to Section 1314 concerning Service Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1304 concerning Service Pensions and which pension of such person is identified in subsection (g)(4) or (5), or

(iii) hereafter granted pursuant to Section 1316 concerning Nonservice Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1312 with a Nonservice Connected Disability Pension where the amount of the pension shall be calculated upon the salary specified in Section 1312 by reason of such person’s written election therefor pursuant to Section 1318, upon the July 1st following the date such member shall have attained the age of 55 years, the date such member would have attained such age if he then had been alive, or the fifth anniversary of the effective date of the pension of such member, whichever shall be the earliest; and

(D) *Survivor Pensions Based Upon Line of Duty Death.* To the pension of any person ever granted on account of the death of an active
member of the Fire or Police Department who died as result of any injury received during the performance of his or her duties, or from sickness caused by the discharge of such duties, upon the July 1st following the effective date of such pension, but if such pension became effective before July 1, 1989, it shall be retroactively adjusted as of July 1, 1989.

(3) Procedure for Applying Cost of Living Adjustments to Certain Pensions. The following provisions in respects other than those provided for in subsection (j)(2) of this section, hereafter shall be controlling the application to certain pensions the percentage of increase or decrease in the cost of living.

(A) Service Pensions and Widow Pensions. Whenever the amount of the pension,

(i) of any retired member shall be increased or decreased pursuant to Section 1310 concerning Service Connected Disability Pensions, or

(ii) of any widow shall be increased or decreased pursuant to Section 1314 or Section 1316 concerning Survivor Pensions: the amount of any such increase shall not include the percentage of any increase in the cost of living which previously had been applied to the former amount of the pension; and the amount of any such decrease shall include the percentage of any increase in the cost of living which previously had been applied to it as a portion of the former amount of the pension.

(B) Other Survivor Pensions. Whenever the pension of any person,

(i) hereafter shall be granted pursuant to Section 1314 concerning Service Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1304 with a Service Pension and which pension of such person is identified in subsection (g)(4) or (5),

(ii) hereafter shall be granted pursuant to Section 1314 concerning Service Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1310 with a Service Connected Disability Pension, or

(iii) hereafter shall be granted pursuant to Section 1316 concerning Nonservice Connected Survivor Pensions upon the death of a retired member previously retired pursuant to Section 1312 concerning Nonservice Connected Disability Pensions where the amount of the pension shall be calculated upon the salary
the amount of the pension of any such person (I) if the amount thereof which shall be payable to such person were to be more than the amount of the pension which had been payable to such member, shall include the percentage of any increase in the cost of living which had been applied to the pension of such member, or (II) if the amount thereof which shall be payable to such person were to be less than the amount of the pension which had been payable to such member, shall include that portion of the percentage of any increase in the cost of living which had been applied to the pension of such member which shall be in the same ratio as the amount of the pension which shall be payable to such person shall bear to the amount of the pension which had been payable to such member, and the percentage of any increase or decrease in the cost of living in excess of 2% per year which had been carried over for such member as of the date of his death shall be carried over for such person if (I) hereof were to be applicable or in the same ratio therein provided if (II) hereof were to be applicable.

(C) **Pensions of Minor Children.** Whenever the pension of any widow hereafter shall be terminated pursuant to Section 1314 or Section 1316 concerning Survivor Pensions and the pension therein provided thereafter shall become payable pursuant thereto on behalf of any minor child or children of the deceased member, the amount of pension on behalf of such child or children shall include that portion of the percentage of any increase in the cost of living which had been applied to the pension of such widow which shall be in the same ratio as the amount of the pension which shall be payable on behalf of such child or children shall bear to the amount of the pension which had been payable to such widow, and the percentage of any increase or decrease in the cost of living in excess of 2% per year which had been carried over for such widow as of the date of the termination of her pension shall be carried over on behalf of such child or children in the same ratio hereinabove provided.

(4) **Limitations on Subsection (g) Reductions.** The amount of the pension never shall be reduced, by reason of the application thereto of the provisions of subsection (g) of this section, to an amount less than:

(A) the amount thereof if subsection (b) is applicable,

(B) the amount thereof if subsection (e) is applicable,

(C) the amount thereof if subsection (f) is applicable, or

(D) the amount thereof payable pursuant to provisions of this Tier 1, other than those of subsection (g) or this section, if none of the sections mentioned in (A), (B), or (C) above is applicable.
(5) Applicability. Subsection (g) hereafter shall be construed and applied in accordance with this subsection (j) as to each pension mentioned in this subsection.

(k) Monthly Minimum Pension.

(1) Amount of Minimum Pension. Each pension granted pursuant to this Tier 1, regardless of the type of the pension, which became or becomes effective prior to July 1, 1971 and which, as of June 30, 1971, is in a monthly amount of less than three hundred fifty dollars ($350) shall be increased, effective July 1, 1971 pursuant to the provisions of subsections (k)(2) and (3), and shall, if such increase results in a monthly pension amount which is less than three hundred fifty dollars ($350), be increased to provide for a monthly minimum pension of three hundred fifty dollars ($350). Each pension granted pursuant to this Tier 1, regardless of the type of the pension, which becomes effective on or subsequent to July 1, 1971 shall be in a monthly amount not less than the minimum monthly pension amount provided, as of the effective date of the pension by this subsection of this section. The monthly amount of each such pension never shall be reduced, by reason of the provisions of subsection (g), subsection (i), subsection (j) or subsection (k)(3) of this section, to a monthly amount less than the minimum monthly pension amount provided by this subsection (k)(1).

(2) Amount of Increase. The monthly amount of pension of each retired member or other person which, prior to July 1, 1971, had been increased by reason of a cost of living adjustment thereof pursuant to subsection (g), subsection (i) or subsection (j) shall be increased, as of July 1, 1971, by that portion of the percentage of the annual increase in the cost of living, as had been determined by the Board pursuant to subsection (g), which was in excess of 2% but not in excess of 3% for each year the monthly amount of such pension had been increased.

(3) Subsection (g) Adjustments. The monthly amount of pension of each retired member or other person who heretofore did qualify or hereafter shall qualify for a cost of living adjustment thereof pursuant to subsection (g), subsection (i) or subsection (j) and the monthly amount of pension of each retired member or other person which shall be the minimum monthly pension amount provided by subsection (k)(1) of this section, hereafter shall be increased or decreased, as of the dates provided therefor by subsection (g), by the percentage of the annual increase or decrease in the cost of living as hereafter shall be determined by the Board pursuant to subsection (g).

(4) Applicability of This Subsection. The provisions of Section 1304, 1310, 1312, 1314 and 1316, and subsections (b), (e), (f), (g), (i) and (j) of this section hereafter shall be construed and applied in accordance with the provisions of this subsection (k).
(5) *Savings Clause.* Should any provision of this subsection (k) at any time be held to be invalid, in their application to certain persons or periods of time, such invalidity shall not affect the validity of any provisions as to other persons entitled to benefits hereunder or the applicability as to other periods of time.

**Sec. 1330. Authority of Council to Establish Certain Benefits by Ordinance.**

(a) **Purpose of this Section.** It is the purpose of this section to enable the Council to provide by ordinance a program or programs whereby persons receiving pensions pursuant to the provisions of this Tier 1 may become eligible to have subsidy payments made on their behalf for health insurance, accident insurance, life insurance or health care plan coverage or coverage for any combination of such programs as determined by the Council and subject to such conditions of entitlement as may be set forth in any ordinance adopted in accordance with the provisions of this Tier 1.

(b) **Supermajority Vote Requirement.** Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and readoption by the Council by three-fourths of the membership of the Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held.

Any ordinance adopted pursuant to this section shall go into effect upon its publication, but the terms of such ordinance, or portions thereof, may be operative at a later date or dates.

(c) **Council Authority to Establish Subsidy Limitations.** The Council may establish by ordinance the maximum subsidy payments for beneficiaries under any programs established by the Council pursuant to subsection (a), including appropriate limitations for employees receiving subsidies from other City plans.

(d) **Subsidy Program Administration.** Any subsidy program adopted by ordinance pursuant to this section shall be administered by the Board. The Board shall have the authority to contract for suitable programs as hereinabove defined in subsection (a) to be made available to retired members or other beneficiaries, and shall have the power to adopt rules necessary to administer the programs.

Notwithstanding the foregoing provisions, the Board may authorize the Personnel Department to administer any program or part established by ordinance pursuant to the provisions of this section. The Board shall reimburse the General Fund of the City of Los Angeles for all necessary expenses incurred by the Personnel Department as a result of administering these programs.

(e) **Board Authority to Adjust Subsidy Amount.** The Council may by ordinance authorize the Board to increase or decrease subsidy payments pursuant to factors, standards, and limitations prescribed in the ordinance.
Amended by: Charter Amendment 2, approved March 8, 2005, effective April 6, 2005.

Sec. 1332. Compliance with Certain Internal Revenue Code Provisions.

(a) With the enactment of this section an election has been made as authorized under the provisions of Section 415(b)(10)(C) of the Internal Revenue Code to be bound by the limitations of Section 415 of the Code subject to the provisions of Section 415(b)(10)(A) and (B).

(b) If any of the provisions of Section 415 of the Internal Revenue Code should be repealed, the provisions of this section shall be deemed repealed to the same extent.

**FIRE AND POLICE PENSION PLANS – TIER 2**

(Formerly Article XVIII)

Sec. 1400. Tier 2 Members.

Each person who shall be appointed as a Department Member on or after January 29, 1967 and through December 7, 1980 shall become a Tier 2 System Member as of the effective date of such appointment. Each person who was appointed as a Department Member prior to January 29, 1967 shall become a Tier 2 System Member as of the date upon which a request is filed as provided by Section 1402. In no event shall any other person become a Tier 2 System Member.

Sec. 1402. Request to Become a Tier 2 Member.

(a) Filing of Request with Board. Each Department Member who was appointed prior to January 29, 1967 shall have the right to become a Tier 2 System Member and may exercise such right only by filing a request with the Board by January 29, 1968, except as is hereinafter provided. Each such Department Member who shall be serving in the armed forces of the United States as of January 29, 1967 and who thereafter shall return to active duty as a Department Member, within the time required for job rights and other benefits, may exercise such right only by filing a request with the Board by January 29, 1968 or within 90 days immediately following such return to active duty, whichever shall be the later. Each person who shall be receiving a disability pension pursuant to Section 1310 or to Section 1312 of Tier 1 of this Article as of January 29, 1967 and who thereafter shall be restored to active duty as a Department Member may exercise such right only by filing a request with the Board by January 29, 1968 or within 90 days immediately following such restoration to active duty, whichever shall be the later. The legally appointed, qualified and acting guardian of the estate of any such Department Member may exercise such right for and on behalf of the Department Member only by filing a request with the Board by January 29, 1968, but Court approval first shall have been obtained.
(b) **Extension of Filing Time.** The Board, for good cause and in its discretion, may extend the time within which any such Department Member or the guardian of the estate of any such Department Member may file a request, whether the applicable period hereinabove prescribed shall have or shall not have elapsed, and may impose whatever terms and conditions which it shall deem to be reasonable and just for the giving of any extension of time.

(c) **Waiver of Pension Rights and Benefits in Tier 1.** Each request shall be in writing, shall be signed by such Department Member or by the legally appointed, qualified and acting guardian of the estate of such Department Member, shall contain his full and complete waiver of any and all present and future pension rights and benefits provided by Tier 1 of this Article, including derivative rights and benefits for widows and other beneficiaries, shall contain his full and complete release, discharge and acquittance of the City and the Board of and from any and all present and future liabilities for the payment of any benefits pursuant to Tier 1 and shall contain his election to become a Tier 2 System Member. The contents of the request need not be restricted to the aforementioned items and such request may include any and all provisions which the Board and the City Attorney may deem to be necessary or desirable to effectuate full and complete release, discharge and acquittance by each such member of the City and the Board of and from any and all present and future liabilities for the payment of any benefits pursuant to Tier 1, and the Board, after the effective date of this Tier 2, shall have the power and authority to expend moneys for the preparation of requests and for the distribution of them to such Department Members.

(d) **Spousal Consent or Waiver by Board.** Each request, whether signed by such Department Member or by the guardian of his estate, shall be signed by the spouse of such Department Member whereby he or she shall freely and voluntarily join in and consent to everything contained therein with the same force and effect as if he or she had signed the same as a member, and such request, when so signed, shall be both effective and irrevocable upon filing with the Board. However, the Board, in its discretion but only upon the written request therefor by the particular Department Member involved, may waive the requirement that the request shall be signed by the spouse of such Department Member, except in the case of any Department Member who was appointed as a member of the Fire Department or of the Police Department prior to January 17, 1927, and such request, when signed by the Department Member or the guardian of his estate, shall be both effective and irrevocable upon filing with the Board after but not prior to the Board’s action waiving the requirement.

**Sec. 1404. Request By a Reactivated Member Under Tier 1 to Become a Tier 2 Member.**

A reactivated member under Tier 1 of this Article who, after the effective date of his return to active duty shall have had five years of service as defined in Section 1306(a)(4)(C), shall have the right, pursuant to Section 1402, to become a System Member under this Tier 2. He may exercise such right only within the one year from and after the date upon which he shall have completed such five years of service. Any
reactivated member who shall become a Tier 2 System Member also shall become a
reactivated member under this Tier 2. Section 1402 hereafter shall be construed and
applied, as to a reactivated member under Tier 1, in accordance with this section.

**Sec. 1406. Definitions.**

In addition to the words and phrases defined in the Fire and Police Pension Plans
General Provisions in Part 3 and for the purposes of this Tier 2, the following words and
phrases shall have the meaning ascribed to them in this section, unless a different
meaning is clearly indicated by the context.

(a) **Member of the Fire Department:** Member of the Fire Department means a
person duly and regularly appointed in the Fire Department, under civil service rules and
regulations or provisions of the Charter, or both, governing the making of original regular
and permanent appointments therein which require the serving of probationary periods
but not of original emergency or temporary appointments therein, to perform duties as a
firefighter for the City, under whatever designation such person may be described in any
salary or departmental ordinance providing salaries for the members of the department.
Such person shall be a member of the department only until his status as such shall be
terminated by reason of his retirement, resignation or discharge or for any other reason.

(b) **Member of the Police Department:** Member of the Police Department means
a person duly and regularly appointed in the Police Department, under civil service rules
and regulations or provisions of the Charter, or both, governing the making of original regular
and permanent appointments therein which require the serving of probationary periods
but not of original emergency or temporary appointments therein and sworn in, as
provided by law, to perform duties as a police officer for the City, under whatever
designation such person may be described in any salary or departmental ordinance
providing salaries for the members of the department. Such person shall be a member of
the department only until his status as such shall be terminated by reason of his
retirement, resignation or discharge or for any other reason.

(c) **System Member:** System Member means a person who is a Department
Member and whose pension rights and benefits are governed by this Tier 2.

(d) **Qualified Surviving Spouse:** Qualified Surviving Spouse means a person who
is the widow or widower of a deceased System Member or Retired Member who had
been married:

(1) to the System Member for at least one year prior to the date of his or her
nonservice-connected death while a System Member, or

(2) to the System Member as of the date of his or her service-connected
death while a System Member, or
(3) to the Retired Member for at least one year prior to the effective date of his or her retirement upon a service pension or upon a nonservice-connected disability pension pursuant, respectively, to Section 1408 or Section 1412(b), or

(4) to the Retired Member as of the effective date of his or her retirement upon a service-connected disability pension pursuant to Section 1412(a).

(e) **Minor Child:** Minor Child means a person, but not including a person who is an illegitimate child of a deceased System Member or Retired Member who had not been legitimatized by such member, who is a legitimate child, a legitimatized child or an adopted child of such member, and who had not been adopted by a person of the same gender as such member prior to the date of his death, who is under the age of 18 years and who is not married. Such person shall be a minor child only until he shall be adopted by a person of the same gender as such member, shall attain the age of 18 years or shall marry, whichever shall be the earlier.

(f) **Dependent Child:** Dependent Child means a person, but not including a person who is an illegitimate child of a deceased System Member or Retired Member who had not been legitimatized by such member, who is a legitimate child, a legitimatized child or an adopted child of such member, and who had not been adopted by a person of the same gender as such member prior to the date of his death, who is not married and who, while under the age of 21 years, had become disabled, either prior or after the date of death of such member, from earning a livelihood for any cause or reason whatsoever, other than by reason of his own moral turpitude or as a result thereof. Such person shall be a dependent child only until he:

1. shall be adopted by a person of the same gender as such member or shall marry, whichever shall be the earlier, regardless of his age at the time of the occurrence of either such event and whether or not he then is disabled from earning a livelihood; or

2. shall attain the age of 18 years if neither of the events mentioned in this subsection had occurred prior thereto and if, at that time, he is not disabled from earning a livelihood; or

3. shall cease to be disabled from earning a livelihood if none of the events mentioned in (1) and (2) had occurred prior thereto.

(g) **Dependent Parent:** Dependent Parent means a person who is a natural parent of a deceased System Member or Retired Member and to or for whom such member, during at least one year immediately preceding his death, contributed one half or more of such person’s necessary living expenses and who is unable to pay such expenses without the receipt of a pension. Such person shall be a dependent parent only until he shall be able to pay his necessary living expenses.
(h) **Length of Service Pay:** Length of Service Pay means any additional gross monthly pay or one twelfth of any additional gross annual pay which, by reason of length of service, shall be provided by ordinance, upon the conditions therein set forth, for the System Member’s permanent rank as of the date of the termination of his status as a Department Member.

(i) **Special Pay:** Special Pay means any additional gross monthly pay or one twelfth of any additional gross annual pay which, by reason of assignment to perform special duties other than hazardous duties, shall be provided by ordinance, upon the conditions therein set forth, for the System Member’s permanent rank as of the date of the termination of his status as a Department Member.

(j) **Hazard Pay:** Hazard Pay means any additional gross monthly pay or one twelfth of any additional gross annual pay which, by reason of assignment to perform helicopter duties, two-wheel motorcycle duties or any other hazardous duties, shall be provided by ordinance, upon the conditions therein set forth, for the System Member’s permanent rank as of the date of the termination of his status as a Department Member.

(k) **Assignment Pay:** Assignment Pay means any additional gross monthly pay or one twelfth of any additional gross annual pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest within the System Member’s permanent rank, shall be provided by ordinance, upon the conditions therein set forth, as of the date of the termination of such System Member’s status as a Department Member.

Any such assignment pay shall not be included in the sum of any System Member’s Nonservice-Connected Pension Base but hereafter shall be included in the sum of his Normal Pension Base to the same extent and upon the same conditions as any hazard pay shall be included.

The provisions of this Tier 2 wherein the words “Normal Pension Base” are used hereafter shall be construed and applied in accordance with the provisions of this subsection.

(l) **Year:** Year means a period of 12 months or, in aggregating partial years for purposes of determining years of service, means 365 days.

(m) **Years of Service:** Years of Service means and includes only those periods during or for which the System Member as a Department Member of the Fire Department or of the Police Department, or of both, and whether prior or subsequent to his becoming a System Member:

1. did or shall receive salary, whether in full or reduced amounts thereof;

2. did or shall receive either a service connected disability pension or a nonservice connected disability pension, whether pursuant to Tier 1 of the Charter
or pursuant to this Tier 2, if he was or shall be restored to active duty as a Department Member and did or shall perform his duties as such for at least 1 year prior to again retiring or being retired pursuant to this Tier 2, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him prior to such restoration;

(3) is or shall become entitled, under any provision of general law or ordinance of the City, to credit toward retirement for periods of military service or military leave;

(4) did or shall receive Workers Compensation benefits for temporary disability on account of any injury or illness arising out of and in the course of employment; and

(5) is or shall become entitled pursuant to any ordinance of the City.

In computing years of service, all partial years shall be aggregated but, after the aggregation, any remaining partial year shall be disregarded in the computation of any pension.

(n) Partial Year of Service: Partial Year of Service means any period mentioned in subsection (m) of this section which is less than 12 months.

Any partial year of service shall be calculated from the end of the member’s last completed year of service to the end of the payroll period immediately prior to the date of his retirement and shall be counted as part of a System Member’s years of service for his retirement upon a service pension hereafter granted or for a pension hereafter granted to his qualified surviving spouse, minor child or children, dependent child or children, dependent parent or parents if he hereafter shall die while upon a service pension hereafter granted or while eligible for a service pension.

Any such partial year of service, in the case of a System Member who shall have had less than 25 years of service, shall be credited in the same ratio of 2% of his Normal Pension Base as such partial year shall bear to a complete year and, in the case of a System Member who shall have had 25 years of service or more, shall be credited in the same ratio of 3% of his Normal Pension Base as such partial year shall bear to a complete year.

The provisions of subsection (m) of this section, Section 1408, Section 1410(a)(4)(m), Section 1412(a) and Section 1414(a)(5) & (6), (b) and (c) hereafter shall be construed and applied in accordance with the provisions of this subsection.

(o) Normal Pension Base: Normal Pension Base of any System Member means the sum of:
(1) his monthly salary;

(2) any length of service pay which he had received immediately preceding the date of his retirement or death or upon the last day he had performed duties as a Department Member;

(3) any special pay which he had received immediately preceding the date of his retirement or death or upon the last day he had performed duties as a Department Member; and

(4) any hazard pay which he had received immediately preceding the date of his retirement or death or upon the last day he had performed duties as a Department Member or, if he had not received the same at either such time but had received such pay at some time prior thereto, 10% of the hazard pay which he had received at the time of the termination of his last assignment to hazardous duties for each year in the aggregate of his assignment to any hazardous duties not exceeding, however, ten years in the aggregate.

(5) for only those System Members who completed at least 12 months service in a Deputy Chief position, which was exempt from civil service, and who did not retire in the position of Deputy Chief or Chief of Police, an additional supplement of a percentage of the difference in the amount of compensation between the Deputy Chief position and the System Member’s compensation at the time of retirement. This percentage shall be prescribed by ordinance and shall apply for each year of service in the position of Deputy Chief, not to exceed the number of years as prescribed by ordinance.

Notwithstanding any of the foregoing, if a Retired Member were to be restored to active duty as a Department Member and thereby again were to become a System Member and if he again were to retire or to be retired without having performed his duties for at least 1 year subsequent to such restoration, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him prior to such restoration, the Normal Pension Base which shall be applicable to his later retirement shall be the Normal Pension Base which had been applicable to his previous retirement.

(p) Nonservice-Connected Pension Base: Nonservice-Connected Pension Base of any System Member means the sum of:

(1) the highest monthly salary provided, as of the date of the System Member’s retirement or death, whichever shall first occur, for a Department Member then holding the basic rank of firefighter or police officer; and
the highest length of service pay provided, as of the date of the System Member’s retirement or death, whichever shall first occur, for a Department Member then holding either of the basic ranks.

(q) **Monthly Salary:** Monthly Salary means the gross monthly salary or 1/12 of the gross annual salary which shall be provided by ordinance for the System Member’s permanent rank as of the date of the termination of his status as a Department Member excluding, however, length of service pay, special pay and hazard pay as defined in this section.

(r) **Permanent Rank:** Permanent Rank means the rank or the position within the rank which shall be held, upon a permanent basis under applicable civil service rules and regulations or provisions of the Charter, or both, by the System Member immediately preceding the termination of his status as a Department Member, but does not mean any higher rank or any position within any higher rank in which the System Member then may be serving or theretofore may have served either a portion of a probationary period or pursuant to an emergency or temporary appointment.

**Sec. 1408. Service Pension.**

(a) **Time of Retirement.** Any Tier 2 System Member under the age of 70 years who shall have 20 years of service or more shall be retired by order of the Board from further active duty as a Department Member either (a) upon the filing of a written application or (b) upon the filing of a written request by or on behalf of the head of the department in which the System Member is a Department Member if it shall be determined by the Board to be for the good of such department, other than for a cause or reason which would entitle such System Member to a disability pension pursuant to Section 1412, and the Board, if it shall so determine, shall state the cause or reason in its order retiring such Tier 2 System Member.

(b) **Physical Exam for Members Age 70 Years or More.** After a Tier 2 System Member has attained the age of 70, he shall annually submit to an examination by a regularly licensed, practicing physician selected by the head of the department who shall render a written report to such department as to whether or not the Tier 2 System Member is physically and mentally fit to continue his duties as a Department Member. If the Tier 2 System Member is found not to be physically and mentally fit to so continue his duties, he shall be retired effective the first day of the calendar month next succeeding that month in which the physician’s report was received by the Board.

