

MEMPHIS, TENNESSEE, CODE OF ORDINANCES
TITLE 4 - PENSION AND RETIREMENT SYSTEM
Chapter 4-4 - DEFINITIONS AND GENERAL PROVISIONS

Sections:

- Sec. 4-4-1 - References, construction and definitions.
- Sec. 4-4-2 - Estimated data.
- Sec. 4-4-3 - Deduction of insurance and other premiums.
- Sec. 4-4-4 - Diversion.
- Sec. 4-4-5 - No employment contract.
- Sec. 4-4-6 - Amendments.

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Sec. 4-4-1 - References, construction and definitions.

27. "Line-of-duty disability" means a physical or mental condition arising as the direct and proximate result of an accident sustained by a participant, after he or she became a participant and while in the actual performance of duties for the city at some definite time and place without wilful negligence on his or her part which totally and permanently prevents him or her from engaging in **either** the duties for which he or she was employed by the city **or a comparable position with comparable compensation**. The determination of the line-of-duty disability of a participant shall be made on medical evidence by at least two qualified physicians.
- xx. "Grandfathered Participants" means:
- a. any employee who has met the eligibility requirements for participation in the 1948 plan as set forth in Chapters 4-24, or
 - b. any employee who has met the eligibility requirements for participation in the 1978 plan as set forth in Chapter 4-28 and has earned ten (10) or more Years of Service as of DATE
1. "Accrued benefit" means: Provided, however, that if the participant is eligible for a monthly benefit under Chapters 4-24 and 4-28, such election shall be obtained with the written consent of the participant's spouse and approved by the board; and
- a. As of any date, for each **grandfathered** participant, a monthly benefit amount payable semimonthly in the form of a single life annuity, equal to two and one-fourth percent of his or her average monthly compensation multiplied by the number of years of service completed before January 1, 1990, plus two and one-half percent of his or her average monthly compensation multiplied by the number of years of service completed after January 1, 1990; provided, however, that when a **grandfathered** participant's years of service equals twenty-five (25) years, such participant shall accrue an additional one percent of his or her average monthly compensation for each year of service in excess of twenty-five (25) years for a maximum of ten (10) years; provided, however, if after thirty-five (35) years of service the total percentage of his or her average monthly compensation is less than seventy-two and five-tenths percent, such participant shall accrue an additional one percent of his or her average monthly compensation for each year of service in excess of thirty-five (35) years earned after January 1, 1990, until such total percentage shall equal seventy-two and five-tenths percent;
 - b. As of any date, **for each participant who does not meet the definition of a grandfathered** participant, a monthly benefit amount payable semimonthly in the form of a single life annuity, equal to two and one-fourth percent of his or her average monthly compensation multiplied by the number of years of service completed before January 1, 1990, plus two and one-half percent of his or her average monthly compensation multiplied by the number of years of service completed after January 1, 1990, **but before DATE, plus two and one-fourth percent of his or her average monthly compensation multiplied by the number of years of service completed after DATE**; provided, however, that when a **grandfathered** participant's years of service equals twenty-five (25) years, such participant shall accrue an additional one percent of his or her average monthly compensation for each year of service in excess of twenty-five (25) years for a maximum of ten (10) years; provided, however, if after thirty-five (35) years of service the total percentage of his or her average monthly compensation is less than seventy-two and five-tenths percent, such participant shall accrue an additional one percent of his or her average monthly compensation for each year of service in excess of thirty-five (35) years earned after January 1, 1990, until such total percentage shall equal seventy-two and five-tenths percent;
4. Average monthly compensation" means:
- a. 1948 plan:
 - i. For each participant, the average monthly compensation, (excluding and disregarding any hiatus in the participant's employment by the city) for his or her five consecutive years of service for which such compensation was the highest. If his or her average monthly compensation for the twelve (12) months next preceding the date of his or her retirement exceeds the average of his or her highest five consecutive years' compensation, then his or her average monthly compensation shall be based upon the twelve (12) month period next preceding the date of his or her retirement, and in the case of death or disability incurred by a participant in the performance of duties before he or she has five consecutive years of service, his or her average monthly compensation shall be the average monthly rate of compensation during all his or her years of service.
 - ii. While in the armed services and receiving years of service credit as provided under subsection (44)(g) of this section, a participant's compensation for purposes of this subsection shall be deemed to be his or her rate of base compensation as a city

employee in effect at the time he or she entered the armed services.

