

City of Philadelphia



(Bill No. 180557-A)

AN ORDINANCE

Amending Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” to expand “Plan 16” to include certain employees, to change contribution rates for certain employees and the City, to amend various provisions relating to the Deferred Retirement Option Plan (“DROP”), and to make technical amendments; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” is hereby amended as follows:

TITLE 22. PUBLIC EMPLOYEES RETIREMENT CODE.

CHAPTER 22-100. GENERAL PROVISIONS.

* * *

§22-104. Continuation of Divisions and Plans.

* * *

(2) Plans. The several plans of benefits that form part of the City of Philadelphia Public Employees Retirement System are designated and assigned to the foregoing divisions thereof as follows:

* * *

Plan 16 includes (i) [all] *certain* employees represented by AFSCME District Council 33 hired or rehired on or after August 20, 2016; (ii) *certain employees represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or the Register of Wills hired or rehired on or after the effective date of the ordinance adding this clause (ii);* and [(ii)] (iii) certain electing employees; all as set forth in [Section 22-201(6) and Section 22-206(2).] §§ 22-201 and 22-206(2). Plan 16 is a plan within Municipal Division New.

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CHAPTER 22-200. MEMBERSHIP.

* * *

§22-201. Membership Upon Employment.

* * *

(2) Employees hired or rehired on or after January 8, 1987. All employees who are hired, rehired, or first elected on or after January 8, 1987, shall be members of Plan A, Plan B, Plan L, or Plan Y of the Retirement System, except to the extent that they are afforded other options pursuant to § 22-203 (Membership After Reemployment) or are Police or Fire employees covered by subsection (3) or (5), or are municipal employees covered by subsection (4), (5), [or] (6), or (7), or are elected officials covered by subsection (5). Of these employees:

* * *

(5) Employees hired or rehired or assuming elected office on or after January 1, 2010. All employees who

* * *

(ii) are hired or rehired or first elected during the period set out below in subparagraphs (a) through [(j)] (k) are members of Plan '10 immediately upon employment by the City or upon taking office, except to the extent that they are afforded other options pursuant to §22-203 (Membership After Reemployment) or unless, within thirty (30) days of employment, the employee (except an employee who either (.1) is represented by Lodge No. 5 of the F.O.P. and is an employee of the Register of Wills or (.2) is a guard represented by DC33) makes an irrevocable election to become a member of Plan A or B or Y or L, as applicable.

(a) For police employees: On or after January 1, 2010.

(b) For fire employees: On or after October 15, 2010.

(c) For employees of the Sheriff's Office or of the Register of [Wills:] *Wills not represented by Lodge 5 of the F.O.P.:* On or after January 1, 2012.

* * *

(k) *For employees represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or of the Register of Wills: From January 1, 2012, through the day before the effective date of the ordinance adding this subparagraph (k).*

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* * *

(7) *Employees represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or the Register of Wills first hired or rehired on or after the effective date of the ordinance adding this subsection (7). All employees represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or the Register of Wills hired or rehired on or after the effective date of the ordinance adding this subsection (7) shall be members of Plan 16 of the Retirement System, except to the extent that they are afforded other options pursuant to § 22-203 (Membership After Reemployment).*

* * *

§ 22-206. Electing Members of the Retirement System.

* * *

(2) [A member] *Certain members of Plan '10 [represented by AFSCME District Council 33] may elect to participate in Plan 16 [within ninety (90) calendar days of the effective date of this subsection.] as provided in subparagraphs (a) and (b) below. A member who makes such an election shall automatically become a member of Plan 16 upon payment to the Retirement System of the difference between the contributions made before the election and the amount that would have been contributed if membership had been established in Plan 16 during previous credited service, in accordance with the provisions of § 22-803(1) (Purchase of Prior City Service, Cost of Purchase), except that the interest provided for in § 22-803(1) shall not be charged on the purchase. In such case, all of the member's credited service, including service credited before the election, shall be transferred to Plan 16. For purposes of a member's defined benefit, the member shall be treated as though membership had existed in Plan 16 for the member's entire credited service and the member's retirement rights and defined benefit shall be determined solely by Plan 16. A member's participation and benefits in the DC Plan shall be determined by the applicable provisions of Chapter 22-1400.*

(a) *Members of Plan '10 represented by AFSCME District Council 33: On or before March 9, 2017.*

(b) *Members of Plan '10 represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or the Register of Wills: Within ninety (90) calendar days of the effective date of the ordinance adding this paragraph (b).*

* * *

CHAPTER 22-900. CONTRIBUTIONS.