(c) **Pension Amount.** Any such Retired Member shall be paid thereafter and for life a monthly service pension in an amount which shall be equal to a percentage of his Normal Pension Base, to wit:

(1) For less than 25 years of service: 2% thereof for each year of service;
(2) For 25 years of service: 55% hereof; and for each year of service over 25 years of service, an additional 3% thereof, not exceeding in all, however, a maximum of 70% thereof, which maximum of 70% shall be applicable regardless of the Retired Member’s length of service as a System Member or his age at retirement.

No Retired Member, retired pursuant to this section, ever shall be paid pension pursuant to Section 1412 concerning Disability Pensions.

Sec. 1410. Return or Recall to Active Duty.

(a) Return to Active Duty.

(1) Conditions for Return to Active Duty. A retired member, whenever retired, may file, with the Chief of the department from which he retired, a written application to be returned to active duty therein only upon the conditions:

(A) Service Retirement and Former Rank. That his original retirement had been pursuant to Section 1408 relating to Service Pensions and had been from the Fire Department while holding a rank no higher than Engineer or from the Police Department while holding a rank no higher than Sergeant; and

(B) Time Since Original Retirement and Age. That, as of the filing date of the application, the period of his original retirement had been no longer than 3 years and he shall be under the age of 55 years; and

(C) Medical Exam. That he satisfactorily had passed a medical examination not more than 30 days prior to the effective date of his original retirement, but the Chief, if the effective date thereof had been prior to May 2, 1969, may waive the condition contained in this subsection.

(2) Subsequent Conditions for Return to Active Duty. The Chief may approve any application only upon the conditions that, after the filing date thereof, the retired member:

(A) Medical Exam. Had passed a medical examination from which it had been determined that he would be capable of performing the duties which would be assigned to him if he were to be returned to active duty subject to approval by the Board; and

(B) Certification. Had certified, in writing, that he had read and understands the provisions of this section.
(3) **Return to Rank at Original Retirement.** The Chief, if he were to approve the application, may return the retired member to active duty only in or to a vacant position in the rank held by him at the effective date of his original retirement.

(4) **Status of a Reactivated Member of Tier 2.** Wherever words used in this subsection (a)(4) with respect to any pension granted or to be granted pursuant to Section 1414, they also shall mean and include the words, as used in Section 1422 (c)(3): “whether by reason of the provisions thereof or of those of Section 1414(b) and (c), including any additional pension amounts payable pursuant to Section 1414(a)(7).” A retired member, if he were to be returned to active duty, thereafter shall be known as a “reactivated member” and, as such:

(A) **Privilege, Not An Appointment.** His return to active duty shall be a privilege only and he shall be on probation for one year from and after the effective date thereof regardless of any other provision of law contained in the Charter or otherwise, and the Chief may terminate his service at any time during such year;

(B) **Original Pension Terminated.** His pension, granted by reason of his original retirement, shall be terminated by the Board as of the effective date of his return to active duty;

(C) **Method of Calculating Years of Service.** His service after the effective date of his return to active duty, for the purposes of this Tier 2 and regardless of any other provision of law contained in the Charter or otherwise, shall consist of only:

(i) the days for which he shall be paid for performing his assigned duties,

(ii) his days of vacation with pay, and

(iii) his regular days off duty with pay,

and one year of such service shall consist of a total of 365 such days;

(D) **Years of Service for Purposes of Civil Service and Related Purposes.** His aggregate years of service, for the purposes of his eligibility to advancement in accordance with civil service rules and regulations and the payment of his salary and longevity pay or merit pay, shall consist of only his years of service prior to the effective date of his original retirement and his service after the effective date of his return to active duty;
(E) **Years of Service for Purposes of Tier 2.** His aggregate years of service, for the purposes of this Tier 2 and regardless of any other provision of law contained in the Charter or otherwise, shall consist of only his years of service prior to the effective date of his original retirement and his service subsequent to the effective date of his return to active duty, provided, however, that such service shall be for not less than one year as defined in subsection (a)(4)(C) of this section;

(F) **Salary, Longevity, & Merit Pay.** He shall be assumed to have a satisfactory standard of service and shall be paid the salary provided for his rank and the longevity pay or merit pay provided for his aggregate years of service as defined in subsection (a)(4)(E) of this section, subject, however, to all provisions applicable to the termination of payment of longevity pay or merit pay;

(G) **Payroll Deduction.** He shall have deductions made for pension purposes, pursuant to Section 1420 relating to Member Contributions – Tier 2, from his salary and longevity pay or merit pay;

(H) **Prohibition of Nonservice Connected Disability Pensions.** He never shall be entitled to a subsequent retirement pursuant to Section 1412(b) relating to Nonservice Connected Disability Pensions and his widow, his minor child or children (hereafter referred to in this subsection as “his child”) or his dependent parent or parents (hereafter referred to in this subsection as “his parent”) never shall be granted a pension pursuant Section 1414(a)(2) or (4) relating to Nonservice Connected Survivor Pensions;

(I) **Allowance of Service Connected Disability Pensions.** He shall be entitled to a subsequent retirement pursuant to Section 1412(a) relating to Service Connected Disability Pensions if he were to become eligible therefor and upon his death, if he theretofore had had such a subsequent retirement, a pension shall be granted pursuant to Section 1414(a)(3) relating to Service Connected Survivor Pensions to his surviving spouse, if she shall have been married to him as of the effective date of his subsequent retirement, or to his child or to his parent;

(J) **Allowance of Service Connected Survivor Pension.** His surviving spouse or his child or his parent, if he were to die while a reactivated member from any cause arising out of or from the performance of his duties, shall be granted a pension pursuant to Section 1414(a)(1) relating to Service Connected Survivor Pensions;

(K) **Allowance of Survivor Pension Upon Death of Re-activated Member.** His surviving spouse, (if she shall have been married to him for at least one year prior to the effective date of his original retirement or for
at least one year after the effective date of his return to active duty and
prior to the date of his death), or his child or his parent, if he were to die
while a reactivated member from any cause other than a cause arising out
of or from the performance of his duties, shall be granted the same pension
she would have received pursuant to Section 1414(a)(6) relating to Service
Connected Survivor Pensions;

(L)  **Reinstatement of Original Pension.** His pension, granted by
reason of his original retirement, if his service were to be terminated
during the one year from and after the effective date of his return to active
duty for any reason other than by reason of his subsequent retirement
pursuant to Section 1412(a) relating to Service Connected Disability
Pensions, shall be reinstated by the Board, as of the effective date of the
termination of his service, at the amount of pension which then would
have been payable to him if he had not returned to active duty and, upon
his death, the pension which shall be granted pursuant to Section
1414(a)(5) to his surviving spouse if she shall have been married to him
for at least one year prior to the effective date of his original retirement, or
to his child or to his parent, shall be calculated upon the Normal Pension
Base upon which his pension had been calculated as of the effective date
of his original retirement; and

(M)  **Retirement as Reactivated Member.** He shall be entitled to a
subsequent retirement pursuant to Section 1408 relating to Service
Pensions for Tier 2, based upon his aggregate years of service as defined
in subsection (a)(4)(E) and his pension shall be calculated upon a sum
equal to the Normal Pension Base upon which his pension had been
calculated as of the effective date of his original retirement (hereinafter
referred to as “such base”), plus a percentage of the difference between
such base and that which, if he had not had his original retirement, would
have been his Normal Pension Base as of the effective date of his
subsequent retirement, for his years of service subsequent to the effective
date of his return to active duty as defined in subsection (a)(4)(C), so that
such sum shall be such base plus:

(i)  20% of such difference for one such year,

(ii) 40% of such difference for two such years,

(iii) 60% of such difference for three such years,

(iv) 80% of such difference for four such years and

(v) 100% of such difference for five or more such years or
the equivalent of his Normal Pension Base as of the effective date
of his subsequent retirement and upon his death, if he previously
had had such a subsequent retirement, the pension which shall be granted pursuant to Section 1414(a)(5) to his surviving spouse, (if she shall have been married to him for at least one year prior to the effective date of his original retirement or for at least one year after the effective date of his return to active duty and prior to the effective date of his subsequent retirement), or to his child or to his parent, shall be calculated upon the sum upon which his pension had been calculated as of the effective date of his subsequent retirement.

5) **Applicability of Tier 2 to Reactivated Members.** The provisions of this Tier 2 shall be construed and applied, as to a reactivated member, his surviving spouse, his child and his parent, in accordance with respectively applicable provisions of subsection (a)(4) of this section.

(b) **Recall to Active Duty.**

1) **Rules for Recall to Active Duty.** The Chief shall promulgate such rules and set standards as he may deem to be necessary or desirable with respect to recalling a retired member to active duty.

2) **Conditions for Recall to Active Duty.** A retired member, whenever retired, shall be eligible to be recalled to active duty in the department from which he retired only upon the conditions:

   A) **Service Retirement and Former Rank.** That his original retirement has been pursuant to Section 1408 and had been from the Fire Department while holding a rank lower than Fire Chief or from the Police Department while holding a rank lower than Chief of Police;

   B) **Certification.** That he had certified, in writing, that he had read and understands the provisions of this section; and

   C) **Consent to Recall.** That he voluntarily had consented to be recalled to active duty.

3) **Limitations on Recall.** The Chief may recall a retired member to active duty:

   A) **Rank at Retirement.** Only in or to a vacant position in the rank held by him at the effective date of his original retirement;

   B) **90 Day Limit.** For not to exceed 90 days in any one calendar year; and
(C) **Status Defined in this Section.** The salary, benefits and other terms and conditions of employment of any such recalled member shall be as provided under subsections (b)(5) and (b)(6) of this section.

(4) **No Recall of Police Exceeding 12 Months Without Loss of Pension.** Recall of retired members of the Police Department may be approved for a period in excess of 90 days but not for more than 12 consecutive months, without loss of pension, in which case the salary, benefits and other terms and conditions of employment for such recalled police officers shall be established by ordinance.

(5) **Status of Recalled Member.** A retired member, if he were to be recalled to active duty, thereafter shall be known as a “recalled member” and, as such:

   (A) His recall to active duty shall be a privilege only and the Chief may terminate his service at any time;

   (B) His pension shall be paid during the period of his recall to active duty;

   (C) He shall be paid the salary provided for his rank and the longevity pay or merit pay provided for his aggregate years of service prior to the effective date of his original retirement;

   (D) He shall have no deductions made for pension purposes, pursuant to Section 1420 relating to Member Contributions – Tier 2, from his salary and longevity pay or merit pay; and

   (E) He, his surviving spouse, his minor child or children or his dependent parent or parents never shall be entitled to any pension benefits provided by Tier 1 or Tier 2 by reason of his service as a recalled member.

(6) **Tier 2 Construed with Recalled Members Rules.** The provisions of this Tier 2 hereafter shall be construed and applied, as to a recalled member, his surviving spouse, his minor child or children and his dependent parent or parents, in accordance with respectively applicable provisions of subsection (b)(5) of this section.

**Sec. 1412. Disability Pensions.**

(a) **Service-Connected Disability.** Upon the filing of his written application for a disability pension or upon the filing of a written request by or on behalf of the head of the department in which he is a Department Member, any System Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result from performing his duties, shall be retired by order of the Board from further active duty as a Department Member. Such Retired
(b) **Nonservice-Connected Disability.** Upon the filing of his written application for a disability pension by a System Member who shall have 5 years of service or more since the date of his last regular and permanent appointment as a Department Member including his service of the required probationary period, or upon the filing of a written request therefor with respect to such a System Member by or on behalf of the head of the department in which he is a Department Member, any System Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his duties, and if the Board further shall determine that such disability was not due to or caused by the moral turpitude of such System Member, shall be retired by order of the Board from further active duty as a Department Member. Such Retired Member shall be paid thereafter and for life a monthly nonservice-connected disability pension in an amount which shall be equal to 40% of his Nonservice-Connected Pension Base. Such pension may be terminated only pursuant to subsection (d) of this section. No Retired Member, while retired pursuant to this subsection of the section, ever shall be paid any pension pursuant either to Section 1408 concerning Service Pensions or to subsection (b) of this section concerning Nonservice Connected Disability Pensions.

(c) **Determination of Disability.** Upon the filing of any written application or request for a disability pension, as referred to in subsections (a) and (b) of this section, the Board:

(1) shall cause the System Member to be examined by and a written report thereon rendered by at least three regularly licensed and practicing physicians selected by it;

(2) shall hold a hearing with respect to such application or request; and

(3) shall receive or hear such other evidence relating to or concerning the System Member’s disability or claimed disability as may be presented to it.
The Board shall have the power to hear and determine all matters pertaining to the granting and denying of any such application or request for a disability pension. The Board first shall determine whether or not the System Member is incapable of or from performing his duties as a Department Member. If the Board were to determine that he is not so incapable, it then shall be the duty of the Board to deny the application or request. If the Board were to determine that he is so incapable, it then shall determine, pursuant to the language used in subsections (a) and (b) of this section, whether his incapacity or disability is service-connected or nonservice-connected. If the Board were to determine that it is service-connected, it then shall determine the percentage of his incapacity or disability, within the limitations prescribed in subsection (a) of this section, and shall grant the application or request accordingly. If the Board were to determine that it is nonservice-connected, it then shall determine whether his incapacity or disability was due to or caused by the moral turpitude of the System Member. If the Board were to determine that it was so caused, it then shall be the duty of the Board to deny the application or request. If the Board were to determine that it was not so caused, it shall grant the application or request in the percentage prescribed by subsection (b) of this section. The Board, upon its own motion or upon the written request of any Retired Member, retired pursuant to subsection (a) of this section, shall have the power to consider new evidence pertaining to the case of any such Retired Member and to increase or decrease the percentage of his incapacity or disability within the limitations prescribed in subsection (a) of this section. Any such increase or decrease shall be based only upon injuries or sickness for which he was retired. In the case of any former System Member who became such by reason of his resignation or discharge as a Department Member, the Board, in order to grant any application filed by him for a disability pension, must also determine, in addition to all of the foregoing, that any existing incapacity or disability upon his part occurred prior to the termination of his active status as a Department Member and had been continuous up to the date of the Board’s determinations. Any determination of the Board shall be made in writing but need state only the ultimate fact and not any of the evidentiary facts.

(d) Termination of Disability Pensions. The pension of any Retired Member, retired pursuant to subsection (a) or to subsection (b) of this section and whose active status as a Department Member had been terminated by reason of his retirement, shall cease when the incapacity or disability for which he had been retired shall cease and he either:

(1) shall have been restored to active duty as a Department Member in the same permanent rank which he had held as of the date of his retirement; or

(2) shall have been ordered restored to active duty as a Department Member in such same permanent rank and shall have declined, refused or neglected to report or to perform duties as such.

The pension of any Retired Member, retired pursuant to subsection (a) or to subsection (b) of this section and whose active status as a Department Member had been terminated by reason of his resignation or discharge as such, shall cease when the
incapacity or disability for which he had been retired shall cease. The Board shall have the power to hear and determine, upon its own motion or otherwise, all matters pertaining to the terminating of any such pension. Any determination of the Board to terminate any such pension shall be made in writing but need state only the ultimate fact and not any of the evidentiary facts.

Sec. 1414. Survivorship Pensions.

(a) Qualified Surviving Spouse and Children of Former Marriage.

(1) System Member’s Service-Connected Death. The qualified surviving spouse of a System Member who shall die while he is a Department Member, by reason of injuries received or sickness caused by the discharge of his duties, shall be paid, for life a monthly pension in an amount which shall be equal to 50% of such System Member’s Normal Pension Base or, alternatively, in an amount which shall be equal to 55% in the event that such member shall have had 25 years of service or more as of the date of his death.

(2) System Member’s Nonservice-Connected Death. The qualified surviving spouse of a System Member who shall have five years of service or more since the date of his last regular and permanent appointment as a Department Member including his service of the required probationary period and who shall die while he is a Department Member, by reason of injuries or sickness other than injuries received or sickness caused by the discharge of his duties, shall be paid, for life a monthly pension in an amount which shall be equal to 40% of such System Member’s Nonservice-Connected Pension Base.

(3) System Member’s Death While on Service-Connected Disability Pension. The qualified surviving spouse of a Retired Member, who shall die while he is receiving a pension pursuant to Section 1412(a), shall be paid, for life a monthly pension in an amount which shall be equal to 50% of such Retired Member’s Normal Pension Base or, alternatively, in an amount which shall be equal to 55% in the event that such member shall have had 25 years of service or more as of the effective date of his retirement.

(4) System Member’s Death While on Nonservice-Connected Disability Pension. The qualified surviving spouse of a Retired Member, who shall die while he is receiving a pension pursuant to Section 1412(b), shall be paid, for life a monthly pension in an amount which shall be equal to 40% of such Retired Member’s Nonservice-Connected Pension Base.

(5) System Member’s Death While on Service Pension. The qualified surviving spouse of a Retired Member, who shall die while he is receiving a pension pursuant to Section 1408 concerning Service Pensions, shall be paid, for life a monthly pension in an amount which shall be equal to the same percentage of such Retired Member’s Normal Pension Base as the percentage which had
been applicable to the calculation of his pension, provided, however, that the percentage of his Normal Pension Base shall not exceed 55% for the purposes of this subsection.

(6) **System Member’s Death While Eligible for Service Pension.** The qualified surviving spouse of a System Member who shall die while he is a Department Member eligible for a pension pursuant to Section 1408 concerning Service Pensions by reason of injuries or sickness other than injuries received or sickness caused by the discharge of his duties, shall be paid for life a monthly pension in an amount which shall be equal to the same percentage of such System Member’s Normal Pension Base as the percentage thereof which would have been applicable to the calculation of his pension had he retired pursuant to Section 1408 concerning Service Pensions as of the date of his death but the percentage of his Normal Pension Base shall not exceed 55% for the purposes of this subsection.

(7) **Additional Pension Amounts for Minor or Dependent Children.**

(A) **Children of Marriage to Qualified Survivor Spouse.** Whenever any System Member or Retired Member shall die and leave surviving him, in addition to a qualified surviving spouse, a minor child or children or a dependent child or children of his marriage to the qualified surviving spouse then such qualified surviving spouse shall be paid an additional monthly pension in an amount which shall be equal to 25% of the amount of her pension as a qualified surviving spouse granted pursuant to any of the foregoing paragraphs of this subsection while there is one minor or dependent child, 40% while there are two minor or dependent children or a combination, and 50% while there are three or more minor or dependent children or a combination, and such additional monthly pension shall be the exclusive property of such qualified surviving spouse and not the property of any such minor child or dependent child.

(B) **Surviving Spouse and Children of Former Marriage.** Whenever any System Member or Retired Member shall die and leave surviving him, in addition to a qualified surviving spouse, a minor child or children or a dependent child or children of his marriage to a former spouse, then the guardian or guardians of the estate or estates of any such minor child or children or dependent child or children shall be paid a monthly pension in an amount which shall be equal to 25% of the amount of the pension of the qualified surviving spouse granted pursuant to this section while there is one minor or dependent child, 40% while there are two minor or dependent children or a combination, and 50% while there are three or more minor or dependent children or a combination, and such monthly pension shall be the exclusive property of such minor child or children or dependent child or children and not the property of the qualified surviving spouse.
(C) **Surviving Spouse and Children of Present and Former Marriages.** Whenever any System Member or Retired Member shall die and leave surviving him, in addition to a qualified surviving spouse, a minor child or children or a dependent child or children of his marriage to the qualified surviving spouse and a minor child or children or a dependent child or children of his marriage to a former spouse, then a monthly pension shall be paid in an amount which shall be equal to 25% of the amount of the pension of the qualified surviving spouse granted pursuant to any of the foregoing paragraphs of this subsection while there is one minor or dependent child, 40% while there are two minor or dependent children or a combination, and 50% while there are three or more minor or dependent children or a combination. The amount of such monthly pension shall be divided by the number of minor or dependent children and shall be adjusted accordingly whenever any minor or dependent child shall cease to be such. The qualified surviving spouse shall be paid the portion of such monthly pension which shall be applicable to the number of her minor children or dependent children and the same shall be her exclusive property. The guardian or guardians of the estate or estates of the minor or dependent children who are not those of the qualified surviving spouse shall be paid the portion of such monthly pension which shall be applicable to such minor or dependent children and the same shall be the exclusive property of such children.

(8) **Reinstatement of Pension of Reinstated Qualified Surviving Spouse.** Subject to Section 1208 of the General Provisions for Fire and Police Pension Plans, any qualified surviving spouse who shall marry and thereby cease to be a qualified surviving spouse, shall be reinstated as a qualified surviving spouse as of:

(A) the date upon which a judgment or decree shall become final dissolving such marriage upon any ground or declaring a void or voidable marriage to have been null and void or voided, if such date shall be within five years from the date of the marriage ceremony; or

(B) the date upon which such marriage shall be dissolved by the death of the other party if such date shall be within five years from the date of the marriage ceremony.

Such reinstated qualified surviving spouse shall be entitled to the reinstatement of her pension effective as of either such date, whichever shall be applicable, but shall not be entitled to the payment of any pension for the period prior to such applicable date and subsequent to the date of the marriage ceremony. The pension paid to any other Beneficiary or Beneficiaries during the period of the marriage or purported marriage of such reinstated qualified surviving spouse shall cease when her pension shall be reinstated, except as is otherwise provided in subsection (a)(7) of this section. However, should such reinstated qualified surviving spouse thereafter be a party to another
marriage ceremony, her pension as such shall cease and never again shall be reinstated regardless of whether such marriage ceremony shall result in a valid marriage or in a voidable or void marriage and whether or not the same legally shall be terminated.

(b) **Pension For Minor and Dependent Children.** Whenever any System Member or Retired Member shall die, without leaving a qualified surviving spouse, the guardian of the estate of his minor child or children or dependent child or children shall be paid, until each such child shall cease to be a minor child or dependent child, a monthly pension pursuant to subsections (a)(1), (2), (3), (4), (5) and (6) of this section, whichever shall be applicable. Whenever any such member shall die, leaving a qualified surviving spouse who thereafter shall die or who thereafter shall cease to be a reinstated qualified surviving spouse, the guardian of the estate of his minor child or children or dependent child or children shall be paid, until each such child shall cease to be a minor child or dependent child, a monthly pension pursuant to one of the aforementioned paragraphs of subsection (a) of this section, whichever shall be applicable. In either of the foregoing events and if there were to be more than one minor child or dependent child, an equal share of such monthly pension shall be paid for and on behalf of each such child to the guardian of his estate and shall be adjusted as each of them shall cease to be a minor child or dependent child in the manner set forth in subsection (a)(7) of this section.

(c) **Pension for Dependent Parents.** Whenever any System Member or Retired Member shall die, without leaving a qualified surviving spouse or a minor child or dependent child, a monthly pension pursuant to subsections (a)(1),(2),(3), (4), and (5) of this section, whichever shall be applicable, shall be paid to his dependent parent or parents or to the survivor of them until each such dependent parent shall cease to be such. Any dependent parent who shall cease to be such but who thereafter again shall become unable to pay his or her necessary living expenses without a pension shall be entitled to have his or her pension reinstated.

(d) **Determinations With Respect to Cause of Death, Dependent Child and Dependent Parent.** The Board shall have the same power as that which has been given to it by Section 1412(c) and (d) in order to determine:

1. the fact of whether a System Member’s death was service-connected or nonservice-connected for the purposes of Section 1414(a)(1) and (2);

2. the fact of whether or not a child of a deceased System Member or Retired Member is a dependent child; and

3. whether or not any parent of a deceased System Member or Retired Member is a dependent parent.

The Board also shall have the power to determine, from time to time, the fact of whether or not a child who had been determined by it to be a dependent child continues to be a dependent child, the fact of whether or not a parent who had been determined by it to be a dependent parent continues to be a dependent parent and the fact of whether or not
a dependent parent who had ceased to be such thereafter shall have become entitled to
have his or her pension reinstated.