iii. For any police officer or firefighter credited with thirty (30) or more years of service, and eligible for automatic promotion to captain or comparable rank in the police or fire divisions of the city under Charter Section 67, his or her average monthly compensation shall be the current monthly base compensation of a captain or comparable rank in the police or fire divisions of the city as of the date of his or her retirement, plus any shift premium pay, hazardous premium pay, holiday pay, longevity pay and incentive pay, excluding overtime pay, earned during the immediately preceding twelve (12) months.

b. 1978 plan:

i. For each **grandfathered** participant, the average monthly compensation, (excluding and disregarding any hiatus in the participant's employment by the city) for his or her five consecutive years of service for which such compensation was the highest. If his or her average monthly compensation for the twelve (12) months next preceding the date of his or her retirement exceeds the average of his or her highest five (5) consecutive years' compensation, then his or her average monthly compensation shall be based upon the twelve (12) month period next preceding the date of his or her retirement, and in the case of death or disability incurred by a participant in the performance of duties before he or she has five consecutive years of service, his or her average monthly compensation shall be the average monthly rate of compensation during all his or her years of service.

ii. For each participant who does not meet the definition of a grandfathered participant, the average monthly compensation, (excluding and disregarding any hiatus in the participant's employment by the city) for his or her five (5) consecutive years of service for which such compensation was the highest. In addition, in the case of death or disability incurred by a participant in the performance of duties before he or she has five consecutive years of service, his or her average monthly compensation shall be the average monthly rate of compensation during all his or her years of service.

iii. For any police officer or firefighter who is also a grandfathered participant, the average monthly compensation for three (3) consecutive years of service (excluding and disregarding any hiatus in the participant's employment with the city) for which such average is the greatest, or, if a participant has less than three consecutive years of service, his or her average monthly compensation for the entire period, or, if less, the three-year aggregate period during which he or she was an employee and for which such average is the greatest.

iv. For any police officer or firefighter who does not meet the definition of a grandfathered participant, the average monthly compensation for five (5) consecutive years of service (excluding and disregarding any hiatus in the participant's employment with the city) for which such average is the greatest, or, if a participant has less than three consecutive years of service, his or her average monthly compensation for the entire period, or, if less, the three-year aggregate period during which he or she was an employee and for which such average is the greatest.

v. For any police officer or firefighter hired before February 1, 1978, credited with thirty (30) or more years of service, and eligible for automatic promotion to captain or comparable rank in the police or fire divisions of the city under Charter Section 67, his or her average monthly compensation shall be the average monthly base compensation of a captain or comparable rank in the police or fire divisions of the city for the immediately preceding three years to be calculated as follows: the current monthly compensation of a captain or comparable rank as of the date of his or her retirement, plus the monthly compensation of a captain or comparable rank as of the date one year prior to the date of his or her retirement, plus the monthly compensation of a captain or comparable rank as of the date two years prior to the date of his or her retirement, plus any shift premium pay, hazardous pay, longevity pay, and incentive pay, excluding overtime pay or any double time compensation for holidays, earned during the immediately preceding three years, the sum of which is divided by three.

30. Normal Retirement Date.

a. 1948 Plan. "Normal retirement date" means:

i. General employees: the first day of the month coincident with or next following the earlier date on which a 1948 plan participant, other than a police officer or firefighter:

- (A) Completes twenty-five (25) years of service; or
- (B) Attains age sixty (60) and completes ten (10) years of service.

ii. Police officers and firefighters: the first day of the month coincident with or next following the date on which a 1948 plan participant who is either a police officer or firefighter:

- (A) Completes twenty-five (25) years of service; or
- (B) Attains age fifty-five (55) and completes ten (10) years of service.

b. 1978 Plan. "Normal retirement date" for **grandfathered participants** means:

i. General employees: the first day of the month coincident with or next following the earliest date on which a 1978 plan participant, other than a police officer or firefighter:

- (A) Attains age sixty (60) and completes ten (10) years of service; or
- (B) Attains age sixty-five (65) and completes five years of service; or
- (C) Attains twenty-five (25) years of service.