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§ 22-901. Contributions by the City of Philadelphia.

(1) Each year the City shall pay to the Board of Pensions and Retirement, for the account of the fund described in § 22-1001 the City's share of the actuarial cost of financing the Retirement System as required by the Municipal Pension Plan Funding Standard and Recovery Act (1984, Dec. 18, P.L. 1006, No. 205, 53 P.S. §§ 895.101 et seq.) and as may otherwise be required by law, including, without limitation, provisions of USERRA (38 U.S.C. § 4318(b)(1) and (3)) with respect to any liability thereunder of the City, as employer, to the Retirement System. The City shall also contribute the net proceeds of an alternative funding mechanism as defined in 53 P.S. § 895.102 if any alternative funding mechanism is used by the City, for the purposes set forth in 53 P.S. §§ 895.101 et seq. Such contributions shall be made within the time period set forth in 53 P.S. § 895.404.

(2) *Related to the implementation of the Memorandum of Agreement between City of Philadelphia and AFSCME DC 33 ratified August 19, 2016 (including correctional officers); the F.O.P. Lodge 5 arbitration award pursuant to the Act of Jun. 24, 1968, P.L. 237, No. 111 ("Act 111") dated August 15, 2017; the F.O.P. Lodge 5 arbitration award pursuant to the Act of July 30, 1970, P.L. 563, No. 195 ("Act 195") dated March 13, 2018; and (d) the I.A.F.F. Local 22 arbitration award pursuant to Act 111 dated May 17, 2018, the Director of Finance is expected to calculate the amount required by subsection (1) without regard to:*

(a) the portion of contributions that exceed of five and one-half percent (5.5%) of compensation set forth in §22-902(2)(e)(.1)(B), (C) and §22-902(2)(e)(.2);

(b) the additional contributions set forth in §22-902(2)(g)(.3)(ii) and (iii); and

(c) the additional contributions set forth in §22-902(3).

§22-902. Member Contributions.

* * *

(2) Basic Contribution Rate. Subject to subsection (3), below, member contributions shall be made at the following basic contribution rates:

(a) Members of Plan J who are not covered under the Federal Social Security Act, as amended:

(.1) For members represented by AFSCME, District Council 47, or District Council 33 (except for guards represented by DC 33, provided that this

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exception shall expire on [the effective date of the ordinance adding this clause to subparagraph (.1)),] *December 9, 2016*), and for municipal employees not represented by a union:

* * *

(.2) For guards represented by DC 33:

* * *

(B) For the period November 14, 2014, through [the day before the effective date of the ordinance adding this clause to clause (B),] *December 8, 2016*, the greater of (i) six percent (6%) of compensation; or (ii) fifty percent (50%) of the aggregate normal cost for all members in Plan J.

* * *

(b) Members of Plan J who are covered by the Federal Social Security Act, as amended (except for guards represented by DC 33, provided that this exception shall expire on [the effective date of the ordinance adding this clause to paragraph (b)),] *December 9, 2016*) three and three-quarters percent (3-3/4%) of that portion of compensation which is subject to tax under the Federal Insurance Contributions Act (26 U.S.C. §§ 3101 et seq.) plus six percent (6%) of that portion of compensation which is not subject to such tax, exclusive of that portion of such tax attributable to coverage for hospital insurance benefits; plus, for members represented by AFSCME, District Council 47, or AFSCME, District Council 33, and for municipal employees not represented by a union:

* * *

(e) Members of Plan '10 who are police or fire employees, *the required contributions shall be as follows*, [five and a half percent (5.5%) of compensation;] provided that no contributions shall be required of any employee with more than twenty (20) years of credited [service.] *service*:

(.1) *For members hired or rehired on or before June 30, 2017:*

(A) *For the period preceding July 1, 2017: five and one-half percent (5.5%) of compensation.*

(B) *For the period July 1, 2017, through June 30, 2018: six and forty-two hundredths of a percent (6.42%) of compensation.*

(C) *For the period July 1, 2018, and thereafter: seven*

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and thirty-four hundredths of a percent (7.34%) of compensation.