(e) Medical Reports and Hearings. The power of the Board to determine the fact
of whether a System Member’s death was service-connected or nonservice-connected, as
provided in subsection (d) of this section, hereafter may be exercised by it upon the basis
of a written report from one regularly licensed and practicing physician selected by it,
provided, however, that it, in its discretion, may obtain such a report from more than one
physician. The determination hereinbefore referred to in this paragraph may at the option
of the Board be made without a hearing pursuant to the provisions of subsection (d) of
this section.

Sec. 1416. Tier 2 Pension Funds.

(a) Creation of Funds. Two entirely separate and distinct funds hereby are created
and established for the payment of pension benefits pursuant to this Tier 2, certain other
benefits as may be authorized from time to time pursuant to the enabling provisions of
Section 1428 of this Tier 2 and for the payment of the administrative expenses of the Fire
and Police Pension Plan – Tier 1 and Tier 2, one of which shall be known as the “Fire and
Police Tier 2 Service Pension Fund” and the other of which shall be known as the “Fire
and Police Tier 2 General Pension Fund.”

The Fire and Police Tier 2 Service Pension Fund shall consist of:

(1) deductions made, pursuant to Section 1420, from the salaries of System
Members;

(2) all contributions and donations to the Fire Department or to the Police
Department for services by any System Members, except amounts of money
donated to provide for any medal or permanent competitive award;

(3) all fines imposed upon System Members for violations of rules and
regulations of the respective department in which they are Department Members;

(4) all proceeds from the sale of unclaimed property; and

(5) all interest, earnings and profits resulting from investments of such
moneys.

The Fire and Police Tier 2 General Pension Fund shall consist of:

(1) all moneys appropriated to the fund by the Council; and

(2) all interest, earnings and profits resulting from investments of such
moneys.
(b) **Use of Funds.** The moneys in the Fire and Police Tier 2 Service Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of service pensions granted pursuant to Section 1408. The money in the Fire and Police Tier 2 General Pension Fund shall be used, other than for the investment thereof and except as hereinafter in this immediate paragraph specifically provided, exclusively for the payment of all pensions other than service pensions, such benefits as may be provided by ordinance adopted pursuant to the provisions of Section 1428 of this Tier 2 and of all administrative expenses of the Fire and Police Pension Plan Tier 1 and Tier 2 of the Charter.

(c) **Transfer of Funds.** In the event that the moneys in the Fire and Police Tier 2 Service Pension Fund should be insufficient, at any time, to pay all service pensions, then the Board shall have the power and authority to cause the Controller of the City to transfer to the fund sufficient money from the Fire and Police Tier 2 General Pension Fund. In no other event shall any of the money in either of the funds be commingled with any of the money in the other funds.

(d) **General Obligations of City.** In the event that the moneys in the Fire and Police Tier 1 Service Pension Fund or in the Fire and Police Tier 1 General Pension Fund should be insufficient, at any time, to pay all pensions or other benefits which are payable therefrom, respectively, then the Board shall have the power and authority to cause the Controller of the City to transfer to either of the funds sufficient moneys from the Fire and Police Tier 2 General Pension Fund. The obligations to pay benefits pursuant to this Tier 2 shall be general obligations of the City.

**Sec. 1418. Actuarial Standards.**

(a) **Reserve Basis.** The Tier 2 System shall be maintained on a reserve basis which, for the purposes of this Tier 2, shall mean one which provides for the accumulation and maintenance of the Fire and Police Tier 2 Service Pension Fund and the Fire and Police Tier 2 General Pension Fund which together will at all times be equal to the difference between the present value of the obligations assumed and the present value of the money to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of moneys with which they are to be paid in accordance with the provisions of Sections 1210(b)(2) and 1420.

(b) **Actuarial Valuation.** The Board shall secure an actuarial valuation showing the cost of maintaining the System and funds on such reserve basis and, at intervals of not to exceed five years, shall cause to be made an actuarial investigation including, but not limited to, the mortality, service and salary experience of the System Members and other beneficiaries and shall further cause to be made annually an actuarial valuation of the assets and liabilities of the funds. The Board shall retain a competent consulting actuary for the purpose of making the necessary actuarial studies and reports on the required investigations and valuations.
(c) **Interest Rate.** The Board, from time to time and with the advice of the investment counsel, shall establish an assumed interest rate as in its judgment seems proper in the light of the experience and prospective earnings on the investments of the funds.

(d) **Unrealized Profits or Losses.** With the advice of the consulting actuary and of the investment counsel, the Board, for the purpose of the actuarial valuations, shall provide by rule for the manner and to the extent to which any unrealized profits or losses in the equity-type investments of the funds shall be taken into account.

**Sec. 1420. Member Contributions – Tier 2.**

(a) **Member Contributions Required.** Deductions shall be made from the salaries of System Members, and such deductions shall be deposited to the credit of and paid into the Fire and Police Tier 2 Service Pension Fund, but no further deductions shall be made from the salaries of System Members who have completed 30 years of service.

(b) **Payroll Deduction.** The administrative head of the Fire Department and of the Police Department shall cause to be shown on each and every payroll of such department a deduction equal to the sum of the following items:

1. 6% of the amount of salary, as shown on each such payroll, of each System Member whose name appears thereon; and

2. that percentage of the amount of salary, as shown on each such payroll, of each System Member whose name appears thereon, but not to exceed 1%, which shall be equal to ½ of the cost of the cost of living benefits provided in this Tier 2 as shall be determined by the Board upon an actuarial valuation obtained by it pursuant to Section 1418.

The Board, from time to time, shall certify in writing to the administrative head of each such department and to the Controller any change in the deductions to be made pursuant to subsection (b)(2) above, and any such change shall become effective as of the next following July 1.

(c) **Transfer of Total Member Contributions.** The administrative head of each department shall certify to the Controller on each payroll the amount to be deducted from the salary of each System Member whose name appears thereon, and shall cause to be drawn a payroll check in favor of the Board for the total amount of deductions from the salaries of such System Members as shown on each payroll of such department, and the Board shall deposit the payroll check to the credit of the Fire and Police Tier 2 Service Pension Fund. It shall be the duty of the administrative head of each department to cause to be furnished to the Board a copy of each and every payroll.

(d) **Deemed Consent to Payroll Deduction.** Each System Member shall be deemed to consent and agree to each deduction as provided herein, and the payment of
each payroll check to the System Member shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the System Member during the period covered by each such payroll check, except such claims as the System Member may have to the benefits or payments provided by this Tier 2.

(e) **Refund of Member Contributions.** Every person who is a System Member on July 1, 1982 shall, upon termination of employment, be entitled to a refund of contributions made by him or her pursuant to the provisions of this section. A person not a System Member on July 1, 1982 and whose employment terminated prior to that date, shall not be entitled to a refund of contributions made by him or her during periods of membership prior to July 1, 1982.

(f) **Limitations on Refunds.** The refund of contributions shall be subject to the following conditions and limitations:

(1) **Contributions Prior to June 30, 1982.** Upon termination of employment as a Department Member for any reason except retirement pursuant to the provisions of this Tier 2, a System Member shall be entitled to have refunded to him or her all contributions made by such System Member to the Fire and Police Tier 2 Service Pension Fund on or prior to June 30, 1982, plus 6% interest per annum on such contributions calculated in the same manner as if interest had regularly been credited to the System Member’s contributions, compounded as of the last day of the last pay period of December and to the end of the last pay period preceding the effective date of termination of employment.

(2) **Maintenance of Individual Accounts.** Starting July 1, 1982, the Board shall maintain an individual account of the contributions of each System Member. Regular interest shall be credited to such individual accounts as of the last day of June and December of each year after July 1, 1982, at such rate as the Board may deem proper in light of the earnings of the funds of the Tier 2 System, exclusive of profits and losses on principal resulting from sales of securities. No such interest shall be credited at any other time. Interest shall be credited to the individual account of a System Member whose employment is terminated for any reason for any period of service between the next preceding last day of June or December and the end of the pay period preceding the date of such termination at the rate at which regular interest was last credited to System Members’ individual accounts.

(3) **Election of Refund or Benefits.** System Members who elect to receive a refund of contributions, forfeit the right to benefits provided in this Tier 2. After payment of any pension benefit has commenced, the System Member forfeits the right to a refund of his or her contributions. System Members who return to active duty from a disability pension may not thereafter have contributions made by them prior to their retirement on such disability pension refunded. A terminated System Member who had elected to have contributions returned, but
who reenters service and again becomes a System Member shall, notwithstanding any provision of this Tier 2 to the contrary, not be entitled to credit for years of service previously earned unless he or she shall first have repaid the amount of contributions and interest and an amount calculated as interest which would have been earned between the date of original termination of status as a System Member and the date of reentry into service as a Department Member.

(4) **Beneficiary Designation.** System Members shall have the right to designate persons who shall be entitled to receive money to which a System Member would otherwise be entitled upon termination of employment, to be payable to such designated person or persons upon the System Member’s death, but no such money shall become payable if any person should be entitled to any other benefit provided in this Tier 2. The Board shall adopt appropriate forms for the designation by System Members of persons who shall be his or her beneficiaries.

**Sec. 1422. Cost of Living Adjustments.**

(a) **Determination of Cost of Living Increase or Decrease.** The Board, before May 1, of each year commencing with the year 1967, shall determine the percentage of the annual increase or decrease in the cost of living as of March 1, of that year from March 1, of the preceding year, as shown by the consumer price index published by the Bureau of Labor Statistics for the area in which the City is located. If any such index were not to reflect the cost of living as of a particular March 1, then the index for the closest preceding date which shall have done so shall be used. If there were to be any change in the statistical method or the components which were used in any such index from those which were used in any such index of the preceding year with which a comparison is to be made, then the Board, to the extent possible, shall adjust any such differences therein for the purpose of determining the percentage of increase or decrease in the cost of living.

(b) **Adjustments to be Made in Pensions.** Commencing as of July 1 of the year in which the Board shall determine the percentage of increase or decrease in the cost of living, the monthly amounts of certain pensions, as hereinafter identified and upon the conditions hereunder stated therefor, shall be increased or decreased by reason of such determined percentage of increase or decrease in the cost of living but not to exceed, however, 2% in any given year. Such determined percentage of increase or decrease in the cost of living, as so limited, shall be applied to the monthly amounts of such pensions which shall be payable prior to the applicable July 1, including any previous percentage of increase or decrease in the cost of living which had been made with respect thereto.

(c) **Application of Adjustments.** The percentage of increase or decrease in the cost of living first shall be applied to:

(1) **Service Pensioners with Less than 25 Years Service.** The pension of any Retired Member who shall retire pursuant to Section 1408, with less than 25 years
of service, upon the July 1 following the date upon which he would have had 25 years of service if he had not retired prior thereto;

(2) **Service Pensioners with at Least 25 Years Service.** The pension of any Retired Member who shall retire pursuant to Section 1408, with 25 years of service or more upon the July 1, following the effective date of his pension;

(3) **Survivor Pensions of Members with Less Than 26 Years Service.** The pension of any Beneficiary or Beneficiaries which shall be granted pursuant to Section 1414(a)(5) and(6), whether by reason of the provisions thereof or of those of Section 1414(b) and (c), including any additional pension amounts payable pursuant to Section 1414(a)(7), following the death, with less than 26 years of service, of a Retired Member who had been retired pursuant to Section 1408 or of a System Member who had become eligible to retire pursuant thereto, upon the July 1, following the date upon which such Retired Member or such System Member, as the case may be, would have had 26 years of service if he, the Retired Member, had not retired prior thereto and had been alive on that date, or if he, the System Member, had been alive on that date; and

(4) **Survivor Pensions of Members with at Least 26 Years Service.** The pension of any Beneficiary or Beneficiaries which shall be granted pursuant to Section 1414(a)(5) or (6), whether by reason of the provisions thereof or of those of Section 1414(b) or (c), including any additional amounts payable pursuant to Section 1414(a)(7), following the death, with 26 Years of Service or more, of a Retired Member who had been retired pursuant to Section 1408 or of a System Member who had become eligible to retire pursuant thereto, upon the July 1, following the effective date of the pension of such Beneficiary or Beneficiaries.

(5) **Certain Survivor Pension Beneficiaries.** The pension which shall become payable to any minor child or children or dependent child or children, whenever any qualified surviving spouse or reinstated qualified surviving spouse shall cease to be such, shall commence in the same monthly amount which then would have been payable if such pension had become effective upon the date following the date of death of the System Member or Retired Member and thereafter it shall be adjusted as otherwise provided in this section. The pension which shall become payable to any reinstated qualified surviving spouse, as reinstated pursuant to Section 1414(a)(8), shall commence in the same monthly amount which then would have been payable if she never had ceased to be a qualified surviving spouse and thereafter it shall be adjusted as otherwise provided in this section. The pension which shall become payable to any reinstated dependent parent or parents, as reinstated pursuant to Section 1414(c), shall commence in the same monthly amount which then would have been payable if he or she or each of them never had ceased to be a dependent parent and thereafter it shall be adjusted as otherwise provided in this section.
(6) **Limitation on Reductions.** The amount of any pension referred to in (1), (2), (3), (4) or (5) of this subsection never shall be reduced, by reason of the application thereto of this section, to an amount less than the amount thereof payable pursuant to the provisions of this Tier 2 other than those of this section.

(d) **Carryover of Excess Adjustments.** If the percentage of increase or decrease in the cost of living in any year, as determined by the Board, were to exceed 2% as compared with the cost of living as of March 1, of the preceding year, the percentage of increase or decrease in the cost of living in excess of 2% shall be carried over and added to or subtracted from the percentage of increase or decrease in the cost of living in the succeeding year, and such procedure shall be complied with from year to year.

**Sec. 1424. Cost of Living Adjustments to Pensions Formerly Excluded.**

(a) **Definitions.** Wherever used in this section:

(1) “the pension” shall mean, unless Section 1422 shall be mentioned in conjunction therewith, only a pension which is not identified in Section 1422;

(2) “the July 1 following” shall mean only a July 1 subsequent to May 2, 1969;

(3) “Beneficiary” shall include its plural; and

(4) words with respect to any pension granted or to be granted pursuant to Section 1414 also shall mean and include the words, as used in Section 1422(b)(3), “whether by reason of the provisions thereof or of those of Section 1414(b) and (c), including, any additional pension amounts payable pursuant to Section 1414(a)(7).”

(b) **Method.** The percentage of increase or decrease in the cost of living thereafter shall be applied pursuant to Section 1422 and the terms and conditions contained in this section:

(1) **Disability Pensions.** To the pension of any Retired Member, ever granted pursuant to Section 1412, upon the July 1, following the date of his retirement or the effective date of this paragraph of this section, whichever shall be the later; or Section 1412, upon the July 1, following the date he shall have had 25 years of service, the date he would have had 25 years of service if he previously had not retired or the fifth anniversary of the effective date of the pension, whichever shall be the earliest;

(2) **Survivor Pensions Based Upon Previously Active Members.** To the pension of any Beneficiary ever granted on account of the death of an active System Member who died as a result of any injury received during the performance of his or her duties or from sickness caused by the discharge of such
duties, upon the July 1, following the effective date of such Beneficiary’s pension; but if such pension became effective before July 1, 1989, it shall be retroactively adjusted as of July 1, 1989;

(3) **Survivor Pensions Based Upon Previously Retired Members.** To the pension of any Beneficiary,

(A) ever granted pursuant to Section 1414(a)(5) upon the death of a Retired Member previously retired pursuant to Section 1408 and which pension of such Beneficiary is identified in Section 1422(b)(3) or (4),

(B) ever granted pursuant to Section 1414(a)(3) upon the death of a Retired Member previously retired pursuant to Section 1412(a), or

(C) ever granted pursuant to Section 1414(a)(4) upon the death of the Retired Member, previously retired pursuant to Section 1412(b), upon the July 1 following the date such member shall have had 26 years of service, the date such member would have had 26 years of service if he previously had not retired and then had been alive, or the fifth anniversary of the effective date of the pension of such member, whichever shall be the earliest; and

(4) **Survivor Pensions of Nonservice Connected Death of Members.** To the pension of any Beneficiary,

(A) ever granted pursuant to Section 1414(a)(2) upon the death of a Department Member not eligible to retire pursuant to Section 1408, or

(B) ever granted pursuant to Section 1414(a)(6) upon the death of a Department Member eligible to retire pursuant to Section 1408 and which pension of such Beneficiary is identified in Section 1422(b)(3) or (4), upon the July 1 following the date such member shall have had 26 years of service, the date such member would have had 26 years of service if he then had been alive, or the fifth anniversary of the effective date of the pension of such Beneficiary, whichever shall be the earliest.

(c) **Cost of Living Adjustments for Other Pensions.** The following provisions, in respects other than those provided for in subsection (b) of this section, hereafter shall be controlling in the application to certain pensions of the percentage of increase or decrease in the cost of living.

(1) Whenever the amount of the pension:

(A) of any Retired Member shall be increased or decreased pursuant to Section 1412(a) or (c), or
(B) of any qualified surviving spouse shall be increased or decreased pursuant to any paragraph of Section 1414(a), the amount of any such increase shall not include the percentage of any increase in the cost of living which previously had been applied to the former amount of the pension; and the amount of any such decrease shall include the percentage of any increase in the cost of living which previously had been applied to it as a portion of the former amount of the pension.

(2) Whenever the pension of any Beneficiary:

(A) hereafter shall be granted pursuant to Section 1414(a)(5) upon the death of a Retired Member previously retired pursuant to Section 1408 and which pension of such Beneficiary is identified in Section 1422(b)(3) or (4),

(B) hereafter shall be granted pursuant to Section 1414(a)(3) upon the death of a Retired Member previously retired pursuant to Section 1412(a), or

(C) hereafter shall be granted pursuant to Section 1414(a)(4) upon the death of a Retired Member previously retired pursuant to Section 1412(b), the amount of the pension of any such Beneficiary,

(i) if the amount thereof which shall be payable to such Beneficiary were to be more than the amount of the pension which had been payable to such member, shall include the percentage of any increase in the cost of living which had been applied to the pension of such member, or

(ii) if the amount thereof which shall be payable to such Beneficiary were to be less than the amount of the pension which had been payable to such member, shall include that portion of the percentage of any increase in the cost of living which had been applied to the pension of such member which shall be in the same ratio as the amount of the pension which shall be payable to such Beneficiary shall bear to the amount of the pension which had been payable to such member, and the percentage of any increase or decrease in the cost of living in excess of 2% per year which had been carried over for such member as of the date of his death shall be carried over for such Beneficiary if (i) hereof were to be applicable or in the same ratio therein provided in (ii) hereof were to be applicable.

(3) Whenever the pension of any qualified surviving spouse hereafter shall be terminated pursuant to any provisions of Section 1414(a) and the pension thereafter shall become payable on behalf of any minor or dependent child or
children of the deceased member, the amount of pension on behalf of such child or children shall include that portion of the percentage of increase in the cost of living which had been applied to the pension of such qualified surviving spouse which shall be in the same ratio as the amount of the pension which shall be payable on behalf of such child or children shall bear to the amount of the pension which had been payable to such qualified surviving spouse, and the percentage of any increase or decrease in the cost of living in excess of 2% per year which had been carried over for such qualified surviving spouse as of the date of the termination of his or her pension shall be carried over on behalf of such child or children in the same ratio hereinabove provided.

(d) **Limitation of Reductions.** The amount of the pension never shall be reduced, by reason of the application thereto of the provisions of Section 1422 or this section, to an amount less than the amount thereof payable pursuant to provisions of this Tier 2 other than those of Section 1422 and this section. Section 1422 hereafter shall be construed and applied in accordance with this section as to each pension mentioned in this section.

**Sec. 1426. Minimum Tier 2 Pensions and Other Cost of Living Adjustments.**

(a) **Minimum Tier 2 Pensions.** Each pension granted pursuant to this Tier 2, regardless of the type of the pension, which became or becomes effective prior to July 1, 1971 and which, as of June 30, 1971, is in a monthly amount of less than $350 shall be increased, effective July 1, 1971, pursuant to the provisions of subsection (b) and subsection (c) of this section, and shall, if such increase results in a monthly pension amount which is less than $350, be increased to provide for a monthly minimum pension of three hundred fifty dollars ($350). Each pension granted pursuant to this Tier 2, regardless of the type of the pension, which becomes effective on or subsequent to July 1, 1971 shall be in a monthly amount not less than the minimum monthly pension amount provided, as of the effective date of the pension, by this subsection of this section. The monthly amount of each such pension never shall be reduced, by reason of the provisions of Section 1422, Section 1424 or subsection (c) of this section, to a monthly amount less than the minimum monthly pension amount provided by this subsection.

(b) **Additional Cost of Living Adjustments.** The monthly amount of pension of each Beneficiary which, prior to the effective date of this section, had been increased by reason of a cost of living adjustment thereof pursuant to Section 1422 or Section 1424 shall be increased, as of July 1, 1971, by that portion of the percentage of the annual increase in the cost of living, as had been determined by the Board pursuant to Section 1422 which was in excess of 2% but not in excess of 3% for each year the monthly amount of such pension had been increased.

(c) **Adjustment for Certain Pensions.** The monthly amount of pension of each Beneficiary who heretofore did qualify or hereafter shall qualify for a cost of living adjustment thereof pursuant to Section 1422 or Section 1424 and the monthly amount of pension of each Beneficiary which shall be the minimum monthly pension amount provided by subsection (a) of this section, hereafter shall be increased or decreased, as of
the dates provided therefor by Section 1422, by the percentage of the annual increase or
decrease in the cost of living as hereafter shall be determined by the Board pursuant to
Section 1422.

(d)   Applicability of this Section. The provisions of Sections 1408, 1412, 1414, 1422 and 1424 hereafter shall be construed and applied in accordance with the provisions of this section.

(e)   Savings Clause. Should any provisions of this section at any time be held to be
invalid, in their application to certain persons or periods of time such invalidity shall not
affect the validity of any provisions as to other persons entitled to benefits hereunder or
the applicability as to other periods of time.

Sec. 1428. Authority of Council to Establish Certain Benefits by Ordinance.

(a)   Purpose of this Section. It is the purpose of this section to enable the Council
to provide by ordinance a program or programs whereby persons receiving pensions
pursuant to the provisions of this Tier 2 may become eligible to have subsidy payments
made on their behalf for health insurance, accident insurance, life insurance or health care
plan coverage or coverage for any combination of such programs as determined by the
Council and subject to such conditions of entitlement as may be set forth in any
ordinance adopted in accordance with the provisions of this section.

(b)   Mode of Adoption of Ordinance. Ordinances adopted pursuant to this section
must be approved by not less than two-thirds of the membership of the Council, subject
to the veto of the Mayor and readoption by the Council by three-fourths of the
membership of the Council. No such ordinance may be finally adopted by the Council
until the expiration of at least thirty days after its first presentation to the Council, nor
until after a public hearing has been held thereon. Any ordinance adopted pursuant to
this section shall go into effect upon its publication, but the terms of such ordinance, or
portions thereof, may be operative at a later date or dates.

(c)   Council Authority to Establish Subsidy Limitations. The Council may
establish by ordinance the maximum subsidy payments for beneficiaries under any
programs established by the Council pursuant to subsection (a), including appropriate
limitations for employees receiving subsidies from other City plans.

(d)   Administration of Subsidy Program. Any subsidy program adopted by
ordinance pursuant to this section shall be administered by the Board. In furtherance
thereof, the Board shall have the authority to contract for suitable programs as
hereinabove defined in subsection (a) hereof, to be made available to retired members or
other beneficiaries, and shall have the power to adopt such rules as it deems necessary to
administer such programs. Notwithstanding the foregoing provisions, the Board may
authorize the Personnel Department to administer any program or part thereof established
by ordinance pursuant to the provisions of this section, provided however, that the Board
shall reimburse the General Fund of the City for all necessary expenses incurred by the Personnel Department as a result thereof.

(e) **Board Authority to Adjust Subsidy Amount.** The Council may by ordinance authorize the Board to increase or decrease subsidy payments pursuant to factors, standards, and limitations prescribed in the ordinance.

**SECTION HISTORY**

Amended by: Charter Amendment 2, approved March 8, 2005, effective April 6, 2005.

**Sec. 1430. Compliance with Certain Internal Revenue Code Provisions.**

(a) **Election.** With the enactment of this section an election has been made as authorized under the provisions of Section 415(b)(10)(C) of the Internal Revenue Code to be bound by the limitations of Section 415 of the Code subject to the provisions of Section 415(b) and (B), thereof.