(.2) For members hired or rehired on or after July 1, 2017: eight percent (8%) of compensation.

* * *

(g) Members of Plan A, Plan B, Plan L, Plan Y, or Plan 16, such contributions as the Board shall determine based on the most recent actuarial valuation report, in accordance with the following:

(.1) Separate basic contribution rates shall be determined for members of each of Plan A, Plan B, Plan L, Plan Y, or Plan 16.

(.2) For members of Plan L, Plan Y, and Plan 16, the required contributions shall equal the sum of the amounts calculated pursuant to the applicable portions of clauses (i) through [(iv), below] (v), *below*:

(i) Such percent of the aggregate normal cost for all members in such plans as set forth in subsections (A) through (D) below, including but not necessarily limited to, the normal cost for service retirement benefits, separation service retirement benefits; optional early retirement benefits, disability benefits, death benefits, survivor benefits, and expenses; provided, however, that for that portion of the benefits under Plan L which exceeds those available to members of Plan Y, the required Plan L contribution for each employee shall equal a proportionate share of one hundred percent (100%) of the aggregate normal cost of such greater benefits for all such members:

(A) For members of Plan L; for members of Plan Y, except employees of the Sheriff's Office represented by Lodge 5 of the F.O.P., and except guards represented by DC 33, provided that this exception for guards shall expire on [the effective date of the ordinance adding this paragraph (A);] *December 9, 2016*; and for members of Plan 16: thirty percent (30%).

* * *

(D) For members of Plan Y who are guards represented by DC 33:

(.a) Until November 13, 2014, thirty percent (30%).

(.b) From November 14, 2014, through [the day before the effective date of the ordinance adding this paragraph (D);] *December*

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8, 2016: fifty percent (50%).

* * *

(ii) for members represented by AFSCME, District Council 47, or AFSCME, District Council 33 (except guards represented by DC 33, provided that this exception shall expire on [the effective date of the ordinance adding this clause to clause (ii)], *December 9, 2016*), and for municipal employees not represented by a union and for elected officials, for the period January 1, 2015, through December 31, 2015, one-half percent (0.5%) of compensation (except for municipal employees of the Auditing Department, not in the civil service, for whom this additional one-half percent (0.5%) shall apply for the period July 1, 2015, through December 31, 2015; and except for OHCD employees, for whom this additional one-half percent (0.5%) shall not apply), and, for the period January 1, 2016, and thereafter, one percent (1.0%) of compensation; and

(iii) for members represented by AFSCME, District Council 47, hired on or after March 5, 2014; for municipal employees in the civil service not represented by a union, hired on or after May 14, 2014; for members represented by AFSCME, District Council 33 (except guards represented by DC 33 and OHCD employees, provided that this exception shall expire on [the effective date of the ordinance adding this clause to clause (iii)], *December 9, 2016*), hired on or after September 9, 2014; for municipal employees not in the civil service and not represented by a union, hired or first elected on or after November 14, 2014; and for OHCD employees hired on or after December 1, 2015, an additional one percent (1.0%) of compensation:

* * *

(iv) for elected officials first elected on or after November 14, 2014, an additional one percent (1.0%) of [compensation.] *compensation; and*

(v) *for members of Plan 16 represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or the Register of Wills, an additional two percent (2.0%) of compensation.*

(.3) For members in Plan A and Plan B, the required employee contribution shall *equal the sum of the amounts calculated pursuant to the applicable portions of clauses (i), (ii), and (iii) below*, [be such percent of payroll as set forth in subsection (A) below,] provided that [this percentage] *the percentage of compensation set forth in clause (i)* is at least equal to thirty percent (30%) of the normal cost for members in Plan A and Plan B. If the percentage of [payroll] *compensation* set forth in [subsection (A)] *clause (i)* below does not equal thirty percent (30%) of the normal cost, the

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contribution percentage will be adjusted to equal [the] thirty percent (30%) of the normal cost. For members of Plan B hired before January 1, 2010, and for members of Plan A hired before October 15, 2010, if the percentage of [payroll] *compensation* set forth in [subsection (A)] *clause (i)* exceeds fifty percent (50%) of the normal cost, the contribution percentage will be adjusted so as not to exceed fifty percent (50%) of such normal cost.