(b) **Automatic Repeal.** If any of the provisions of Section 415 of the Internal Revenue Code should be repealed, the provisions of this section shall be deemed repealed to the same extent.

**Sec. 1432. Miscellaneous Provisions.**

The provisions of this section shall be controlling if there were to be any other provision contained elsewhere in this Tier 2 which is or could be construed to be contrary thereto, in conflict therewith or different therefrom.

(a) **Members Eligible to Service or Disability Pension.** Any System Member who shall believe that he is eligible to be retired pursuant to Section 1408 concerning Service Pensions and that he also is eligible to be retired pursuant to Section 1412 concerning Disability Pensions, shall have the right to file his written application to be retired pursuant to either one of the sections and the Board, if it were to determine that the contingencies provided in this Tier 2 for retirement pursuant to the particular section involved had happened or occurred as to such member, shall retire him in accordance with his written application.

(b) **Board Consideration of Conflicting Requests to Retire.** In the event that any System Member were to file his written application to be retired and a written request for him to be retired also were to be filed by or on behalf of the head of the department in which he is a Department Member, the Board shall not consider or make any determination with respect to such written request unless and until it first shall have considered such member’s written application and shall have determined that he is not entitled to be retired in accordance therewith.

(c) **Service or Disability Pensions for Former Members.** Any former System Member who shall believe that he is eligible to be paid a pension pursuant to Section
or pursuant to Section 1412, may file his written application for the payment to him of a pension pursuant to either one of said sections within the time prescribed for the filing thereof by any applicable provision of law and the Board, if it were to determine that the contingencies provided in this Tier 2 for the payment thereof had happened or occurred as to such former member prior to the date upon which he had ceased to be a System Member and if there is no legal bar or defense to the granting to him of such pension or to any judicial action or proceeding which could be brought by him with respect thereto, shall grant him the pension in accordance with his written application.

**Sec. 1434. Overtime Work.**

(a) **Time off With Pay.** Whenever a Tier 2 System Member, for overtime work, shall take a period of time off with pay:

1. a deduction for pension purposes shall be made from such pay but only in the same amount as that which would have been deducted from his Monthly Salary and additional monthly pay if such period had been one of regular work;

2. such pay shall be part of his Monthly Salary and additional monthly pay but only in the same amount as that which would have been his Monthly Salary and additional monthly pay if such period had been one of regular work; and

3. such period shall be part of his Years of Service.

(b) **Cash Payment.** Whenever a Tier 2 System Member, for overtime work, shall receive a cash payment:

1. a deduction for pension purposes shall not be made from such payment;

2. such payment shall not be part of his Monthly Salary and additional monthly pay; and

3. the period of overtime work for which he shall receive such payment shall not be part of his Years of Service except that any period of a Tier 2 System Member’s overtime work, for which he shall not have taken time off with pay, shall be credited, by the Board, as part of his Years of Service, upon his or his survivor’s written request therefor, to the same extent as he would have been entitled to take time off with pay but only to the extent, and not in excess thereof, that he, while a Department Member, shall have had any period of absence from work without pay, but such request shall be accompanied with payment of the amount which would have been deducted for pension purposes from his Monthly Salary and additional monthly pay if the period of overtime work, to the extent credited, had been one of regular work.

**FIRE AND POLICE PENSION PLANS - TIER 3**
Sec. 1500. Tier 3 Members.

(a) **Appointed Members.** Each person who shall be appointed as a Department Member on or after December 8, 1980 through June 30, 1997 shall become a Plan Member upon graduation by such person from training at the Police or Fire Academies or equivalent facility imparting basic training as a firefighter or police officer and maintained as such by the City of Los Angeles. A Chief of Police or a Fire Chief who is appointed to that position without having graduated from such facility may become a Member upon appointment. Upon becoming a Plan Member, a person may elect to purchase Years of Service credit for the period of such training in accordance with rules adopted by the Board.

(b) **Former Tier 1 & 2 Members.** A person formerly a system member under the provisions of Tier 1 or 2 of this Article whose membership had previously terminated by reason of resignation or discharge shall upon again being appointed as a Department Member become a Plan Member as of the effective date of such appointment. In the event such person did not receive a refund of contributions upon his or her termination as a System Member, then the definition of “Years of Service” elsewhere contained in this Tier 3 shall be controlling with respect to such person’s entitlement to service credit; and further, such person need not make back contributions on account of such former service and does not have any right to have contributions formerly made by him or her under the provisions of Tier 1 or 2 refunded in the event he or she should subsequently terminate as a Plan Member. In the event such person received a refund of his or her contributions under the provisions of Tier 1 or 2 as a result of his or her termination, then such person’s entitlement to Years of Service credit for the period of such former service shall be conditioned upon such person electing to repay and having paid to the Fire and Police Pension Plan – Tier 3 the amount of previously refunded contributions, with interest thereon and an amount calculated as interest which would have been earned between the date of such termination and the date of entry into service as a Plan Member in accordance with rules adopted by the Board. In the event such member does not elect to so repay, the term Years of Service as elsewhere used in this Tier 3 shall not include any periods prior to his or her becoming a Plan Member, notwithstanding the definitions contained in Section 1502(m) and (n).

(c) **Certain Former Tier 4 Members.** Each person who irrevocably elects in accordance with this subsection to become eligible for the service, vesting and contribution provisions of this Tier 3 shall become a Tier 3 Plan Member.

(1) **Election of Tier 4 Members to Become Tier 3 Members.** Any Department Member hired under Section 1600(a) during the period July 1, 1997 through December 31, 1997 who became a Tier 4 Plan Member in accordance with Section 1600 shall have the option to make an irrevocable election, in writing, to become eligible for the service, vesting and contribution provisions of Tier 3 and thereby become a Tier 3 Plan Member.
(2) **Election Period.** The election period shall commence no later than sixty (60) days following the operative date of this subsection and shall remain in effect for six months from such date.

(3) **Tier 4 Members on Disability.** Any Tier 4 Plan Member hired during the period of July 1, 1997 through December 31, 1997 and who as a member of Tier 4 is receiving a disability pension pursuant to Section 1606 and who, thereafter, is restored to active duty as a Department Member after the end of the election period provided in subsection (c)(2), shall not be eligible to elect to become a Tier 3 Plan Member.

(4) **Members on Military Leave.** Persons who are not active members during the election period provided in subsection (c)(2) due to service in the armed forces shall have 90 days following their return to active duty or the expiration date of the election period, whichever is later, to make an election to become a Tier 3 Plan Member.

(5) **Release of Liability.** The Board shall have the authority to establish rules requiring a full and complete release from liability from members and their spouses or domestic partners upon the Plan Member’s election to transfer from Tier 4 to Tier 3.

(d) **Paramedics and Civilian Ambulance Employees.** In addition to those Department Members described in subsection (a) of this section, paramedics or civilian ambulance employees shall become Plan Members upon the effective date of this subsection, except that persons employed as paramedic trainees shall become Plan Members only upon their certification, as provided by law, as mobile intensive care paramedics or equivalent. Upon certification, Plan Members may elect to purchase Years of Service credit for the period of such training in accordance with rules to be adopted by the Board.

If such a Plan Member had periods of membership in the Los Angeles City Employees Retirement System while he or she was a paramedic or civilian ambulance employee, such Plan Member shall be entitled to elect to acquire Years of Service credit for such periods of membership in the Los Angeles City Employees Retirement System. Upon such election his or her contributions, plus interest credited thereon, and his or her City service credit shall be transferred to the Fire and Police Pension Plan – Tier 3 in accordance with rules to be adopted by the Board.

(e) **Purchase of Credit by Surviving Spouse.** A surviving spouse of a Plan Member may complete the purchase of Years of Service credit elected by the Plan Member.

(f) **Prohibition of Double Benefits.** No Plan Member may receive double benefits by receiving credit for Years of Service for the same periods of City service from the Los Angeles City Employees Retirement System and under the provisions of this Tier 3.
Further, no Plan Member may transfer credit received from the Los Angeles City Employees Retirement System while employed in a capacity other than paramedic or civilian ambulance employee.

(g) **Transfer of Released Liability.** Upon the election by a Plan Member to acquire Years of Service credit, the released liability of the Los Angeles City Employees Retirement System shall be transferred to the Fire and Police Pension Plan – Tier 3. For the purposes of this subsection, the phrase Released Liability means the City’s share of the actuarially determined present value of benefits under the Los Angeles City Employees Retirement System as of the date of transfer.

**Sec. 1502. Definitions.**

In addition to the words and phrases defined in the Fire and Police Pension Plans General Provisions in this Part 3, and for the purposes of this Tier 3, the following words or phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated in the context.

(a) **Member of the Fire Department.** Member of the Fire Department means the Fire Chief and a person duly and regularly appointed in the Fire Department, under civil service rules and regulations or provisions of the Charter, or both, governing the making of original regular and permanent appointments which require the serving of probationary periods but not of original emergency or temporary appointments, to perform duties as a firefighter or as a paramedic or civilian ambulance employee for the City, under whatever designation such person may be described in any salary or departmental ordinance providing salaries for the members of the department, but such person shall be a member of the department only until his or her status as such shall be terminated by reason of retirement, resignation or discharge or for any other reason.

(b) **Member of the Police Department.** Member of the Police Department means the Chief of Police and a person duly and regularly appointed in the Police Department, under civil service rules and regulations or provisions of the Charter, or both, governing the making of original regular and permanent appointments which require the serving of probationary periods but not of original emergency or temporary appointments therein, and sworn in, as provided by law, to perform duties as a police officer for the City, under whatever designation such person may be described in any salary or departmental ordinance providing salaries for the members of the department, but such person shall be a member of the department only until his or her status as such shall be terminated by reason of his or her retirement, resignation or discharge or for any other reason.

(c) **Plan Member.** Plan Member means a person who is a Department Member and whose pension rights and benefits are governed by this Tier 3. Status as a Plan Member is limited by the provisions of Section 1500.
(d) **Qualified Surviving Spouse.** Qualified Surviving Spouse means a person who is the widow or widower of a deceased Plan Member or Retired Plan Member and who has been married:

1. to the Plan Member for at least one year prior to the date of his or her nonservice-connected death while a Plan Member, or
2. to the Plan Member as of the date of his or her service-connected death while a Plan Member, or
3. to the Retired Plan Member for at least one year prior to the effective date of his or her retirement upon a service pension or upon a nonservice-connected disability pension pursuant, respectively, to Section 1504 or Section 1506(b), or
4. to the Retired Plan Member as of the effective date of his or her retirement upon a service-connected disability pension pursuant to Section 1506(a).

(e) **Minor Child.** Minor Child means a person who is a child or an adopted child of a deceased Plan Member or a Retired Plan Member, but such person shall be a Minor Child only until such person shall attain the age of 18 years or shall marry, whichever shall be earlier.

A person may further qualify for the benefits provided for a Minor Child under the provisions of this article until he or she reaches the age of 22 years if such person is enrolled in school on a full-time basis as determined by the Board but such person’s marriage terminates entitlement to the benefits of a Minor Child.

(f) **Dependent Child.** Dependent Child means a person who is a child of a deceased Plan Member or a deceased Retired Plan Member, who is not married and who, while under the age of 21 years, had become disabled, either prior or after the date of death of such Plan Member or Retired Plan Member, from earning a livelihood for any cause or reason whatsoever, but such person shall be a Dependent Child only until he or she shall cease to be disabled from earning a livelihood. Should disability cease before the age of 22 years, the limitations set forth in subsection (e) shall be applicable.

(g) **Dependent Parent.** Dependent Parent means a person who is a parent of a deceased Plan Member or a deceased Retired Plan Member, to or for whom such deceased Plan Member or deceased Retired Plan Member, during at least one year immediately preceding his or her death, contributed one-half or more of such Dependent Parent’s necessary living expenses and who is unable to pay such expenses without the receipt of a pension, but such person shall be a Dependent Parent only until he or she shall be able to pay his or her necessary living expenses.
(h) **Length of Service Pay.** Length of Service Pay means any additional gross monthly pay which, by reason of length of service, shall be provided by ordinance.

(i) **Special Pay.** Special Pay means any additional gross monthly pay which, by reason of assignment to perform special duties other than hazardous duties, shall be provided by ordinance.

(j) **Hazard Pay.** Hazard Pay means any additional gross monthly pay which, by reason of assignment to perform helicopter duties, two-wheel motorcycle duties or any other hazardous duties shall be provided by ordinance.

(k) **Assignment Pay.** Assignment Pay means any additional gross monthly pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest thereof within the Plan Member’s permanent rank, shall be provided therefor by ordinance.

(l) **Year.** Year means a period of 12 months or, in aggregating partial years for purposes of determining Years of Service, means 365 days.

(m) **Years of Service.** Years of Service means and includes only those periods during or for which the Plan Member was a Department Member of the Fire Department or of the Police Department, or of both and whether prior to or after his or her becoming a Plan Member and subject to the limitations contained in Section 1500 of this Tier 3:

1. did or shall receive salary, whether in full or reduced amounts thereof;
2. did or shall receive either a service-connected disability pension or a nonservice-connected disability pension under any Tier of the Fire and Police Pension Plans if he or she was or shall be restored to active duty as a Department Member and did or shall perform his or her duties as such for at least one year prior to again retiring or being retired pursuant to this Tier 3, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him or her prior to such restoration. The restored Plan Member, upon completing one Year of Service following restoration, shall be eligible for such credit only to the extent that the length of service following restoration matches the period the disability pension was received; but upon completing three years of restored service, the restored Plan Member is eligible for credit for the entire period the disability pension was received; and provided further that a period during which a Plan Member was on a nonservice-connected disability pension may only be counted toward his or her Years of Service if the Plan Member makes contributions therefor at the rate provided in Section 1514 of this Tier 3 in accordance with the rules to be adopted by the Board;
(3) is or shall become entitled, under any provision of general law or ordinance of the City, to credit toward retirement for periods of military service or military leave;

(4) did or shall receive Workers’ Compensation benefits for temporary disability as provided by general law on account of any injury or illness arising out of and in the course of employment, but such period shall be made a part of the Plan Member’s Years of Service only if the Plan Member has made contributions to the Fire and Police Pension Plan in the manner prescribed by Board rule;

(5) is or shall become entitled pursuant to any ordinance of the City providing compensation for injury on duty; and

(6) had served as a member of the Fire and Police Pension System - Tiers 1 or 2 of this Article, without having become eligible to service retirement benefits but such prior service as a member under provisions of Tiers 1 or 2 does not entitle the Plan Member to a refund of contributions made on account of such previous service.

A Plan Member who has previously been a Plan Member and who has ceased to be such by virtue of his or her resignation or discharge and who subsequently again becomes a Plan Member, shall be entitled to service credit only if he or she has first redeposited with interest, any Plan Member contributions previously withdrawn by him or her, in the manner provided by the Board.

(n) Partial Year of Service. Partial Year of Service means any period mentioned in subsection (m) of this section which is less than 12 months.

Any such Partial Year of Service shall be calculated from the end of the Plan Member’s last completed Year of Service to the end of the payroll period immediately prior to the date of his or her retirement and shall be counted as part of a Plan Member’s Years of Service for his or her retirement upon a service pension hereafter granted or for a pension hereafter granted to his or her Qualified Surviving Spouse, Minor Child or children, Dependent Child or children or Dependent Parent or parents if he or she hereafter shall die while upon a service pension hereafter granted or while eligible for a service pension.

(o) Final Average Salary. Final Average Salary means an amount equivalent to a monthly average of salary actually received during any 12 consecutive months of service as a Plan Member as designated by the Plan Member. In the absence of such designation, the last 12 consecutive months preceding the date upon which retirement would become effective shall be used as the basis for the calculation of Final Average Salary.

For Plan Members employed as paramedics or civilian ambulance employees who have formerly been members of the Los Angeles City Employees’ Retirement System,
and who, pursuant to the provisions of Section 1500 of this Tier 3 have become Plan Members, the determination of Final Average Salary shall include periods of City service for which such Plan Members have elected to acquire Years of Service credit by transfer of their contributions from the Los Angeles City Employees Retirement System to the Fire and Police Pension Plan – Tier 3. If a Plan Member should die before having made such election, his or her surviving spouse may make the election in place of the Plan Member.

For the purposes of determining Final Average Salary periods during which the Plan Member receives less than full salary on account of injury or illness, pursuant to any applicable ordinance of the City, shall be included in the calculation of Final Average Salary based upon the salary, including any Length of Service Pay, Special Pay, Assignment Pay or Hazard Pay, the Plan Member would have received but for the injury or illness.

Included in the calculation of Final Average Salary shall be Length of Service Pay, Special Pay, Assignment Pay and Hazard Pay actually received during the 12 consecutive months used to determine Final Average Salary. To the extent that Hazard Pay was not received during all or any part of the 12 consecutive months used to determine Final Average Salary, then it shall be included in the calculation of Final Average Salary only if the Plan Member retires at the same rank as that occupied by him or her at a time when Hazard Pay was received during a period or periods other than the 12 months used to determine Final Average Salary, and for each such completed 12 month period during which the Plan Member served at that rank and received Hazard Pay, he or she shall be entitled to have included in the Final Average Salary 10% of the Hazard Pay which would have been payable had the hazardous duty been performed during the period for which the Final Average Salary is calculated except the total amount includable in the Final Average Salary for Hazard Pay may not exceed 100% of the amount the Plan Member would have received had he or she been entitled to Hazard Pay during the entire 12 month period utilized in the calculation of Final Average Salary.

Overtime compensation or payments of money to the member not designated as salary by an ordinance of the City shall not be considered for purposes of calculating Final Average Salary.

Notwithstanding any of the foregoing, if a Retired Plan Member were to be restored to active duty as a Department Member and thereby again were to become a Plan Member and if he or she again were to retire or to be retired without having performed his or her duties for at least one year subsequent to such restoration, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him or her prior to such restoration, the Final Average Salary which shall be applicable to his or her later retirement shall be the Final Average Salary which had been applicable to his or her previous retirement.
Should a Plan Member not have completed 12 consecutive months of service as a Plan Member, then and in that event only shall the Final Average Salary be calculated as a monthly average of all consecutive calendar months completed, and, if the Plan Member has completed less than one month of total service as a Plan Member, the salary actually received shall be used to calculate its monthly equivalent.

The following provision shall be effective for Plan Members who retire on or after July 1, 2000 from the Fire Department while holding a rank no higher than Captain or from the Police Department holding a rank no higher than Lieutenant. If Hazard Pay was not received during all or any part of the 12 consecutive months used to determine Final Average Salary, then an amount equivalent to 10% of the Hazard Pay received at the time of the termination of the last assignment to hazardous duties for each year in the aggregate of the assignment to hazardous duties shall be added to the Final Average Salary, not to exceed 10 years in the aggregate. The total amount of Hazard Pay included in Final Average Salary may not exceed 100% of the amount the Plan Member would have received had the Plan Member been entitled to Hazard Pay during the entire 12 month period utilized in the calculation of Final Average Salary.

**Sec. 1504. Service Retirement and Vesting.**

(a) **Normal Retirement.** Starting at the age of 50 years, a Plan Member who shall have 10 or more Years of Service, shall be retired by order of the Board from further active duty as a Department Member either upon the filing of his or her written application or upon the filing of a written request by or on behalf of the head of the department in which he or she is a Department Member, if it shall be determined by the Board to be for the good of such department, other than for a cause or reason which would entitle such Plan Member to a disability pension pursuant to Section 1506, and the Board, if it shall so determine, shall state the cause or reason in its order retiring such Plan Member.

(b) **Service Pension Benefits for Terminated Employees.** A former Plan Member who became such because of termination of his or her employment for any reason other than death or retirement on account of disability pursuant to the provisions of Section 1506, and who has completed at least 10 Years of Service, may elect to leave his or her contributions in the Fire and Police Service Pension Fund. Upon reaching the age of 50 years, such former Plan Member shall be entitled to receive service retirement benefits in accordance with the formula hereinafter set forth. The election to leave member contributions in the fund shall be irrevocable and must be in writing, filed with the Board within three years from the date of such termination of employment. Upon the execution and filing of the same, the former Plan Member’s individual account shall be credited with an amount equal to all of the regular interest which, had he or she otherwise been entitled to the same, would have been credited thereto between the date of such termination of employment and the date of the filing of such election and thereafter, regular interest shall, until he or she be paid a pension, be credited thereto in the same manner as Plan Members’ individual accounts shall be credited. In the event that any such person should die before being paid a pension, the only benefit which shall be paid
under the provisions of this Tier 3 is the payment of his or her accumulated contributions, including interest credited thereto, to such persons as may be entitled thereto. Failure to file such an election within three years shall constitute an irrevocable decision not to take the service retirement benefits herein provided.

(c) **Physical Examination for Employees Age 70 and Over.** After a Plan Member has attained the age of 70 years, he or she shall annually submit to an examination by a regularly licensed, practicing physician selected by the head of his or her department who shall render a written report to such department and to the Board as to whether or not the Plan Member is physically and mentally fit to continue his or her duties as a Department Member. If the Plan Member is found by the Board not to be physically or mentally fit to so continue his or her duties, he or she shall be retired effective the first day of the calendar month next succeeding that month in which the physician’s report is received by the Board.

(d) **Pension Amount.** A pension payable pursuant to the provisions of this section shall be paid monthly for life in an amount which shall be equal to 2% of Final Average Salary per Year of Service for up to 20 Years of Service; and for each additional year of service after 20 years, 3% of Final Average Salary per year; but the maximum percentage of Final Average Salary payable, regardless of length of service, shall be 70% of such Final Average Salary.

**Sec. 1506. Disability Pensions.**

(a) **Service-Connected Disability.** Upon the filing of his or her written application for a disability pension or upon the filing of a written request therefor by or on behalf of the head of the department in which he or she is a Department Member, any Plan Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his or her assigned duties, or those to which he or she would be assigned within the Plan Member’s civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Department Member.

A Plan Member’s incapacity is caused by the discharge of his or her duties if there is clear and convincing evidence that the discharge of the Plan Member’s duties is the predominant cause of the incapacity.

A Plan Member retired under the provisions of this subsection shall be paid thereafter a monthly service-connected disability pension in an amount which shall be equal to the same percentage of the Plan Member’s Final Average Salary as the Board shall determine, from time to time, to be the percentage of his or her disability. Such pension shall be in an amount of not less than 30% and not more than 90% of the Retired Plan Member’s Final Average Salary, but in no case shall the pension be less than the equivalent of 2% of Final Average Salary for each Year of Service of the Retired Plan Member.
No Retired Plan Member, while retired pursuant to this subsection, ever shall be paid any pension pursuant to Section 1504 or subsection (b) of this section.

(b) **Nonservice-Connected Disability.** Upon the filing of his or her written application for disability pension by a Plan Member who shall have five Years of Service or more, or upon the filing of a written request with respect to such a Plan Member by or on behalf of the head of the department in which he or she is a Department Member, any Plan Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his or her assigned duties or those to which he or she would be assigned within the Plan Member’s civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Department Member.

As a further condition of entitlement to such a pension, the Board shall also determine that such disability was not principally due to or caused by voluntary action of the Plan Member intended to entitle him or her to a nonservice-connected disability pension.

A Retired Plan Member, retired under the provisions of this subsection shall be paid thereafter a monthly nonservice-connected disability pension in an amount which shall be equal to the same percentage of the Retired Member’s Final Average Salary as the Board shall determine, from time to time, to be the percentage of his or her disability; but such pension shall be in an amount of not less than 30% and not more than 50% of the Retired Plan Member’s Final Average Salary.

No Retired Plan Member, while retired pursuant to this subsection, ever shall be paid any pension pursuant either to Section 1504 or to subsection (a) of this section.