[(A)] (i) For members of Plan B hired before January 1, 2010, and for members of Plan A hired before October 15, 2010, five percent (5%) of *compensation*. For members of Plan B hired on or after January 1, 2010, and for members of Plan A hired on or after October 15, 2010, six percent (6%) of *compensation*.

(ii) *For members hired or rehired on or before June 30, 2017:*

(A) *For the period July 1, 2017, and thereafter:*
An additional ninety-two hundredths of a percent (.92%) of compensation.

(B) *For the period July 1, 2018, and thereafter:*
An additional ninety-two hundredths of a percent (.92%) of compensation.

(iii) *For members hired or rehired on or after July 1, 2017: An additional two and one-half percent (2.5%) of compensation.*

* * *

(3.1) *Additional contributions. For employees represented by Lodge 5 of the F.O.P. who are employees of the Sheriff's Office or the Register of Wills, effective on the effective date of the ordinance adding this subsection (.3), contributions shall be made at the rate set forth in the applicable provisions of subsection (2), above, plus an amount equal to the following, provided that, for members of Plan 16, the term "annual salary" in this subsection (3.1) shall mean the lesser of the member's annual salary as provided for in Section 22-105(4.1) or the Stacked Hybrid Cap:*

(a) *for employees earning an annual salary of more than \$45,000 but not more than \$55,000, excluding overtime; one-half percent (.5%) of compensation.*

(b) *for employees earning an annual salary of more than \$55,000 but not more than \$75,000, excluding overtime; one-and-a-half percent (1.5%) of compensation.*

(c) *for employees earning an annual salary of more than \$75,000 but not more than \$100,000, excluding overtime; two-and-three-quarters percent (2.75%) of compensation.*

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(d) *for employees earning an annual salary of more than \$100,000, excluding overtime; three percent (3%) of compensation.*

* * *

SECTION 2. Title 22 of The Philadelphia Code, entitled “Public Employees Retirement Code,” is hereby amended as follows:

TITLE 22. PUBLIC EMPLOYEES RETIREMENT CODE.

* * *

CHAPTER 22-300. RETIREMENT BENEFITS.

* * *

§22-310. Deferred Retirement Option Plan (DROP)

* * *

(4) Eligibility. In order to be eligible to participate in this program, a member must be an active employee of the City and be otherwise eligible to retire under Section 22-301 and must have a minimum of ten (10) years of credited service, all as of the DROP entry date. In lieu of separating from employment and commencing receipt of service retirement benefits, any such member may enter into this program (“the DROP”) (i) in the case of Police Employees, Fire Employees, [and] members represented by AFSCME, District Council 33 or AFSCME, District Council 47, *and members represented by Lodge 5 of the F.O.P. who are employees of the Sheriff’s Office or the Register of Wills*, on or after the date the member attains his or her “minimum retirement age,” as that term is defined in Section 22-105(25); or (ii) in the case of all other members, on or after the second anniversary of the date the member attains his or her “minimum retirement age” as that term is defined in Section 22-105(25), provided in either case that the member’s DROP entry date shall meet the requirements in Section 22-310(5)(a) below. For participation in the DROP to be effective, the application must be approved by the Board pursuant to Section 22-309.

* * *

SECTION 3. This Ordinance shall be effective as follows:

(1) Section 1: Immediately, except as otherwise provided in the code sections amended by Section 1.

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(2) Section 2: Immediately, provided that this Ordinance shall not establish the right of any member to enter DROP retroactively.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 21, 2018. The Bill was Signed by the Mayor on June 21, 2018.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council