(c) **Determination of Disability.** Upon the filing of any written application or request for a disability pension, as referred to in subsections (a) and (b) of this section, the Board: (1) shall cause the Plan Member to be examined by and a written report thereon rendered by at least three regular licensed and practicing physicians selected by it; (2) shall hold a hearing with respect to such application or request; (3) shall receive or hear such other evidence relating to or concerning the Plan Member’s disability or claimed disability as may be presented to it. The Board shall have the power to hear and determine all matters pertaining to the granting and denying of any such application or request for a disability pension. The Board first shall determine whether or not the Plan Member is incapable of performing his or her assigned duties or those to which he or she would be assigned within the Plan Member’s civil service classification if returned to duty. If the Board were to determine that he or she is not so incapable, it then shall be the duty of the Board to deny the application or request. If the Board were to determine that he or she is so incapable, it then shall determine, pursuant to the language used in subsections (a) and (b) of this section, whether his or her incapacity or disability is service-connected or nonservice-connected. The Board then shall determine the percentage of his or her incapacity or disability, within the limitations prescribed in
subsection (a) and (b) of this section, and shall grant the application or request accordingly. If the Board were to determine that the disability is nonservice-connected, and that the incapacity or disability was principally due to or caused by voluntary action by the Plan Member intended to entitle him or her to a nonservice-connected disability pension, it then shall be the duty of the Board to deny the application or request. The Board upon its own motion or upon the written request of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section, shall have the power to consider new evidence pertaining to the case of any such Retired Plan Member and to increase or decrease the percentage of his or her incapacity or disability within the limitations prescribed in subsections (a) or (b) of this section; but any such increase or decrease shall be based only upon injuries or sickness for which he or she was retired. In the case of any former Plan Member who became such by reason of his or her resignation or discharge as a Department Member, the Board, in order to grant any application filed by him or her for a disability pension, must also determine, in addition to all of the foregoing, that any existing incapacity or disability upon his or her part occurred prior to the termination of his or her active status as a Department Member and had been continuous up to the date of the Board’s determinations.

The Board shall adopt by rule, within a reasonable time, a disability rating schedule to assist in standardizing disability pension awards.

(d) **Termination of Disability Pensions.** The pension of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section and whose active status as a Department Member had been terminated by reason of his or her retirement, shall cease when the incapacity or disability for which he or she had been retired shall cease and he or she either:

1. shall have been restored to active duty as a Department Member in the same permanent rank which he or she had held as of the date of retirement; or

2. shall have been ordered restored to active duty as a Department Member in such same permanent rank and shall have declined, refused or neglected to report therefor or to perform duties as such.

Any former Plan Member who has been retired for more than five years from the date of the Board’s action by which he or she was retired may never be restored to active duty as a Department Member. The pension of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section and whose active status as a Department Member had been terminated by reason of his or her resignation or discharge as such, shall cease when the incapacity or disability for which he or she received a disability pension shall cease. The Board shall have the power to hear and determine upon its own motion all matters pertaining to the termination of any such pension.

After a Retired Plan Member, whose active status as a Department Member has been terminated by reason of his or her retirement, has been retired on a service-connected disability pension or on a nonservice-connected disability pension for five years, and has
been found to be no longer disabled, the Board shall adjust such Retired Plan Member’s
pension to 30% of his or her Final Average Salary. The adjusted pension shall reflect
such cost of living adjustments as would have occurred had the Retired Plan Member’s
pension originally been based on such adjusted percentage.

(e) **Periodic Medical Examinations.** Except in those instances in which the Board
has determined that, due to the nature of the disability, no purpose would be served in
having periodic medical examinations to determine whether or not a Retired Plan
Member is still disabled, all Retired Plan Members on a disability pension shall undergo
medical examinations at periodic intervals, as determined by the Board, for the first five
years of their disability retirement. Retired Plan Members who receive service-connected
disability pensions exceeding 30% of Final Average Salary and Plan Members who
terminated City employment by reason of resignation or discharge prior to being granted
a disability retirement, shall thereafter undergo medical examinations as determined by
the Board.

If a Retired Plan Member resides outside of the State of California, the Board shall
have the authority to order medical examinations of Retired Plan Members at any place it
may determine to be desirable and shall, if it is determined that it would impose hardship
on the person to be examined to travel to such place, have the authority to defray the
reasonable cost of any such travel required.

(f) **Assessing Cost for Missed Medical Appointments.** The Board shall have the
authority to provide, by rule, for assessing the cost of medical appointments missed by
disability pension applicants, or by Retired Plan Members on a disability pension, where
such missed appointments were not caused by factors beyond the control of the Plan
Member or Retired Plan Member.

(g) **Re-application After Denial of Disability Pension.** The Board shall establish
reasonable rules governing the re-application by Plan Members for a disability pension
where an application has been denied and a new application has been filed subsequently
for the same or similar medical reasons as those which were the basis of a previously
denied application.

(h) **Transfers Under Civil Service.** For a period of one year following the
effective date of a Retired Plan Member’s disability pension, such Retired Plan Member
shall be eligible for status without examination under the provisions of Section 1014
of the Charter in civil service classifications other than those that would entitle him or her to
membership in any of the Fire and Police Pension Plans established by this Article but
the provisions of this subsection shall not apply to former Plan Members whose status as
Department Members had terminated by reason of resignation or discharge.

(i) **Exclusion for Willful Conduct.** In making its determinations and findings
relative to subsections (a), (b), and (c) of this section, the Board shall consider whether
and to what extent the activity giving rise to the disability of a member of the Police
Department was caused or aggravated by such member’s willful misconduct. If the
Board finds that the disability was caused or aggravated by such willful misconduct, the Board shall deny the Plan Member’s application for a disability pension. The provisions of this subsection shall be applicable only to those Plan members who became members of the Police Department on or after July 6, 1992.

Sec. 1508. Survivorship Pensions.

(a) Pension for Qualified Surviving Spouse.

(1) Plan Member’s Service-Connected Death. The Qualified Surviving Spouse of a Plan Member who shall die by reason of injuries received or sickness caused by the discharge of his or her duties while a Department Member, shall be paid for life a monthly pension in an amount which shall be equal to 75% of the deceased Plan Member’s Final Average Salary.

For the purposes of the benefit provided in this subsection (a)(1), a Plan Member has died by reason of injuries received or sickness caused by the discharge of his or her duties if there is clear and convincing evidence that the discharge of the Plan Member’s duties were the predominant cause of his or her death.

(2) Plan Member’s Nonservice-Connected Death. The Qualified Surviving Spouse of a Plan Member who shall have five or more Years of Service and who shall die while a Department Member, by reason of injuries or sickness other than injuries received or sickness caused by the discharge of his or her duties, shall be paid for life a monthly pension in an amount which shall be equal to 30% of the deceased Plan Member’s Final Average Salary, or, if the Plan Member, at the time of death, was then eligible to receive a pension on account of Years of Service, 80% of the amount of such service pension as the Plan Member at the time of his or her death would have been entitled to receive on account of Years of Service whichever is higher but the entitlement of a Qualified Surviving Spouse under the provisions of this subsection (a)(2) may not exceed 40% of the deceased Plan Member’s Final Average Salary.

(3) Retired Plan Member’s Death While on a Service Pension. The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a pension pursuant to Section 1504, shall be paid for life a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death. The benefit described in this subsection (a)(3) may be modified as provided in subsection (b) of this section.

(4) Retired Plan Member’s Death While on a Service-Connected Disability Pension. The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a service-connected disability pension pursuant to Section 1506, shall be paid for life a monthly pension in an amount which shall be
equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death, unless the death of the Retired Plan Member occurs within three years after the effective date of his or her pension and is due to service-connected causes, in which case, the qualified Surviving Spouse shall receive, or in a case where an option has been elected pursuant to subsection (b) of this section, may elect to receive, 75% of the Retired Member’s Final Average Salary, as modified by the cost of living adjustments made pursuant to Section 1516 of this Tier 3 since the date of retirement of the Retired Plan Member. The benefit described in this subsection (a)(4) may be modified as provided in subsection (b) of this section.

(5)  **Retired Plan Member’s Death While on a Nonservice-Connected Disability Pension.** The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a nonservice-connected disability pension pursuant to Section 1506, shall be paid for life a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death. The benefit described in this subsection (a)(5) may be modified as provided in subsection (b) of this section.

(6)  **Nonservice-Connected Death of Plan Member with Less than Five Years of Service.** In the event the Plan Member died of nonservice-connected causes before having completed five Years of Service, the Qualified Surviving Spouse of the deceased Plan Member, or his or her Minor or Dependent Children if there is no Qualified Spouse, or his or her Dependent Parents if there is No Qualified Surviving Spouse and no Minor or Dependent Children, shall be entitled to the Basic Death Benefit described in subsection (a)(7) below.

(7)  **Basic Death Benefit and Election.** The Basic Death Benefit shall consist of: (1) the return of a deceased Plan Member’s contributions to the Plan with accrued interest thereon; subject, however to the rights created by virtue of the Plan Member’s designation of a beneficiary as otherwise provided in this Tier 3; and (2) if the deceased Plan Member had at least one Year of Service, the deceased Plan Member’s Final Average Salary multiplied by the number of completed Years of Service, not to exceed six years; provided that said amount shall be paid in monthly installments of one-half of the deceased Plan Member’s Final Average Salary.

A Qualified Surviving Spouse, or a guardian acting on behalf of the Minor or Dependent Children of a deceased Plan Member if there is no Qualified Surviving Spouse, or Dependent Parents if there is no Qualified Surviving Spouse and no Minor or Dependent Children entitled to a pension pursuant to any of the provisions of this section, where benefits are based upon the Plan Member’s death in active service, may in lieu of the pension provided and before the first payment of such pension, elect to receive the Basic Death Benefit.
(b) **Optional Pensions for Qualified Surviving Spouse.** At any time before the first payment of a service pension, a service-connected disability pension, or a nonservice-connected disability pension, the Plan Member may elect to receive, in lieu of his or her pension as provided in Section 1504 or Section 1506, the actuarial equivalent at that time of such pension and of the pension for the Qualified Surviving Spouse as provided in subsection (a) of this section, by electing an optional pension payable throughout the balance of his or her life, with the provision that upon his or her death such optional pension shall be continued to the Plan Member’s Qualified Surviving Spouse in the proportional amount designated by the Plan Member at the time of election of the option provided by this section.

The amount of such optional pension shall be so calculated that the liability of the Fire and Police Pension Plan – Tier 3 at the date of retirement under the optional pension shall be equal to the liability of the Fire and Police Pension Plan at the same date under the pension awarded in accordance with the provisions of Section 1504 or Section 1506 and of the survivorship pension provided by subsection (a) of this section. For the purpose of this section, the liability of the Fire and Police Pension Plan – Tier 3 is defined as the present value, in accordance with tables adopted by the Board, of the pensions or optional pensions calculated by approved actuarial methods, and recommended by the Board’s actuary. In determining the actuarial equivalent of the pension for a Qualified Surviving Spouse as provided pursuant to subsections (a)(3), (4), and (5) of this section, the equivalent of a 60% survivorship pension shall be used in all cases.

The optional amounts, calculated in accordance with the foregoing paragraph, shall provide a range of optional values such that the amount to be paid to the Qualified Surviving Spouse of the Plan Member shall range from 60% to 100% of the pension payable to the Plan Member, varying by increments of 5%.

If a Retired Plan Member, previously retired on a disability pension pursuant to the provisions of Section 1506, should be reinstated to active duty upon termination of his or her disability, the election to receive the optional pension as herein provided, shall be deemed cancelled as of the effective date of such reinstatement.

A Retired Plan Member, previously retired on a disability pension pursuant to the provisions of Section 1506 and whose pension has subsequently been adjusted as provided for in Section 1506, shall have the right to cancel any option previously elected by him or her pursuant to the provisions of this subsection.

The Board shall by rule provide for a method in which the election to receive an optional pension shall be exercised.

(c) **Additional Pension Amounts.** Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her, in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to the Qualified Surviving Spouse, then such Qualified Surviving Spouse, shall be paid an additional monthly pension in an amount which shall be equal to 25% of the
pension he or she as a Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination thereof, and 50% while there are three or more Minor Children or Dependent Children or a combination, and such additional monthly pension shall be the exclusive property of such Qualified Surviving Spouse and not the property of any such Minor Child or Dependent Child. Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to a former spouse, then the guardian or guardians of the estate or estates of any such Minor Child or Children or Dependent Child or Children shall be paid a monthly pension in an amount which shall be equal to 25% of the pension the Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination.

Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her, in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to the Qualified Surviving Spouse and a Minor Child or Children or a Dependent Child or Children of his or her marriage to a former spouse, then a monthly pension shall be paid in an amount which shall be equal to 25% of the pension the Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination. The amount of such monthly pension shall be divided by the number of Minor Children or Dependent Children and shall be adjusted accordingly whenever any Minor or Dependent Child shall cease to be such.

The Qualified Surviving Spouse shall be paid the portion of such monthly pension which shall be applicable to the number of his or her Minor Children or Dependent Children and the same shall be her or his exclusive property. The guardian or guardians of the estate or estates of the Minor Children or Dependent Children who are not those of the Qualified Surviving Spouse shall be paid the portion of such monthly pension which shall be applicable to such Minor Children or Dependent Children and the same shall be the exclusive property of such children.

The additional pension amounts provided in this subsection for persons other than a Qualified Surviving Spouse are to be calculated on the basis of the applicable Qualified Surviving Spouse pension provided pursuant to subsection (a) of this section, unmodified by any election that may previously have been made pursuant to the provisions of subsection (b) of this section.

Additional pension amounts are also subject to the limitation that the amount of any survivorship pension provided in this section, after the additional payments provided in
this subsection are added thereto, may not exceed 100% of the Final Average Salary of the deceased Plan Member or 100% of the Final Average Salary of the Retired Plan Member, as modified by the cost of living adjustments made pursuant to Section 1516 of this Tier 3 since the date of retirement of the Retired Plan Member. In case of such excess, any additional pension amounts shall be reduced to a level where the total amount of pension is equal to such maximum.

(d) **Reinstatement of Pension of Reinstated Qualified Surviving Spouse.** Subject to Section 1208 of the General Provisions for Fire and Police Pension Plans, any Qualified Surviving Spouse, who shall marry and thereby cease to be a Qualified Surviving Spouse, shall be reinstated as a Qualified Surviving Spouse as of:

1. the date upon which a judgment or decree shall become final dissolving such marriage upon any ground or declaring a void or voidable marriage to have been null and void or voided but such date shall be within five years from the date of the marriage ceremony; or

2. the date upon which such marriage shall be dissolved by the death of the other party thereto but such date shall be within five years from the date of the marriage ceremony. Such reinstated Qualified Surviving Spouse shall be entitled to the reinstatement of his or her pension effective as of either such date, which shall be applicable, but shall not be entitled to the payment of any pension for the period prior to such applicable date and subsequent to the date of the marriage ceremony. The pension paid to any other persons entitled under the provisions of the Fire and Police Pension Plan – Tier 3 during the period of the marriage or purported marriage of such reinstated Qualified Surviving Spouse shall cease when his or her pension shall be reinstated, except as otherwise provided in subsection (c) of this section. However, should such reinstated Qualified Surviving Spouse thereafter be a party to another marriage ceremony, his or her pension shall cease and never again shall be reinstated regardless of whether such marriage ceremony shall result in a valid marriage or in a voidable or void marriage and whether or not the same legally shall be terminated.

(e) **Pension for Minor or Dependent Children.** Whenever any Plan Member or Retired Plan Member shall die without leaving a Qualified Surviving Spouse, the guardian of the estate of his or her Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly pension equal to the pension a Qualified Surviving Spouse would have been eligible to receive pursuant to subsection (a) of this section had a Qualified Surviving Spouse survived such Member. Whenever any Plan Member or Retired Plan Member shall die leaving a Qualified Surviving Spouse who thereafter shall die or who thereafter shall cease to be a reinstated Qualified Surviving Spouse, the guardian of the estate of his or her Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly pension equal to the pension a Qualified Surviving Spouse would have been eligible to receive pursuant to subsection (a) of this section. In any of the foregoing events and if there were to be more than one Minor or Dependent Child, an equal share of
such monthly pension shall be paid for and on behalf of each such child to the guardian of his or her estate and shall be adjusted as each of them shall cease to be a Minor or Dependent Child in the manner set forth in subsection (c) of this section. If payments are made pursuant to this subsection (e), no additional pension amounts shall be paid pursuant to subsection (c) of this section.

(f) **Pension for Dependent Parents.** Whenever any Plan Member or Retired Plan Member shall die without leaving a Qualified Surviving Spouse or a Minor Dependent Child, a monthly pension shall be paid to such Dependent Parents or to the survivor of them until each such Dependent Parent shall cease to be such. Any Dependent Parent who shall cease to be such but who thereafter again shall become unable to pay his or her necessary living expenses without a pension shall be entitled to have his or her pension reinstated.

The total amount of a pension payable to the Dependent Parent or Parents shall be the same as that to which a Qualified Surviving Spouse would have been entitled pursuant to subsection (a) of this section.

(g) **Determinations With Respect to Cause of Death and Dependency.** The Board shall have the same power as that which has been given to it by Section 1506(c) and (d) in order to determine:

1. the fact whether a Plan Member’s death was service-connected or nonservice-connected for the purposes of Section 1508(a)(1) and (2);
2. the fact of whether or not a child of a deceased Plan Member or Retired Plan Member is a Dependent Child; and
3. whether or not any parent of a deceased Plan Member or Retired Plan Member is a Dependent Parent.

The Board also shall have the power to determine, from time to time, the fact of whether or not a child continues to be a Dependent Child, the fact of whether or not a parent continues to be a Dependent Parent and the fact of whether or not a Dependent Parent who had ceased to be such thereafter shall have become entitled to have his or her pension reinstated.

(h) **Medical Reports and Hearings.** The power of the Board to determine the fact of whether a Plan Member’s death was service-connected or nonservice-connected, as provided in subsection (g) of this section, hereafter may be exercised by it upon the basis of a written report from one regularly licensed and practicing physician selected by it but the Board, in its discretion, may obtain such a report from more than one such physician. The determination hereinbefore referred to in this subsection may, at the option of the Board, be made without a hearing being held pursuant to the provisions of subsection (g) of this section.
(i) **Distribution of Contributions.** Whenever a Plan Member dies without leaving a person or persons entitled to receive a pension pursuant to the provisions of this section, then, and in that event, his or her contributions to the Plan, together with such interest as may have been credited to the Plan Member’s individual account shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the Board. In the event there is no written designation of beneficiary, surviving spouse, children or parents, then the contributions shall be paid to the executor or administrator of the estate of such deceased Plan Member, or to any other person legally authorized to collect money due the decedent.

**Sec. 1510. Tier 3 Pension Funds.**

(a) **Creation of Funds.** Two entirely separate and distinct funds hereby are created and established for the payment of pension benefits pursuant to this Tier 3, for the payment of certain other benefits as may be authorized by ordinance pursuant to the enabling provisions of this Tier 3 and for the payment of the administrative expenses of the Fire and Police Pension Plan – Tier 3, one of which shall be known as the “Fire and Police Tier 3 Service Pension Fund” and the other of which shall be known as the “Fire and Police Tier 3 General Pension Fund.”

(b) **Fire and Police Tier 3 Service Pension Fund.** The Fire and Police Tier 3 Service Pension Fund shall consist of:

1. deductions made pursuant to Section 1514, from the salaries of Plan Members;

2. all contributions and donations to the Fire Department or to the Police Department for services by any Plan Members, except amounts of money donated to provide for any medal or permanent competitive award;

3. all fines imposed upon Plan Members for violations of rules and regulations of the respective department in which they are Department Members;

4. proceeds from the sale of unclaimed property as determined by the Board; and

5. all interest, earnings and profits resulting from investments of such monies.

(c) **Fire and Police Tier 3 General Pension Fund.** The Fire and Police Tier 3 General Pension Fund shall consist of:

1. all money appropriated to the fund by the Council;

2. all interest, earnings and profits resulting from investment of such monies.
(d) **Use of Funds.** The monies in the Fire and Police Tier 3 Service Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of service pensions granted pursuant to Section 1504 and for the refund of contributions as provided in this Tier 3. The monies in the Fire and Police Tier 3 General Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of all pensions other than service pensions, such benefits as may be provided by ordinance adopted pursuant to the enabling provisions contained in this Tier 3 and of all administrative expenses of the Fire and Police Tier 3 Pension Plan.

(e) **Authorized Transfer Between Funds.** In the event that the monies in the Fire and Police Tier 3 Service Pension Fund should be insufficient, at any time, to pay all service pensions, then the Board shall have the power and authority to cause the Controller of the City to transfer to the fund sufficient monies therefor from the Fire and Police Tier 3 General Pension Fund. In no other event shall any of the money in either of the funds be commingled with any money in the other fund.

(f) **Benefits Shall be General Obligation of the City.** The obligation to pay benefits pursuant to this Tier 3 shall be a general obligation of the City.

**Sec. 1512. Actuarial Determinations and Tier 3 Unfunded Liabilities.**

(a) **Actuarial Standards.** The Fire and Police Pension Plan – Tier 3 shall be maintained on a reserve basis which, for the purposes of this Tier 3, shall mean one which provides for the accumulation and maintenance of the Fire and Police Tier 3 Service Pension Fund and the Fire and Police Tier 3 General Pension Fund which together will at all times be equal to the difference between the present value of the obligations assumed and the present value of the monies to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of monies with which they are to be paid in accordance with the provisions of Sections 1210(b)(3) and 1514.

(b) **Actuarial Valuations.** The Board shall secure an actuarial valuation showing the cost of maintaining the plan and funds on such reserve basis and, at intervals of not to exceed five years, shall cause to be made an actuarial investigation including, but not limited to, the mortality, service and salary experience of the Plan Members and other beneficiaries and shall further cause to be made annually an actuarial valuation of the assets and liabilities of the funds.

The Board, from time to time and with the advice of the investment counsel, shall establish such an assumed rate of interest for the purpose of actuarial valuations, as in its judgment seems proper in the light of the experience and prospective earnings on the investment of the funds.
(c) **Retention of Actuary.** The Board shall retain a competent consulting actuary for the purpose of making the necessary actuarial studies, reports, investigations and valuations and shall, with the advice of the actuary, adopt such actuarial assumptions as shall be necessary.

(d) **Accounting for Unrealized Profits and Losses.** With the advice of the consulting actuary and of the investment counsel, the Board, for the purpose of the actuarial valuations, may provide by rule for the manner and the extent to which any unrealized profits or losses in the equity type investments of the funds shall be taken into account.

(e) **Unfunded Liabilities.** The unfunded liabilities of the Fire and Police Pension Plan – Tier 3 shall be funded in accordance with the actuarial funding method adopted by the Board upon the advice of its consulting actuary. Any unfunded liabilities resulting from amendment of the provisions of this Tier 3 or by ordinance as authorized by this Tier 3 shall be amortized over a 30 year period. Actuarial experience gains and losses shall be amortized over a 15 year period.

**Sec. 1514. Member Contributions – Tier 3.**

(a) **Contribution Amount.** Each Plan Member shall contribute to the Fire and Police Pension Plan – Tier 3 by salary deduction at the rate of 8% of the amount of his or her salary, except that further contributions to the Plan shall not be required from a Plan Member who has served as a Plan Member more than 30 years.

For purposes of determining the amount of the deduction, Salary shall mean those elements of a Plan Member’s compensation which would be included in calculating Final Average Salary. The administrative head of the Fire Department or the Police Department shall cause to be shown on each and every payroll of such department a deduction of 8% of the amount of salary of each Plan Member whose name appears thereon.

(b) **Member Accounts.** The Board shall maintain an individual account of the contributions by or for each Plan Member, as hereinabove provided. Regular interest shall be credited to such individual accounts as of the last day of June and December of each year at such rate as the Board may deem proper in light of the Fire and Police Pension Plan’s earnings, exclusive of profits and losses on principal heretofore or hereafter resulting from sales of securities. No such interest shall be credited at any other time or to the individual account of any person who is not a Plan Member but such interest shall be credited to the individual account of a Plan Member whose employment is terminated for any reason for any period of service between the next preceding last day of June or December and the end of the pay period preceding the date of such termination at the rate at which regular interest was last credited to Plan Members' individual accounts.
(c) **Payroll Deduction.** Each Plan Member shall be deemed to consent and agree to each deduction made as provided for herein and the payment of each payroll check to such Plan Member shall be a full and complete discharge and acquittance of all claims and demands whatever for the services rendered by each member during the period covered by such payroll, except such claims as such Plan Member has to the benefits or payments provided for in this Tier 3.

(d) **Election of Refund Forfeits Right to Benefits.** Plan Members or beneficiaries thereof who elect to receive a refund of contributions, forfeit the right to benefits provided in this Tier 3. After payment of any pension benefit has commenced, the Plan Member or beneficiaries forfeit the right to a refund of the Plan Member’s contributions. Plan Members who return to active duty from a disability pension may not thereafter have their contributions refunded. A terminated Plan Member who had elected to have contributions returned, but who re-enters service and again becomes a Plan Member, shall have the privilege of regaining the prior service credit by repaying the amount of his or her previously refunded contributions and interest and an amount calculated as interest which would have been earned between the date of original termination of status as a Plan Member and the date of re-entry into service as a Department Member.

(e) **Assuring Full Member Contributions.** The Board shall have rule- making authority to insure that the Fire and Police Pension Plan – Tier 3 receives member contributions for all periods of credited service, except that the Board shall not have authority to require contributions for service credit for military service and for periods while a Plan Member is receiving a disability pension, or full pay for Injury On Duty. Plan Members, however, may elect to make contributions for periods of Injury On Duty compensated at the rate provided by general law in order to acquire credit for Years of Service for such period. Such contributions shall be at the contribution rate herein provided and shall be based on the salary the Plan Member would have received if he or she had not occupied Injury On Duty status.

**Sec. 1516. Cost of Living Adjustments.**

(a) **Determination of Cost of Living Adjustments.** The Board, before May 1 of each year commencing with the year 1981, shall determine the percentage of the annual increase or decrease in the cost of living as of March 1 of that year from March 1 of the preceding year as shown by the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics or such other index as the Federal Government may develop to replace the All Urban Consumers Index for the area in which the City is located. If any such index were not to reflect the cost of living as of a particular March 1, then the index for the closest preceding date shall be used.

(b) **Annual Cost of Living Adjustments.** Commencing as of July 1 of the year in which the Board shall determine the percentage of increase or decrease in the cost of living, the monthly amounts of all pensions granted pursuant to the provisions of this Tier 3, shall be increased or decreased by reason of such determined percentage of increase or decrease in the cost of living, not to exceed an increase or decrease of 3% in any given
(c) **Discretionary Cost of Living Adjustments.** To the extent that the annual cost of living adjustments provided by subsection (b) hereof are less than the annual change in the cost of living as determined in subsection (a) hereof, the Council may grant discretionary cost of living adjustments, in addition to the annual cost of living adjustments provided by subsection (b) hereof, subject to the following conditions and requirements:

1. **No More Than Every Three Years.** Discretionary adjustments may not be provided more frequently than once every three years, counting from the effective date of this section and, after a discretionary adjustment has once been made, counting from the date the last discretionary adjustment became effective.

2. **Limit of Adjustments.** Discretionary adjustments shall not exceed one-half of the difference between the percentage of the annual increases in the cost of living, as determined pursuant to the provisions of subsection (a) of this section, and the annual adjustments made pursuant to subsection (b) of this section for each of the preceding three years. Discretionary adjustments shall be allocated to each of the three years for which an adjustment is made.

3. **Pensions Eligible for Adjustment.** Discretionary adjustments herein provided shall be applied to pensions granted pursuant to Sections 1504, 1506 and 1508 subject to the following limitations: If a pension became payable on or after the July 1 immediately preceding the effective date of such adjustment, it shall not be so adjusted; and any pension which shall have become payable at a time within the three year period (but prior to the immediately preceding July 1) shall be prorated on a monthly basis to the number of completed months for which the pension was received, provided that pensions paid pursuant to Section 1508(a)(3), (4) or (5), or Section 1508(c), (e) or (f), shall be adjusted by basing eligibility on the date upon which the Retired Plan Member’s pension became effective.

4. **Report to Council Prior to Adoption by Ordinance.** Discretionary cost of living adjustments may be provided only by ordinance. Ordinances providing discretionary adjustments may not be finally adopted until the Council has first obtained and published a report from the actuary or actuaries of the Fire and Police Pension Plan – Tier 3 indicating the present value of the liabilities that will be created by the proposed discretionary adjustment. This report must identify the annual funding cost of amortizing this liability over a 30 year period utilizing the funding procedure adopted by the Board.
(5) **Vote by Council.** Ordinances adopted pursuant to this subsection must be by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and re-adoption by the Council by not less than three-fourths of the membership of Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held thereon. Ordinances adopted pursuant to this subsection, shall be published no later than November 30 and shall become effective January 1.

(6) **Prospective Application.** All adjustments provided in this subsection are to be applied prospectively only and shall not be understood to permit retroactive adjustments of pensions.

**Sec. 1518. Provision of Certain Subsidy Payments by Ordinance.**

(a) **Purpose of this Section.** It is the purpose of this section to enable the Council to provide by ordinance a program or programs whereby persons receiving pensions pursuant to the provisions of this Tier 3 may become eligible to have subsidy payments made on their behalf for health insurance, accident insurance, life insurance or health care plan coverage or coverage for any combination of such programs as determined by the Council and subject to such conditions of entitlement as may be set forth in any ordinance adopted in accordance with the provisions of this section.

(b) **Mode of Adoption of Ordinance.** Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and readoption by the Council by three-fourths of the membership of the Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held thereon. Any ordinance adopted pursuant to this section shall go into effect upon its publication, but the terms of such ordinance, or portions thereof, may be operative at a later date or dates.

(c) **Council Authority to Establish Subsidy Limitations.** The Council may establish by ordinance the maximum subsidy payments for beneficiaries under any programs established by the Council pursuant to subsection (a), including appropriate limitations for employees receiving subsidies from other City plans.

(d) **Administration of Subsidy Program.** Any subsidy program adopted by ordinance pursuant to this section shall be administered by the Board. In furtherance thereof, the Board shall have the authority to contract for suitable programs as defined in subsection (a), to be made available to retired members or other beneficiaries, and shall have the power to adopt such rules as it deems necessary to administer such programs. Notwithstanding the foregoing provisions, the Board may authorize the Personnel Department to administer any program or part thereof established by ordinance pursuant to the provisions of this section, but the Board shall reimburse the General Fund of the
City of Los Angeles for all necessary expenses incurred by the Personnel Department in administering these programs.

(e) **Board Authority to Adjust Subsidy Amount.** The Council may by ordinance authorize the Board to increase or decrease subsidy payments pursuant to factors, standards, and limitations prescribed in the ordinance.

**SECTION HISTORY**

Amended by: Charter Amendment 2, approved March 8, 2005, effective April 6, 2005.

**Sec. 1520. Compliance with Certain Internal Revenue Code Provisions.**

(a) Notwithstanding any other provisions of this Tier 3, the benefits payable to any person who became a Plan Member prior to January 1, 1990, shall be subject to the greater of the following limitations:

1. The limitations set forth in Section 415 of the Internal Revenue Code; or

2. The accrued benefit of the Plan Member of the Fire and Police Pension Plan – Tier 3 (determined without regard to any amendment to the Plan made after October 14, 1987), as provided in Section 415(b)(10)(A) of the Internal Revenue Code.

(b) The benefits payable to any person who becomes a Plan Member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

(c) The Council shall, by ordinance, provide such benefits as are necessary to preserve the level of benefits in effect prior to the effective date of this section.

(d) Should it be determined that the provisions of Charter Section 1508(a)(1) violate the limitations of Section 415 or the incidental death benefit provisions of the Internal Revenue Code, Section 1508(a)(1) shall be deemed inapplicable to the extent necessary to achieve compliance. The Council shall by ordinance, adopt such measures as are necessary to achieve compliance and to preserve the level of benefits in effect prior to the effective date of this section.

(e) Ordinances adopted pursuant to this section shall be adopted in the same manner as those authorized by Charter Section 1518, except however any Ordinances adopted shall be effective upon publication.

(f) If any of the provisions of Section 415 of the Internal Revenue Code should be repealed, the provisions of this section shall be deemed repealed to the same extent.

(g) All benefits provided pursuant to any ordinance adopted under the provisions of subsection (e) shall be administered by the Board. A separate and distinct fund or funds
shall be created by the Board as required to administer such benefits. Such fund or funds shall not contain employee contributions. The Board shall also determine the manner of funding any liabilities incurred as a result of ordinances adopted pursuant to this section.

**Sec. 1522. Compensation Limits.**

(a) For members hired on or after July 1, 1996, the Final Average Salary taken into account to determine the benefits provided by Tier 3 of this Article shall not exceed the annual limit set forth in Section 401(a)(17) of the Internal Revenue Code and regulations thereunder for any Plan Year. This annual compensation limitation shall be adjusted automatically for each Plan Year to the amount prescribed by the Secretary of the Treasury or said Secretary’s delegate. For purposes of this section, the family aggregation rules of Section 414(q)(6) of the Internal Revenue Code shall apply; provided that “family” shall include only the Member’s spouse and lineal descendants who have not yet attained age 19 by the last day of the Plan Year.

(b) If any of the limitations of Section 401(a)(17) or Section 414(q)(6) should be repealed, the provisions of this section shall be deemed repealed to the same extent.

**Sec. 1524. Council Authority to Maintain Tax-Qualified Status of Plan.**

The Council may, by ordinance, amend the Fire and Police Pension Plan – Tier 3 to incorporate provisions of federal laws and regulations required to maintain the tax-qualified status of the Fire and Police Pension Plan – Tier 3. The Council also may enact ordinances to modify or repeal such provisions. Ordinances adopted pursuant to this section shall be adopted in accordance with Charter Section 1518. It is the intent of this section to facilitate compliance with the provisions of federal laws affecting the Fire and Police Pension Plan – Tier 3.

**Sec. 1526. Miscellaneous Provisions.**

Notwithstanding any other provision of this Tier 3, the provisions of this section shall be controlling to the extent there is a conflict with another provision.

(a) **Service or Disability Pensions for Former Plan Members.** Any former Plan Member who shall believe that he or she is eligible to be paid a pension pursuant to Section 1504 or 1506 of this Tier 3, may file his or her written application for the payment of a pension pursuant to either one of the sections within the time prescribed for the filing thereof by any applicable provision of law, and the Board, if it were to determine that the contingencies provided in this Tier 3 for the payment thereof had happened or occurred as to such former Plan Member and if there is no legal bar or defense to the granting to him or her of such pension or to any judicial action or proceeding which could be brought by him or her with respect thereto, shall grant him or her the pension in accordance with his or her written application.
(b) **Adoption of Board Rules to Comply with Federal or State Law.** If at any time after December 8, 1980, federal or state law should become preemptive or controlling with respect to the provisions of this Tier 3, the Board shall have the power to adopt such rules as may be necessary to comply with such federal or state law. Such rules shall be adopted upon the advice and with the concurrence of the City Attorney.

(c) **Payroll Deductions and Years of Service Credit for Overtime.** Whenever a Plan Member, for overtime work, shall take a period of time off with pay:

1. a deduction for pension purposes shall be made from such pay but only in the same amount as that which would have been deducted from his or her salary if such period had been one of regular work; and

2. such period shall be part of his or her Years of Service.

Whenever a Plan Member, for overtime work, shall receive a cash payment:

1. a deduction for pension purposes shall not be made from such payment; and

2. the period of overtime work for which he or she shall receive such payment shall not be part of his or her Years of Service.

(d) **Coordination with Deferred Compensation Plan.** In the event the City establishes a deferred compensation system applicable to the members of the Fire and Police Pension Plan – Tier 3, the Board shall prescribe rates of contributions and benefits so that the interest of the City in protecting the Plan and the interest of the Plan Members in pension benefits are protected when compared with contributions and benefits which would have been received had deferred compensation not been instituted.

**Sec. 1528. Social Security Participation.**

(a) **Implementation Procedure for Social Security Participation.** Should Social Security participation be mandated or made available to Plan Members by Federal legislation amending the Social Security Act or by action taken by the City or by Plan Members as provided by law, the following provisions shall govern the manner in which such participation by Plan Members is to be implemented and the limitations hereinafter set forth shall be controlling unless Federal law is contrary to these provisions, is in conflict therewith and is clearly intended to be preemptive. Should applicable provisions of Federal law in any respect differ from the provisions contained in this section and should they be determined to be preemptive as to any part thereof, then and in that event, those provisions of this section not affected by such Federal law shall remain in full force and effect.

(b) **Council Authority to Coordinate Benefits and Contributions.** As to the rights and entitlement to benefits of Plan Members participating in such Social Security
coverage, the Council shall have the power and authority, subject to the veto of the Mayor, to adopt ordinances modifying the benefits and conditions of entitlement provided in this Tier 3, including adjustments of Plan Member contributions to the Fire and Police Pension Plan – Tier 3 as hereinafter more specifically provided and subject to the limitations stated herein.

(c) **Supermajority Vote Required.** Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and re-adoption by the Council by a vote of not less than three-fourths of the membership of Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held thereon. Any ordinance adopted pursuant to this section shall go into effect upon publication.

(d) **Integration of Social Security and Pension Plan.** Any participation in Social Security coverage shall be by integration with the benefits provided by this Tier 3 and shall not be in addition to the benefits provided in the Fire and Police Pension Plan – Tier 3. Integration is to be defined in harmony with the provisions of the Social Security Act and must be in substantial compliance with the rules and regulations governing said Act. Benefits provided by an integrated system must be at least equal to the benefits offered by the Fire and Police Pension Plan – Tier 3 prior to such integration. The level of integration may be periodically adjusted by the Mayor and Council to ensure an adequate level of integration.

(e) **Minimum Plan Member Contributions.** Plan Members participating in Social Security shall have their contributions to the Fire and Police Pension Plan – Tier 3 reduced but Plan Members must contribute at least 2% of salaries to the integrated Fire and Police Pension Plan – Tier 3.

**FIRE AND POLICE PENSION PLANS - TIER 4**

(Formerly Article XXXV, Plan 2)

Sec. 1600. Tier 4 Members.

(a) **Appointed Members.** Each person who shall be appointed as a Department Member on or after July 1, 1997 shall become a Tier 4 Plan Member upon graduation by such person from training at the Police or Fire Academies or equivalent facility imparting basic training as a firefighter or police officer and maintained as such by the City of Los Angeles. A Chief of Police or a Fire Chief who is appointed to that position without having graduated from such facility may become a Member upon appointment. Upon becoming a Tier 4 Plan Member, a person may elect to purchase Years of Service credit for the period of such training in accordance with rules adopted by the Board.

(b) **Active Members of Tier 3.** Any active Department Member hired prior to July 1, 1997 who made an irrevocable election, in writing, during the period July 1, 1997
through June 30, 1998 to become eligible for the service retirement benefits provided under this Tier 4 shall become a Tier 4 Member.

(c) **Former Members.** Any Tier 1, 2 or 3 Member who ceased to be such as a result of resignation or discharge and who subsequently again becomes a Plan Member shall become a Tier 4 Member upon reappointment as a Department Member. However, a former Plan Member who previously had ten years of service under the provisions of Tier 3 who again becomes a Plan Member shall have the option of becoming a Tier 4 member only if both of the following conditions are met:

1. the former Plan Member did not make an election to take a deferred pension under the provisions of Tier 3, and
2. three years have not elapsed since the effective date of the former Plan Member’s resignation or discharge as a Plan Member.

Upon the return to duty, such Plan Member shall have 90 days to make an election to become a Tier 4 Member.

(d) **Tier 3 Members On Disability.** Any Plan Member who shall be receiving a disability pension pursuant to Tier 3 and who is restored to active duty as a Department Member on or after July 1, 1998 shall not be eligible to elect to become a Member of Tier 4, unless such Department Member was originally hired in under the provisions of this Tier 4.

(e) **Members on Military Leave.** Persons who are not active members during the election period due to service in the armed forces shall have 90 days following their return to active duty or June 30, 1998, whichever is later, to make an election to become a Tier 4 Member.

(f) **Former Tier 1 & 2 Members.** A person formerly a System Member under the provisions of Tier 1 or 2 of this Article whose membership had previously terminated by reason of resignation or discharge shall upon again being appointed as a Department Member become a Plan Member as of the effective date of such appointment. In the event such person did not receive a refund of contributions upon his or her termination as a System Member, then the definition of “Years of Service” elsewhere contained in this Tier 4 shall be controlling with respect to such person’s entitlement to service credit; and further, such person need not make back contributions on account of such former service and does not have any right to have contributions formerly made by him or her under the provisions of Tier 1 or 2 refunded in the event he or she should subsequently terminate as a Plan Member. In the event such person received a refund of his or her contributions under the provisions of Tier 1 or 2 as a result of his or her termination, then such person’s entitlement to Years of Service credit for the period of such former service shall be conditioned upon such person electing to repay and having paid to the Fire and Police Pension Plan the amount of previously refunded contributions, with interest thereon and an amount calculated as interest which would have been earned between the date of such
termination and the date of entry into service as a Plan Member in accordance with rules adopted by the Board. In the event such member does not elect to so repay, the term Years of Service as elsewhere used in this Tier 4 shall not include any periods prior to his or her becoming a Plan Member, notwithstanding the definitions contained in Section 1602(m) and (n).

(g) **Paramedics and Civilian Ambulance Employees.** In addition to those Department Members described in subsection (a) of this section, paramedics or civilian ambulance employees shall become Plan Members upon the effective date of this subsection, except that persons employed as paramedic trainees shall become Plan Members only upon their certification, as provided by law, as mobile intensive care paramedics or equivalent. Upon certification Plan Members may elect to purchase Years of Service credit for the period of such training in accordance with rules to be adopted by the Board.

If such a Plan Member had periods of membership in the Los Angeles City Employees Retirement System while he or she was a paramedic or civilian ambulance employee, such Plan Member shall be entitled to elect to acquire Years of Service credit for such periods of membership in the Los Angeles City Employees Retirement System. Upon such election his or her contributions, plus interest credited thereon, and his or her City service credit shall be transferred to the Fire and Police Pension Plan – Tier 4 in accordance with rules to be adopted by the Board.

(h) **Purchase of Credit by Surviving Spouse.** A surviving spouse of a Plan Member may complete the purchase of Years of Service credit elected by the Plan Member.

(i) **Prohibition of Double Benefits.** No Plan Member may receive double benefits by receiving credit for Years of Service for the same periods of City service from the Los Angeles City Employees Retirement System and under the provisions of this Tier 4. Further, no Plan Member may transfer credit received from the Los Angeles City Employees Retirement System while employed in a capacity other than paramedic or civilian ambulance employee.

(j) **Transfer of Released Liability.** Upon the election by a Plan Member to acquire Years of Service credit, the released liability of the Los Angeles City Employees Retirement System shall be transferred to the Fire and Police Pension Plan – Tier 4. For the purposes of this subsection, the phrase Released Liability means the City’s share of the actuarially determined present value of benefits under the Los Angeles City Employees Retirement System as of the date of transfer.

(k) **No Benefits Under Other Tiers.** Department Members as defined in this section shall be identified as Tier 4 Members. Tier 4 Members shall not be entitled to a service retirement under any other Tier of this Fire and Police Pensions Plan for the same periods of service.
(l) **Release of Liability.** The Board shall have the authority to establish rules requiring a full and complete release from liability from members and their spouses upon the Plan Member’s election to transfer to Tier 4.

**Sec. 1602. Definitions.**

In addition to the words and phrases defined in the Fire and Police Pension Plans General Provisions in Part 3, and for the purposes of this Tier 4, the following words or phrases shall have the meaning ascribed to them in this section, unless a different meaning is clearly indicated in the context.

(a) **Member of the Fire Department.** Member of the Fire Department means the Fire Chief and a person duly and regularly appointed in the Fire Department, under civil service rules and regulations or provisions of the Charter, or both, governing the making of original regular and permanent appointments which require the serving of probationary periods but not of original emergency or temporary appointments, to perform duties as a firefighter or as a paramedic or civilian ambulance employee for the City, under whatever designation such person may be described in any salary or departmental ordinance providing salaries for the members of the department, but such person shall be a member of the department only until his or her status as such shall be terminated by reason of retirement, resignation or discharge or for any other reason.

(b) **Member of the Police Department.** Member of the Police Department means the Chief of Police and a person duly and regularly appointed in the Police Department, under civil service rules and regulations or provisions of the Charter, or both, governing the making of original regular and permanent appointments which require the serving of probationary periods but not of original emergency or temporary appointments therein, and sworn in, as provided by law, to perform duties as a police officer for the City, under whatever designation such person may be described in any salary or departmental ordinance providing salaries for the members of the department but such person shall be a member of the department only until his or her status as such shall be terminated by reason of his or her retirement, resignation or discharge or for any other reason.

(c) **Plan Member.** Plan Member means a person who is a Department Member and whose pension rights and benefits are governed by this Tier 4.

(d) **Qualified Surviving Spouse.** Qualified Surviving Spouse means a person who is the widow or widower of a deceased Plan Member or Retired Plan Member and who has been married (1) to the Plan Member for at least one year prior to the date of his or her nonservice-connected death while a Plan Member, or (2) to the Plan Member as of the date of his or her service-connected death while a Plan Member, or (3) to the Retired Plan Member for at least one year prior to the effective date of his or her retirement upon a service pension or upon a nonservice-connected disability pension pursuant, respectively, to Section 1604 or Section 1606(b), or (4) to the Retired Plan Member as of the effective date of his or her retirement upon a service-connected disability pension pursuant to Section 1606(a).
(e) **Minor Child.** Minor Child means a person who is a child or an adopted child of a deceased Plan Member or a Retired Plan Member but such person shall be a Minor Child only until such person shall attain the age of 18 years or shall marry, whichever shall be earlier.

A person may further qualify for the benefits provided for a Minor Child under the provisions of this Tier 4 until he or she reaches the age of 22 years if such person is enrolled in school on a full-time basis as determined by the Board but such person’s marriage terminates entitlement to the benefits of a Minor Child.

(f) **Dependent Child.** Dependent Child means a person who is a child of a deceased Plan Member or a deceased Retired Plan Member, who is not married and who, while under the age of 21 years, had become disabled, either prior or after the date of death of such Plan Member or Retired Plan Member, from earning a livelihood for any cause or reason whatsoever, but such person shall be a Dependent Child only until he or she shall cease to be disabled from earning a livelihood. Should disability cease before the age of 22 years, the limitations set forth in subsection (e) shall be applicable.

(g) **Dependent Parent.** Dependent Parent means a person who is a parent of a deceased Plan Member or a deceased Retired Plan Member and to or for whom such deceased Plan Member or deceased Retired Plan Member, during at least one year immediately preceding his or her death, contributed one-half or more of such Dependent Parent’s necessary living expenses and who is unable to pay such expenses without the receipt of a pension but such person shall be a Dependent Parent only until he or she shall be able to pay his or her necessary living expenses.

(h) **Length of Service Pay.** Length of Service Pay means any additional gross monthly pay which, by reason of length of service, shall be provided by ordinance.

(i) **Special Pay.** Special Pay means any additional gross monthly pay which, by reason of assignment to perform special duties other than hazardous duties, shall be provided by ordinance.

(j) **Hazard Pay.** Hazard Pay means any additional gross monthly pay which, by reason of assignment to perform helicopter duties, two-wheel motorcycle duties or any other hazardous duties shall be provided by ordinance.

(k) **Assignment Pay.** Assignment Pay means any additional gross monthly pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest thereof within the Plan Member’s permanent rank, shall be provided therefor by ordinance.

(l) **Year.** Year means a period of 12 months or, in aggregating partial years for purposes of determining Years of Service, means 365 days.
(m) **Years of Service.** Years of Service means and includes only those periods during or for which the Plan Member was a Department Member of the Fire Department or of the Police Department, or of both and whether prior or after his or her becoming a Plan Member and subject to the limitations contained in Section 1600 of this Tier 4:

1. did or shall receive salary, whether in full or reduced amounts thereof;

2. did or shall receive either a service-connected disability pension or a nonservice-connected disability pension under any Tier of the Fire and Police Pension Plans, provided, however, that he or she was or shall be restored to active duty as a Department Member and did or shall perform his or her duties as such for at least one year prior to again retiring or being retired pursuant to this Tier 4, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him or her prior to such restoration. The restored Plan Member, upon completing one Year of Service following restoration, shall be eligible for such credit only to the extent that the length of service following restoration matches the period the disability pension was received; but upon completing three years of restored service, the restored Plan Member is eligible for credit for the entire period the disability pension was received; and provided further that a period during which a Plan Member was on a nonservice-connected disability pension may only be counted toward his or her Years of Service if the Plan Member makes contributions therefor at the rate provided in Section 1614 of this Tier 4 in accordance with the rules to be adopted by the Board;

3. or shall become entitled, under any provision of general law or ordinance of the City, to credit toward retirement for periods of military service or military leave;

4. did or shall receive workers’ compensation benefits for temporary disability as provided by general law on account of any injury or illness arising out of and in the course of employment but such period shall be made a part of the Plan Member’s Years of Service only if the Plan Member has made contributions to the Fire and Police Pension Plan in the manner prescribed by Board rule;

5. is or shall become entitled pursuant to any ordinance of the City providing compensation for injury on duty; and

6. had served as a member of the Fire and Police Pension System - Tiers 1 or 2 of this Article, without having become eligible to service retirement benefits but such prior service as a member under provisions of Tiers 1 or 2 does not entitle the Plan Member to a refund of contributions made on account of such previous service.
A Plan Member who has previously been a Plan Member and who has ceased to be such by virtue of his or her resignation or discharge and who subsequently again becomes a Plan Member, shall be entitled to service credit only if he or she has first redeposited with interest, any Plan Member contributions previously withdrawn by him or her, in the manner provided by the Board.

(n) **Partial Year of Service.** Partial Year of Service means any period mentioned in subsection (m) of this section which is less than 12 months. Any such Partial Year of Service shall be calculated from the end of the Plan Member’s last completed Year of Service to the end of the payroll period immediately prior to the date of his or her retirement and shall be counted as part of a Plan Member’s Years of Service for his or her retirement upon a service pension hereafter granted or for a pension hereafter granted to his or her Qualified Surviving Spouse, Minor Child or children, Dependent Child or children or Dependent Parent or parents if he or she hereafter shall die while upon a service pension hereafter granted or while eligible for a service pension.

(o) **Final Average Salary.** Final Average Salary means an amount equivalent to a monthly average of salary actually received during any 12 consecutive months of service as a Plan Member as designated by the Plan Member. In the absence of such designation, the last 12 consecutive months preceding the date upon which retirement would become effective shall be used as the basis for the calculation of Final Average Salary.

For Plan Members employed as paramedics or civilian ambulance employees who have formerly been members of the Los Angeles City Employees Retirement System, and who, pursuant to the provisions of Section 1600 of this Tier 4 have become Plan Members, the determination of Final Average Salary shall include periods of City service for which such Plan Members have elected to acquire Years of Service credit by transfer of their contributions from the Los Angeles City Employees Retirement System to the Fire and Police Pension Plan – Tier 4. If a Plan Member should die before having made such election, his or her surviving spouse may make the election in place of the Plan Member.

For the purposes of determining Final Average Salary, periods during which the Plan Member receives less than full salary on account of injury or illness, pursuant to any applicable ordinance of the City, shall be included in the calculation of Final Average Salary based upon the salary, including any Length of Service Pay, Special Pay, Assignment Pay or Hazard Pay, the Plan Member would have received but for the injury or illness.

Included in the calculation of Final Average Salary shall be Length of Service Pay, Special Pay, Assignment Pay and Hazard Pay actually received during the 12 consecutive months used to determine Final Average Salary. To the extent that Hazard Pay was not received during all or any part of the 12 consecutive months used to determine Final Average Salary, then it shall be included in the calculation of Final Average Salary only if the Plan Member retires at the same rank as that occupied by him or her at a time when Hazard Pay was received during a period or periods other than the 12 months used to
determine Final Average Salary, and for each such completed 12 month period during which the Plan Member served at that rank and received Hazard Pay, he or she shall be entitled to have included in the Final Average Salary 10% of the Hazard Pay which would have been payable had the hazardous duty been performed during the period for which the Final Average Salary is calculated except the total amount includable in the Final Average Salary for Hazard Pay may not exceed 100% of the amount the Plan Member would have received had he or she been entitled to Hazard Pay during the entire 12 month period utilized in the calculation of Final Average Salary.

Overtime compensation or payments of money to the member not designated as salary by an ordinance of the City shall not be considered for purposes of calculating Final Average Salary.

Notwithstanding any of the foregoing, if a Retired Plan Member were to be restored to active duty as a Department Member and thereby again were to become a Plan Member and if he or she again were to retire or to be retired without having performed his or her duties for at least one year subsequent to such restoration, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him or her prior to such restoration, the Final Average Salary which shall be applicable to his or her later retirement shall be the Final Average Salary which had been applicable to his or her previous retirement.

Should a Plan Member not have completed 12 consecutive months of service as a Plan Member, then and in that event only shall the Final Average Salary be calculated as a monthly average of all consecutive calendar months completed, and, if the Plan Member has completed less than one month of total service as a Plan Member, the salary actually received shall be used to calculate its monthly equivalent.

The following provision shall be effective for Plan Members who retire on or after July 1, 2000 from the Fire Department while holding a rank no higher than Captain or from the Police Department holding a rank no higher than Lieutenant. If Hazard Pay was not received during all or any part of the 12 consecutive months used to determine Final Average Salary, then an amount equivalent to 10% of the Hazard Pay received at the time of the termination of the last assignment to hazardous duties for each year in the aggregate of the assignment to hazardous duties shall be added to the Final Average Salary, not to exceed ten years in the aggregate. The total amount of Hazard Pay included in Final Average Salary may not exceed 100% of the amount the Plan Member would have received had the Plan Member been entitled to Hazard Pay during the entire 12 month period utilized in the calculation of Final Average Salary.

Sec. 1604. Service Retirement and Vesting.

(a) Normal Retirement. Any Tier 4 Member with 20 years of service or more shall be retired by order of the Board from further active duty as a Department Member either upon the filing of his or her written application or upon the filing of a written
request by or on behalf of the head of the department in which he or she is a Department Member, if it shall be determined by the Board to be for the good of such department, other than for a cause or reason which would entitle such Plan Member to a disability pension pursuant to Section 1606, and the Board, if it shall so determine, shall state the cause or reason in its order retiring such Plan Member.

(b) **Includable Years of Service.** For Tier 4 Members, Years of Service shall include prior service covered under any other Tier of the Fire and Police Pension Plan.

(c) **Physical Examination for Employees Age 70 and Over.** After a Tier 4 Member has attained the age of 70 years, he or she shall annually submit to an examination by a regularly licensed, practicing physician selected by the head of his or her department who shall render a written report to such department and to the Board as to whether or not the Plan Member is physically and mentally fit to continue his or her duties as a Department Member. If the Plan Member is found by the Board not to be physically or mentally fit to so continue his or duties, he or she shall be retired effective the first day of the calendar month next succeeding that month in which the physician’s report is received by the Board.

(d) **Pension Amount.** A pension payable pursuant to the provisions of this section shall be paid monthly for life in an amount which shall be equal to 2% of Final Average Salary per Year of Service for up to 20 Years of Service; and for each additional year of service after 20 years, 3% of Final Average Salary per year but the maximum percentage of Final Average Salary payable, regardless of length of service, shall be 70% of such Final Average Salary.

**Sec. 1606. Disability Pensions.**

(a) **Service-Connected Disability.** Upon the filing of his or her written application for a disability pension or upon the filing of a written request therefor by or on behalf of the head of the department in which he or she is a Department Member, any Plan Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his or her assigned duties, or those to which he or she would be assigned within the Plan Member’s civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Department Member.

A Plan Member’s incapacity is caused by the discharge of his or her duties if there is clear and convincing evidence that the discharge of the Plan Member’s duties is the predominant cause of the incapacity.

A Plan Member retired under the provisions of this subsection shall be paid thereafter a monthly service-connected disability pension in an amount which shall be equal to the same percentage of the Plan Member’s Final Average Salary as the Board shall determine, from time to time, to be the percentage of his or her disability. Such pension
shall be in an amount of not less than 30% and not more than 90% of the Retired Plan Member’s Final Average Salary, but in no case shall the pension be less than the equivalent of 2% of Final Average Salary for each Year of Service of the Retired Plan Member.

No Retired Plan Member, while retired pursuant to this subsection, ever shall be paid any pension pursuant to Section 1604 or subsection (b) of this section.

(b) Nonservice-Connected Disability. Upon the filing of his or her written application for disability pension by a Plan Member who shall have five Years of Service or more, or upon the filing of a written request therefor with respect to such a Plan Member by or on behalf of the head of the department in which he or she is a Department Member, any Plan Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his or her assigned duties or those to which he or she would be assigned within the Plan Member’s civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Department Member.

As a further condition of entitlement to such a pension, the Board shall also determine that such disability was not principally due to or caused by voluntary action of the Plan Member intended to entitle him or her to a nonservice-connected disability pension.

A Retired Plan Member, retired under the provisions of this subsection shall be paid thereafter a monthly nonservice-connected disability pension in an amount which shall be equal to the same percentage of the Retired Member’s Final Average Salary as the Board shall determine, from time to time, to be the percentage of his or her disability but such pension shall be in an amount of not less than 30% and not more than 50% of the Retired Plan Member’s Final Average Salary.

No Retired Plan Member, while retired pursuant to this subsection, ever shall be paid any pension pursuant either to Section 1604 or to subsection (a) of this section.

(c) Determination of Disability. Upon the filing of any written application or request for a disability pension, as referred to in subsections (a) and (b) of this section, the Board: (1) shall cause the Plan Member to be examined by and a written report thereon rendered by at least three regular licensed and practicing physicians selected by it; (2) shall hold a hearing with respect to such application or request; (3) shall receive or hear such other evidence relating to or concerning the Plan Member’s disability or claimed disability as may be presented to it. The Board shall have the power to hear and determine all matters pertaining to the granting and denying of any such application or request for a disability pension. The Board first shall determine whether or not the Plan Member is incapable of performing his or her assigned duties or those to which he or she would be assigned within the Plan Member’s civil service classification if returned to duty. If the Board were to determine that he or she is not so incapable, it then shall be the
duty of the Board to deny the application or request. If the Board were to determine that he or she is so incapable, it then shall determine, pursuant to the language used in subsections (a) and (b) of this section, whether his or her incapacity or disability is service-connected or nonservice-connected. The Board then shall determine the percentage of his or her incapacity or disability, within the limitations prescribed in subsections (a) and (b) of this section, and shall grant the application or request accordingly. If the Board were to determine that the disability is nonservice-connected, and that the incapacity or disability was principally due to or caused by voluntary action by the Plan Member intended to entitle him or her to a nonservice-connected disability pension, it then shall be the duty of the Board to deny the application or request. The Board upon its own motion or upon the written request of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section, shall have the power to consider new evidence pertaining to the case of any such Retired Plan Member and to increase or decrease the percentage of his or her incapacity or disability within the limitations prescribed in subsections (a) or (b) of this section but any such increase or decrease shall be based only upon injuries or sickness for which he or she was retired. In the case of any former Plan Member who became such by reason of his or her resignation or discharge as a Department Member, the Board, in order to grant any application filed by him or her for a disability pension, must also determine, in addition to all of the foregoing, that any existing incapacity or disability upon his or her part occurred prior to the termination of his or her active status as a Department Member and had been continuous up to the date of the Board’s determinations.

The Board shall adopt by rule, within a reasonable time, a disability rating schedule to assist in standardizing disability pension awards.

(d) **Termination of Disability Pensions.** The pension of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section and whose active status as a Department Member had been terminated by reason of his or her retirement, shall cease when the incapacity or disability for which he or she had been retired shall cease and he or she either:

1. shall have been restored to active duty as a Department Member in the same permanent rank which he or she had held as of the date of retirement; or

2. shall have been ordered restored to active duty as a Department Member in such same permanent rank and shall have declined, refused or neglected to report therefor or to perform duties as such.

Any former Plan Member who has been retired for more than five years from the date of the Board’s action by which he or she was retired may never be restored to active duty as a Department Member. The pension of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section and whose active status as a Department Member had been terminated by reason of his or her resignation or discharge as such, shall cease when the incapacity or disability for which he or she received a disability pension shall
cease. The Board shall have the power to hear and determine upon its own motion all matters pertaining to the termination of any such pension.

After a Retired Plan Member, whose active status as a Department Member has been terminated by reason of his or her retirement, has been retired on a service-connected disability pension or on a nonservice-connected disability pension for five years, and has been found to be no longer disabled, the Board shall adjust such Retired Plan Member’s pension to 30% of his or her Final Average Salary. The adjusted pension shall reflect such cost of living adjustments as would have occurred had the Retired Plan Member’s pension originally been based on such adjusted percentage.

(e) **Periodic Medical Examinations.** Except in those instances in which the Board has determined that, due to the nature of the disability, no purpose would be served in having periodic medical examinations to determine whether or not a Retired Plan Member is still disabled, all Retired Plan Members on a disability pension shall undergo medical examinations at periodic intervals, as determined by the Board, for the first five years of their disability retirement. Retired Plan Members who receive service-connected disability pensions exceeding 30% of Final Average Salary and Plan Members who terminated City employment by reason of resignation or discharge prior to being granted a disability retirement, shall thereafter undergo medical examinations as determined by the Board.

If a Retired Plan Member resides outside of the State of California, the Board shall have the authority to order medical examinations of Retired Plan Members at any place it may determine to be desirable and shall, if it is determined that it would impose hardship on the person to be examined to travel to such place, have the authority to defray the reasonable cost of any such travel required.

(f) **Assessing Cost for Missed Medical Appointments.** The Board shall have the authority to provide, by rule, for assessing the cost of medical appointments missed by disability pension applicants, or by Retired Plan Members on a disability pension, where such missed appointments were not caused by factors beyond the control of the Plan Member or Retired Plan Member.

(g) **Re-application After Denial of Disability Pension.** The Board shall establish reasonable rules governing the re-application by Plan Members for a disability pension where an application has been denied and a new application has been filed subsequently for the same or similar medical reasons as those which were the basis of a previously denied application.

(h) **Transfers Under Civil Service.** For a period of one year following the effective date of a Retired Plan Member’s disability pension, such Retired Plan Member shall be eligible for status without examination under the provisions of Section 1014 of the Charter in civil service classifications other than those that would entitle him or her to membership in any of the Fire and Police Pension Plans established by this Article; but
the provisions of this subsection shall not apply to former Plan Members whose status as
Department Members had terminated by reason of resignation or discharge.

(i) **Exclusion for Willful Conduct.** In making its determinations and findings
relative to subsections (a), (b), and (c) of this section, the Board shall consider whether
and to what extent the activity giving rise to the disability of a member of the Police
Department was caused or aggravated by such member’s willful misconduct. If the
Board finds that the disability was caused or aggravated by such willful misconduct, the
Board shall deny the Plan Member’s application for a disability pension. The provisions
of this subsection shall be applicable only to those Plan members who became members
of the Police Department on or after July 6, 1992.

**Sec. 1608. Survivorship Pensions.**

(a) **Pension for Qualified Surviving Spouse.**

(1) **Plan Member’s Service-Connected Death.** The Qualified Surviving
Spouse of a Plan Member who shall die by reason of injuries received or sickness
caused by the discharge of his or her duties while a Department Member, shall be
paid for life a monthly pension in an amount which shall be equal to 75% of the
deceased Plan Member’s Final Average Salary.

For the purposes of the benefit provided in this subsection (a)(1), a Plan
Member has died by reason of injuries received or sickness caused by the
discharge of his or her duties if there is clear and convincing evidence that the
discharge of the Plan Member’s duties were the predominant cause of his or her
death.

(2) **Plan Member’s Nonservice-Connected Death.** The Qualified Surviving
Spouse of a Plan Member who shall have five or more Years of Service and who
shall die while a Department Member, by reason of injuries or sickness other than
injuries received or sickness caused by the discharge of his or her duties, shall be
paid for life a monthly pension in an amount which shall be equal to 30% of the
deceased Plan Member’s Final Average Salary, or, if the Plan Member, at the
time of death, was then eligible to receive a pension on account of Years of
Service, 80% of the amount of such service pension as the Plan Member at the
time of his or her death would have been entitled to receive on account of Years
of Service whichever is higher but the entitlement of a Qualified Surviving
Spouse under the provisions of this subsection (a)(2) may not exceed 40% of the
deceased Plan Member’s Final Average Salary.

(3) **Retired Plan Member’s Death While on a Service Pension.** The
Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or
she is receiving a pension pursuant to Section 1604, shall be paid for life a
monthly pension in an amount which shall be equal to 60% of the pension
received by the deceased Retired Plan Member immediately preceding the date of
his or her death. The benefit described in this subsection (a)(3) may be modified as provided in subsection (b) of this section.

(4) **Retired Plan Member’s Death While on a Service-Connected Disability Pension.** The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a service-connected disability pension pursuant to Section 1606, shall be paid for life a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death, unless the death of the Retired Plan Member occurs within three years after the effective date of his or her pension and is due to service-connected causes, in which case, the qualified Surviving Spouse shall receive, or in a case where an option has been elected pursuant to subsection (b) of this section, may elect to receive, 75% of the Retired Member’s Final Average Salary, as modified by the cost of living adjustments made pursuant to Section 1616 of this article since the date of retirement of the Retired Plan Member. The benefit described in this subsection (a)(4) may be modified as provided in subsection (b) of this section.

(5) **Retired Plan Member’s Death While on a Nonservice-Connected Disability Pension.** The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a nonservice-connected disability pension pursuant to Section 1606, shall be paid for life a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death. The benefit described in this subsection (a)(5) may be modified as provided in subsection (b) of this section.

(6) **Nonservice-Connected Death of Plan Member with Less than Five Years of Service.** In the event the Plan Member died of nonservice-connected causes before having completed five years of Service, the Qualified Surviving Spouse of the deceased Plan Member, or his or her Minor or Dependent Children if there is no Qualified Spouse, or his or her Dependent Parents if there is No Qualified Surviving Spouse and no Minor or Dependent Children, shall be entitled to the Basic Death Benefit described in subsection (a)(7) below.

(7) **Basic Death Benefit and Election.** The Basic Death Benefit shall consist of: (1) the return of a deceased Plan Member’s contributions to the Plan with accrued interest thereon; subject, however to the rights created by virtue of the Plan Member’s designation of a beneficiary as otherwise provided in this article; and (2) if the deceased Plan Member had at least one year of Service, the deceased Plan Member’s Final Average Salary multiplied by the number of completed Years of Service, not to exceed six years; provided that said amount shall be paid in monthly installments of one-half of the deceased Plan Member’s Final Average Salary.
A Qualified Surviving Spouse, or a guardian acting on behalf of the Minor or Dependent Children of a deceased Plan Member if there is no Qualified Surviving Spouse, or Dependent Parents if there is no Qualified Surviving Spouse and no Minor or Dependent Children entitled to a pension pursuant to any of the provisions of this section, where benefits are based upon the Plan Member’s death in active service, may in lieu of the pension provided and before the first payment of such pension, elect to receive the Basic Death Benefit.

(b) **Optional Pensions for Qualified Surviving Spouse.** At any time before the first payment of a service pension, a service-connected disability pension, or a nonservice-connected disability pension, the Plan Member may elect to receive, in lieu of his or her pension as provided in Section 1604 or Section 1606, the actuarial equivalent at that time of such pension and of the pension for the Qualified Surviving Spouse as provided in subsection (a) of this section, by electing an optional pension payable throughout the balance of his or her life, with the provisions that upon his or her death such optional pension shall be continued to the Plan Member’s Qualified Surviving Spouse in the proportional amount designated by the Plan Member at the time of election of the option provided by this section.

The amount of such optional pension shall be so calculated that the liability of the Fire and Police Pension Plan – Tier 4 at the date of retirement under the optional pension shall be equal to the liability of the Fire and Police Pension Plan – Tier 4 at the same date under the pension awarded in accordance with the provisions of Section 1604 or Section 1606 and of the survivorship pension provided by subsection (a) of this section. For the purpose of this section, the liability of the Fire and Police Pension Plan – Tier 4 is defined as the present value, in accordance with tables adopted by the Board, of the pensions or optional pensions calculated by approved actuarial methods, and recommended by the Board’s actuary. In determining the actuarial equivalent of the pension for a Qualified Surviving Spouse as provided pursuant to subsections (a)(3), (4) and (5) of this section, the equivalent of a 60% survivorship pension shall be used in all cases.

The optional amounts, calculated in accordance with the foregoing paragraph, shall provide a range of optional values such that the amount to be paid to the Qualified Surviving Spouse of the Plan Member shall range from 60% to 100% of the pension payable to the Plan Member, varying by increments of 5%.

If a Retired Plan Member, previously retired on a disability pension pursuant to the provisions of Section 1606, should be reinstated to active duty upon termination of his or her disability, the election to receive the optional pension as herein provided, shall be deemed cancelled as of the effective date of such reinstatement.

A Retired Plan Member, previously retired on a disability pension pursuant to the provisions of Section 1606 and whose pension has subsequently been adjusted as provided for in Section 1606, shall have the right to cancel any option previously elected by him or her pursuant to the provisions of this subsection.
The Board shall by rule provide for a method in which the election to receive an optional pension shall be exercised.

(c) **Additional Pension Amounts.** Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her, in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to the Qualified Surviving Spouse, then such Qualified Surviving Spouse, shall be paid an additional monthly pension in an amount which shall be equal to 25% of the pension he or she as a Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination thereof, and 50% while there are three or more Minor Children or Dependent Children or a combination, and such additional monthly pension shall be the exclusive property of such Qualified Surviving Spouse and not the property of any such Minor Child or Dependent Child. Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to a former spouse, then the guardian or guardians of the estate or estates of any such Minor Child or Children or Dependent Child or Children shall be paid a monthly pension in an amount which shall be equal to 25% of the pension the Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination.

Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her, in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to the Qualified Surviving Spouse and a Minor Child or Children or a Dependent Child or Children of his or her marriage to a former spouse, then a monthly pension shall be paid in an amount which shall be equal to 25% of the pension the Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one (1) Minor Child or Dependent Child, 40% while there are two (2) Minor Children or Dependent Children or a combination, and 50% while there are three (3) or more Minor Children or Dependent Children or a combination. The amount of such monthly pension shall be divided by the number of Minor Children or Dependent Children and shall be adjusted accordingly whenever any Minor or Dependent Child shall cease to be such. The Qualified Surviving Spouse shall be paid the portion of such monthly pension which shall be applicable to the number of his or her Minor Children or Dependent Children and the same shall be her or his exclusive property. The guardian or guardians of the estate or estates of the Minor Children or Dependent Children who are not those of the Qualified Surviving Spouse shall be paid the portion of such monthly pension which shall be applicable to such Minor Children or Dependent Children and the same shall be the exclusive property of such children.
The additional pension amounts provided in this subsection for persons other than a Qualified Surviving Spouse are to be calculated on the basis of the applicable Qualified Surviving Spouse pension provided pursuant to subsection (a) of this section, unmodified by any election that may previously have been made pursuant to the provisions of subsection (b) of this section.

Additional pension amounts are also subject to the limitation that the amount of any survivorship pension provided in this section, after the additional payments provided in this subsection are added thereto, may not exceed 100% of the Final Average Salary of the deceased Plan Member or 100% of the Final Average Salary of the Retired Plan Member, as modified by the cost of living adjustments made pursuant to Section 1616 of this Tier 4 since the date of retirement of the Retired Plan Member. In case of such excess, any additional pension amounts shall be reduced to a level where the total amount of pension is equal to such maximum.

(d) **Reinstatement of Pension of Reinstated Qualified Surviving Spouse.** Subject to Section 1208 of the General Provisions for Fire and Police Pension Plans, any Qualified Surviving Spouse, who shall marry and thereby cease to be a Qualified Surviving Spouse, shall be reinstated as a Qualified Surviving Spouse as of:

1. the date upon which a judgment or decree shall become final dissolving such marriage upon any ground or declaring a void or voidable marriage to have been null and void or voided but such date shall be within five years from the date of the marriage ceremony; or

2. the date upon which such marriage shall be dissolved by the death of the other party thereto but such date shall be within five years from the date of the marriage ceremony. Such reinstated Qualified Surviving Spouse shall be entitled to the reinstatement of his or her pension effective as of either such date, which shall be applicable, but shall not be entitled to the payment of any pension for the period prior to such applicable date and subsequent to the date of the marriage ceremony. The pension paid to any other persons entitled under the provisions of the Fire and Police Pension Plan – Tier 4 during the period of the marriage or purported marriage of such reinstated Qualified Surviving Spouse shall cease when his or her pension shall be reinstated, except as otherwise provided in subsection (c) of this section. However, should such reinstated Qualified Surviving Spouse thereafter be a party to another marriage ceremony, his or her pension shall cease and never again shall be reinstated regardless of whether such marriage ceremony shall result in a valid marriage or in a voidable or void marriage and whether or not the same legally shall be terminated.

(e) **Pension for Minor or Dependent Children.** Whenever any Plan Member or Retired Plan Member shall die without leaving a Qualified Surviving Spouse, the guardian of the estate of his or her Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly pension equal to the pension a Qualified Surviving Spouse would have been eligible to receive pursuant to
subsection (a) of this section had a Qualified Surviving Spouse survived such Member. Whenever any Plan Member or Retired Plan Member shall die leaving a Qualified Surviving Spouse who thereafter shall die or who thereafter shall cease to be a reinstated Qualified Surviving Spouse, the guardian of the estate of his or her Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly pension equal to the pension a Qualified Surviving Spouse would have been eligible to receive pursuant to subsection (a) of this section. In any of the foregoing events and if there were to be more than one Minor or Dependent Child, an equal share of such monthly pension shall be paid for and on behalf of each such child to the guardian of his or her estate and shall be adjusted as each of them shall cease to be a Minor or Dependent Child in the manner set forth in subsection (c) of this section. If payments are made pursuant to this subsection (e), no additional pension amounts shall be paid pursuant to subsection (c) of this section.

(f) **Pension for Dependent Parents.** Whenever any Plan Member or Retired Plan Member shall die without leaving a Qualified Surviving Spouse or a Minor or Dependent Child, a monthly pension shall be paid to such Dependent Parents or to the survivor of them until each such Dependent Parent shall cease to be such. Any Dependent Parent who shall cease to be such but who thereafter again shall become unable to pay his or her necessary living expenses without a pension shall be entitled to have his or her pension reinstated.

The total amount of a pension payable to the Dependent Parents shall be the same as that to which a Qualified Surviving Spouse would have been entitled pursuant to subsection (a) of this section.

(g) **Determinations With Respect to Cause of Death and Dependency.** The Board shall have the same power as that which has been given to it by Section 1606(c) and (d) in order to determine:

1. the fact whether a Plan Member’s death was service-connected or nonservice-connected for the purposes of Section 1608(a)(1) and (2);

2. the fact of whether or not a child of a deceased Plan Member or Retired Plan Member is a Dependent Child; and

3. whether or not any parent of a deceased Plan Member or Retired Plan Member is a Dependent Parent.

The Board also shall have the power to determine, from time to time, the fact of whether or not a child continues to be a Dependent Child, the fact of whether or not a parent continues to be a Dependent Parent and the fact of whether or not a Dependent Parent who had ceased to be such thereafter shall have become entitled to have his or her pension reinstated.
(h) **Medical Reports and Hearings.** The power of the Board to determine the fact of whether a Plan Member’s death was service-connected or nonservice-connected, as provided in subsection (g) of this section, hereafter may be exercised by it upon the basis of a written report from one regularly licensed and practicing physician selected by it but the Board, in its discretion, may obtain such a report from more than one such physician. The determination hereinbefore referred to in this subsection may, at the option of the Board, be made without a hearing being held pursuant to the provisions of subsection (g) of this section.

(i) **Distribution of Contributions.** Whenever a Plan Member dies without leaving a person or persons entitled to receive a pension pursuant to the provisions of this section, then, and in that event, his or her contributions to the Plan, together with such interest as may have been credited to the Plan Member’s individual account shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the Board. In the event there is no written designation of beneficiary, surviving spouse, children or parents, then the contributions shall be paid to the executor or administrator of the estate of such deceased Plan Member, or to any other person legally authorized to collect money due the decedent.

**Sec. 1610. Tier 4 Pension Funds.**

(a) **Creation of Funds.** Two entirely separate and distinct funds hereby are created and established for the payment of pension benefits pursuant to this Tier 4, for the payment of certain other benefits as may be authorized by ordinance pursuant to the enabling provisions of this Tier 4 and for the payment of the administrative expenses of the Fire and Police Pension Plan – Tier 4, one of which shall be known as the “Fire and Police Tier 4 Service Pension Fund” and the other of which shall be known as the “Fire and Police Tier 4 General Pension Fund.”

(b) **Fire and Police Tier 4 Service Pension Fund.** The Fire and Police Tier 4 Service Pension Fund shall consist of:

1. deductions made pursuant to Section 1614, from the salaries of Plan Members;
2. all contributions and donations to the Fire Department or to the Police Department for services by any Plan Members, except amounts of money donated to provide for any medal or permanent competitive award;
3. all fines imposed upon Plan Members for violations of rules and regulations of the respective department in which they are Department Members;
4. proceeds from the sale of unclaimed property as determined by the Board; and
(5) all interest, earnings and profits resulting from investments of such monies.

(c) **Fire and Police Tier 4 General Pension Fund.** The Fire and Police Tier 4 General Pension Fund shall consist of:

1. all monies appropriated to the fund by the Council; and
2. all interest, earnings and profits resulting from investment of such monies.

(d) **Use of Funds.** The monies in the Fire and Police Tier 4 Service Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of service pensions granted pursuant to Section 1604 and for the refund of contributions as provided in this Tier 4. The monies in the Fire and Police Tier 4 General Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of all pensions other than service pensions, such benefits as may be provided by ordinance adopted pursuant to the enabling provisions contained in this Tier 4 and of all administrative expenses of the Fire and Police Tier 4 Pension Plan.

(e) **Authorized Transfer Between Funds.** In the event that the money in the Fire and Police Tier 4 Service Pension Fund should be insufficient, at any time, to pay all service pensions, then the Board shall have the power and authority to cause the Controller to transfer to the fund sufficient money therefor from the Fire and Police Tier 4 General Pension Fund. In no other event shall any of the money in either of the funds be commingled with any money in the other fund.

(f) **Benefits Shall Be a General Obligation of the City.** The obligation to pay benefits pursuant to this Tier 4 shall be a general obligation of the City.

**Sec. 1612. Actuarial Determinations and Tier 4 Unfunded Liabilities.**

(a) **Actuarial Standards.** The Fire and Police Pension Plan – Tier 4 shall be maintained on a reserve basis which, for the purposes of this Tier 4, shall mean one which provides for the accumulation and maintenance of the Fire and Police Tier 4 Service Pension Fund and the Fire and Police Tier 4 General Pension Fund which together will at all times be equal to the difference between the present value of the obligations assumed and the present value of the monies to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of monies with which they are to be paid in accordance with the provisions of Sections 1210(b)(4) and 1614.

(b) **Actuarial Valuations.** The Board shall secure an actuarial valuation showing the cost of maintaining the plan and funds on such reserve basis and, at intervals of not to
exceed five years, shall cause to be made an actuarial investigation including, but not limited to, the mortality, service and salary experience of the Plan Members and other beneficiaries and shall further cause to be made annually an actuarial valuation of the assets and liabilities of the funds.

The Board, from time to time and with the advice of the investment counsel, shall establish such an assumed rate of interest for the purpose of actuarial valuations, as in its judgment seems proper in the light of the experience and prospective earnings on the investment of the funds.

(c) **Retention of Actuary.** The Board shall retain a competent consulting actuary for the purpose of making the necessary actuarial studies, reports, investigations and valuations and shall, with the advice of the actuary, adopt such actuarial assumptions as shall be necessary.

(d) **Accounting for Unrealized Profits and Losses.** With the advice of the consulting actuary and of the investment counsel, the Board, for the purpose of the actuarial valuations, may provide by rule for the manner and the extent to which any unrealized profits or losses in the equity type investments of the funds shall be taken into account.

(e) **Unfunded Liabilities.** The unfunded liabilities of the Fire and Police Pension Plan – Tier 4 shall be funded in accordance with the actuarial funding method adopted by the Board upon the advice of its consulting actuary. Any unfunded liabilities resulting from amendment of the provisions of this Tier 4 or by ordinance as authorized by this Tier 4 shall be amortized over a 30 year period. Actuarial experience gains and losses shall be amortized over a 15 year period.

**Sec. 1614. Member Contributions – Tier 4.**

(a) **Contribution Amount.** Each Plan Member shall contribute to the Fire and Police Pension Plan – Tier 4 by salary deduction at the rate of 8% of the amount of his or her salary, except that further contributions to the Plan shall not be required from a Plan Member who has served as a Plan Member more than 30 years.

For purposes of determining the amount of the deduction, Salary shall mean those elements of a Plan Member’s compensation which would be included in calculating Final Average Salary. The administrative head of the Fire Department or the Police Department shall cause to be shown on each and every payroll of such department a deduction of 8% of the amount of salary of each Plan Member whose name appears thereon.

(b) **Member Accounts.** The Board shall maintain an individual account of the contributions by or for each Plan Member, as hereinabove provided. Regular interest shall be credited to such individual accounts as of the last day of June and December of each year at such rate as the Board may deem proper in light of the Fire and Police
Pension Plan’s earnings, exclusive of profits and losses on principal heretofore or hereafter resulting from sales of securities. No such interest shall be credited at any other time or to the individual account of any person who is not a Plan Member but such interest shall be credited to the individual account of a Plan Member whose employment is terminated for any reason for any period of service between the next preceding last day of June or December and the end of the pay period preceding the date of such termination at the rate at which regular interest was last credited to Plan Members’ individual accounts.

(c) **Payroll Deduction.** Each Plan Member shall be deemed to consent and agree to each deduction made as provided for herein and the payment of each payroll check to such Plan Member shall be a full and complete discharge and acquittance of all claims and demands whatever for the services rendered by each member during the period covered by such payroll, except such claims as such Plan Member has to the benefits or payments provided for in this Tier 4.

(d) **No Right to Refund of Contributions.** Tier 4 Plan Members shall not be entitled to a refund of contributions upon termination of employment. Every person hired prior to July 1, 1997 who makes an irrevocable election in writing to receive benefits under Tier 4 shall not be entitled to a refund of contributions made prior to or after such election upon termination of employment.

Survivors of deceased members of Tier 4 shall be eligible for a refund of a deceased Tier 4 member’s contributions only in accordance with the Basic Death Benefit as provided in Section 1608(a)(7). Interest on contributions paid under the Basic Death Benefit shall be credited in accordance with the provisions described in Section 1614.

(e) **Assuring Full Member Contributions.** The Board shall have rule-making authority to insure that the Fire and Police Pension Plan – Tier 4 receives member contributions for all periods of credited service, except that the Board shall not have authority to require contributions for service credit for military service and for periods while a Plan Member is receiving a disability pension, or full pay for Injury On Duty. Plan Members, however, may elect to make contributions for periods of Injury on Duty compensated at the rate provided by general law in order to acquire credit for Years of Service for such period. Such contributions shall be at the contribution rate herein provided and shall be based on the salary the Plan Member would have received if he or she had not occupied Injury On Duty status.

### Sec. 1616. Cost of Living Adjustments.

(a) **Determination of Cost of Living Adjustments.** The Board, before May 1 of each year commencing with the year 1981, shall determine the percentage of the annual increase or decrease in the cost of living as of March 1 of that year from March 1 of the preceding year as shown by the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics or such other index as the Federal Government may develop to replace the All Urban Consumers Index for the area in
which the City is located. If any such index were not to reflect the cost of living as of a particular March 1, then the index for the closest preceding date shall be used.

(b) **Annual Cost of Living Adjustments.** Commencing as of July 1 of the year in which the Board shall determine the percentage of increase or decrease in the cost of living, the monthly amounts of all pensions granted pursuant to the provisions of this Tier 4, shall be increased or decreased by reason of such determined percentage of increase or decrease in the cost of living, not to exceed an increase or decrease of 3% in any given year. Pensions which became payable before July 1, but subsequent to the preceding July 1, will be adjusted on a prorated basis whereby one-twelfth of the annual adjustment shall be applied for each completed month since such pension commenced.

In no event shall pensions adjusted hereunder ever be decreased below the amount received by the Beneficiary when such pension first became payable to him or her.

(c) **Discretionary Cost of Living Adjustments.** To the extent that the annual cost of living adjustments provided by subsection (b) hereof are less than the annual change in the cost of living as determined in subsection (a) hereof, the Council may grant discretionary cost of living adjustments, in addition to the annual cost of living adjustments provided by subsection (b) hereof, subject to the following conditions and requirements:

1. **No More Than Every Three Years.** Discretionary adjustments may not be provided more frequently than once every three years, counting from the effective date of this section and, after a discretionary adjustment has once been made, counting from the date the last discretionary adjustment became effective.

2. **Limit of Adjustments.** Discretionary adjustments shall not exceed one-half of the difference between the percentage of the annual increases in the cost of living, as determined pursuant to the provisions of subsection (a) of this section, and the annual adjustments made pursuant to subsection (b) of this section for each of the preceding three years. Discretionary adjustments shall be allocated to each of the three years for which an adjustment is made.

3. **Pensions Eligible for Adjustment.** Discretionary adjustments herein provided shall be applied to pensions granted pursuant to Sections 1604, 1606 and 1608 subject to the following limitations: If a pension became payable on or after July 1 immediately preceding the effective date of such adjustment, it shall not be so adjusted; and any pension which shall have become payable at a time within the three year period (but prior to the immediately preceding July 1), shall be prorated on a monthly basis to the number of completed months for which the pension was received, provided that pensions paid pursuant to Section 1608(a)(3), (4) or (5), or Section 1608(c), (e) or (f), shall be adjusted by basing eligibility on the date upon which the Retired Plan Member’s pension became effective.
(4) **Report to Council Prior to Adoption by Ordinance.** Discretionary cost of living adjustments may be provided only by ordinance. Ordinances providing discretionary adjustments may not be finally adopted until the Council has first obtained and published a report from the actuary or actuaries of the Fire and Police Pension Plan – Tier 4 indicating the present value of the liabilities that will be created by the proposed discretionary adjustment. This report must identify the annual funding cost of amortizing this liability over a 30 year period utilizing the funding procedure adopted by the Board.

(5) **Vote by Council.** Ordinances adopted pursuant to this subsection must be by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and re-adoption by the Council by not less than three-fourths of the membership of Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held thereon. Ordinances adopted pursuant to this subsection, shall be published no later than November 30, and shall become effective January 1.

(6) **Prospective Application.** All adjustments provided in this subsection are to be applied prospectively only and shall not be understood to permit retroactive adjustments of pensions.

**Sec. 1618. Provision of Certain Subsidy Payments by Ordinance.**

(a) **Purpose of this Section.** It is the purpose of this section to enable the Council to provide by ordinance a program or programs whereby persons receiving pensions pursuant to the provisions of this Tier 4 may become eligible to have subsidy payments made on their behalf for health insurance, accident insurance, life insurance or health care plan coverage or coverage for any combination of such programs as determined by the Council and subject to such conditions of entitlement as may be set forth in any ordinance adopted in accordance with the provisions of this section.

(b) **Mode of Adoption of Ordinance.** Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and re-adoption by the Council by three-fourths of the membership of the Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held thereon. Any ordinance adopted pursuant to this section shall go into effect upon its publication, but the terms of such ordinance, or portions thereof, may be operative at a later date or dates.

(c) **Council Authority to Establish Subsidy Limitations.** The Council may establish by ordinance the maximum subsidy payments for beneficiaries under any programs established by the Council pursuant to subsection (a), including appropriate limitations for employees receiving subsidies from other City plans.
(d) **Administration of Subsidy Program.** Any subsidy program adopted by ordinance pursuant to this section shall be administered by the Board. In furtherance thereof, the Board shall have the authority to contract for suitable programs as defined in subsection (a), to be made available to retired members or other beneficiaries, and shall have the power to adopt such rules as it deems necessary to administer such programs. Notwithstanding the foregoing provisions, the Board may authorize the Personnel Department to administer any program or part thereof established by ordinance pursuant to the provisions of this section, but the Board shall reimburse the General Fund of the City of Los Angeles for all necessary expenses incurred by the Personnel Department in administering these programs.

(e) **Board Authority to Adjust Subsidy Amount.** The Council may by ordinance authorize the Board to increase or decrease subsidy payments pursuant to factors, standards, and limitations prescribed in the ordinance.

**SECTION HISTORY**

Amended by: Charter Amendment 2, approved March 8, 2005, effective April 6, 2005.

**Sec. 1620. Compliance with Certain Internal Revenue Code Provisions.**

(a) Notwithstanding any other provisions of this Tier 4, the benefits payable to any person who became a Plan Member prior to January 1, 1990, shall be subject to the greater of the following limitations:

1. the limitations set forth in Section 415 of the Internal Revenue Code; or

2. the accrued benefit of the Plan Member of the Fire and Police Pension Plan (determined without regard to any amendment to the Plan made after October 14, 1987), as provided in Section 415(b)(10)(A) of the Internal Revenue Code.

(b) The benefits payable to any person who becomes a Plan Member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code.

(c) The Council shall, by ordinance, provide such benefits as are necessary to preserve the level of benefits in effect prior to the effective date of this section.

(d) Should it be determined that the provisions of Charter Section 1608(a)(1) violate the limitations of Section 415 or the incidental death benefit provisions of the Internal Revenue Code, Section 1608(a)(1) shall be deemed inapplicable to the extent necessary to achieve compliance. The Council shall by ordinance, adopt such measures as are necessary to achieve compliance and to preserve the level of benefits in effect prior to the effective date of this section.
Ordinances adopted pursuant to this section shall be adopted in the same manner as those authorized by Charter Section 1618, except any ordinances adopted shall be effective upon publication.

If any of the provisions of Section 415 of the Internal Revenue Code should be repealed, the provisions of this section shall be deemed repealed to the same extent.

All benefits provided pursuant to any ordinance adopted under the provisions of subsection (e) shall be administered by the Board. A separate and distinct fund or funds shall be created by the Board as required to administer such benefits. Such fund or funds shall not contain employee contributions. The Board shall also determine the manner of funding any liabilities incurred as a result of ordinances adopted pursuant to this section.

Sec. 1622. Compensation Limits.

For members hired on or after July 1, 1996, the Final Average Salary taken into account to determine the benefits provided by Tier 4 shall not exceed the annual limit set forth in Section 401(a)(17) of the Internal Revenue Code and regulations thereunder for any Plan Year. This annual compensation limitation shall be adjusted automatically for each Plan Year to the amount prescribed by the Secretary of the Treasury or the Secretary’s delegate. For purposes of this section, the family aggregation rules of Section 414(q)(6) of the Internal Revenue Code shall apply; provided that “family” shall include only the Member’s spouse and lineal descendants who have not yet attained age 19 by the last day of the Plan Year.

If any of the limitations of Section 401(a)(17) or Section 414(q)(6) should be repealed, the provisions of this section shall be deemed repealed to the same extent.

Sec. 1624. Council Authority to Maintain Tax-Qualified Status of Plan.

The Council may, by ordinance, amend the Fire and Police Pension Plan – Tier 4 to incorporate provisions of federal laws and regulations required to maintain the tax-qualified status of the Fire and Police Pension Plan – Tier 4. The Council also may enact ordinances to modify or repeal such provisions. Ordinances adopted pursuant to this section shall be adopted in accordance with Charter Section 1618. It is the intent of this section to facilitate compliance with the provisions of federal laws affecting the Fire and Police Pension Plan – Tier 4.

Sec. 1626. Miscellaneous Provisions.

Notwithstanding any other provision of this Tier 4, the provisions of this section shall be controlling to the extent there is a conflict with another provision.

(a) Service or Disability Pensions for Former Plan Members. Any former Plan Member who shall believe that he or she is eligible to be paid a pension pursuant to Section 1604 or 1606 of this Tier 4, may file his or her written application for the
payment of a pension pursuant to either one of the sections within the time prescribed for
the filing thereof by any applicable provision of law, and the Board, if it were to
determine that the contingencies provided in this Tier 4 for the payment thereof had
happened or occurred as to such former Plan Member and if there is no legal bar or
defense to the granting to him or her of such pension or to any judicial action or
proceeding which could be brought by him or her with respect thereto, shall grant him or
her the pension in accordance with his or her written application.

(b) Adoption of Board Rules to Comply with Federal or State Law. If at any
time after December 8, 1980, federal or state law should become preemptive or
controlling with respect to the provisions of this Tier 4, the Board shall have the power to
adopt such rules as may be necessary to comply with such federal or state law. Such
rules shall be adopted upon the advice and with the concurrence of the City Attorney.

(c) Payroll Deductions and Years of Service Credit for Overtime. Whenever a
Plan Member, for overtime work, shall take a period of time off with pay:

(1) a deduction for pension purposes shall be made from such pay but only
in the same amount as that which would have been deducted from his or her
salary if such period had been one of regular work; and

(2) such period shall be part of his or her Years of Service.

Whenever a Plan Member, for overtime work, shall receive a cash payment:

(1) a deduction for pension purposes shall not be made from such payment;
and

(2) the period of overtime work for which he or she shall receive such
payment shall not be part of his or her Years of Service.

(d) Coordination with Deferred Compensation Plan. In the event the City
establishes a deferred compensation system applicable to the members of the Fire and
Police Pension Plan – Tier 4, the Board shall prescribe rates of contributions and benefits
so that the interest of the City in protecting the Plan and the interest of the Plan Members
in pension benefits are protected when compared with contributions and benefits which
would have been received had deferred compensation not been instituted.

Sec. 1628. Social Security Participation.

(a) Implementation Procedure for Social Security Participation. Should Social
Security participation be mandated or made available to Plan Members by federal
legislation amending the Social Security Act or by action taken by the City or by Plan
Members as provided by law, the following provisions shall govern the manner in which
such participation by Plan Members is to be implemented and the limitations hereinafter
set forth shall be controlling unless federal law is contrary to these provisions, is in
conflict therewith and is clearly intended to be preemptive. Should applicable provisions of federal law in any respect differ from the provisions contained in this section and should they be determined to be preemptive as to any part thereof, then and in that event, those provisions of this section not affected by such federal law shall remain in full force and effect.

(b) **Council Authority to Coordinate Benefits and Contributions.** As to the rights and entitlement to benefits of Plan Members participating in such Social Security coverage, the Council shall have the power and authority, subject to the veto of the Mayor, to adopt ordinances modifying the benefits and conditions of entitlement provided in this Tier 4, including adjustments of Plan Member contributions to the Fire and Police Pension Plan – Tier 4 as hereinafter more specifically provided and subject to the limitations stated herein.

(c) **Supermajority Vote Required.** Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and re-adoption by the Council by a vote of not less than three-fourths of the membership of Council. No such ordinance may be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held thereon. Any ordinance adopted pursuant to this section shall go into effect upon publication.

(d) **Integration of Social Security and Pension Plan.** Any participation in Social Security coverage shall be by integration with the benefits provided by this Tier 4 and shall not be in addition to the benefits provided in the Fire and Police Pension Plan – Tier 4. Integration is to be defined in harmony with the provisions of the Social Security Act and must be in substantial compliance with the rules and regulations governing the Act. Benefits provided by an integrated system must be at least equal to the benefits offered by the Fire and Police Pension Plan – Tier 4 prior to such integration. The level of integration may be periodically adjusted by the Mayor and Council to ensure an adequate level of integration.

(e) **Minimum Plan Member Contributions.** Plan Members participating in Social Security shall have their contributions to the Fire and Police Pension Plan reduced but Plan Members must contribute at least 2% of salaries to the integrated Fire and Police Pension Plan – Tier 4.

Sec. 1630. **Inoperability of Tier 4.**

Should it be determined that the provisions of Tier 4 violate any federal or state laws or the Internal Revenue Code, which render either of such sections inoperative, then Tier 4 shall become inoperative and service retirement benefits and vesting as provided in Section 1504 of Tier 3, and contributions of Plan Members as provided in Section 1514 of Tier 3 shall become operative in their place to the extent allowed by law. If the provisions of Sections 1514 and 1504 of Tier 3 cannot be fully reinstated, then
modifications required to comply with changes in the law shall be made by ordinance, adopted in accordance with Section 1624.