- ii. Police officers and firefighters: the first day of the month coincident with or next following the earlier date on which a 1978 plan participant who is either a police officer or firefighter:
 - (A) Completes twenty-five (25) years of service; or
 - (B) Attains age fifty-five (55) and completes ten (10) years of service.

- c. 1978 Plan. "Normal retirement date" for participants who do not meet the definition of grandfathered participants means:
 - iii. General employees: the first day of the month coincident with or next following the date on which a 1978 plan participant, other than a police officer or firefighter attains age sixty-five (65).
 - iv. Police officers and firefighters: the first day of the month coincident with or next following the earlier date on which a 1978 plan participant who is either a police officer or firefighter attains age fifty-five (55).

- xx. Early Retirement Date.
 - a. 1978 Plan. "Early retirement date" for participants who do not meet the definition of grandfathered participant means:
 - i. General employees: the first day of the month coincident with or next following the earliest date on which a 1978 plan participant, other than a police officer or firefighter:
 - (A) Attains:
 - a. twenty-five (25) years of service; or
 - b. age 60 and completes ten(10) years of service;
 - (B) And does not meet the definition of Normal retirement date

 - ii. Police officers and firefighters: the first day of the month coincident with or next following the earlier date on which a 1978 plan participant who is either a police officer or firefighter:
 - (A) Attains twenty-five (25) years of service, and
 - (B) Does not meet the definition of Normal retirement date

MEMPHIS, TENNESSEE, CODE OF ORDINANCES
TITLE 4 - PENSION AND RETIREMENT SYSTEM
CHAPTER 4-28 - 1978 BENEFIT PLAN
ARTICLE 3 - RETIREMENT BENEFITS

Sections:

- Sec. 4-28-10 - Normal retirement.
- Sec. 4-28-11 - Involuntary retirement.
- Sec. 4-28-12 - Disability retirement.
- Sec. 4-28-13 - Deferred retirement.
- Sec. 4-28-14 - Refund of employee contributions.
- Sec. 4-28-15 - Benefits upon reemployment.

Sec. 4-28-12 - Disability retirement.

- A. "Line-of-Duty Disability. Upon application by or on behalf of the participant or by the director of the city division for which he or she works, any participant determined to have incurred a line-of-duty disability shall receive, during the period he or she suffers from such disability, a retirement benefit equal to the greater of sixty (60) percent of his or her average monthly compensation or his or her accrued benefit as of the date of such disability. The provisions of this subsection shall be effective as of January 1, 1989. **Effective DATE, the sixty (60) percent minimum provision will end at the earlier of age sixty-five (65) or the cessation of the disabled status, and the benefit payable beyond age sixty-five (65) or the cessation of the disability status will be a retirement benefit equal to the participant's accrued benefit as of the date of disability.**

Sec. 4-28-xx - Early retirement.

- A. A 1978 plan participant who **does not meet the definition of grandfathered participant and elects to retire on or after his or her early retirement date, but before his or her normal retirement date, by a written election designating the date he or she will retire and delivered to the board not less than thirty (30) days before such designated date, shall be entitled to receive a retirement benefit equal to his or her accrued benefit reduced by 5.0% per year for each year that his or her early retirement date precedes his or her normal retirement date.**

MEMPHIS, TENNESSEE, CODE OF ORDINANCES
TITLE 4 - PENSION AND RETIREMENT SYSTEM
CHAPTER 4-28 - 1978 BENEFIT PLAN
ARTICLE 4 - DEATH BENEFITS

Sections:

- Sec. 4-28-16 - Line-of-duty death benefit.
- Sec. 4-28-17 - Other death benefit.
- Sec. 4-28-18 - Refund upon death.
- Sec. 4-28-19 - Distribution.
- Sec. 4-28-20 - Residual benefits.
- Sec. 4-28-21 - Increase in monthly retirement allowance authorized.

Sec. 4-28-17 - Other death benefit.

- A. The beneficiaries described in subsection C of this section of a **grandfathered** participant who does other than as described in Section 4-28-16(A), and who has not elected deferred retirement under Section 4-28-13, shall receive a death benefit in accordance with Section 4-28-19 equal to seventy-five (75) percent of:
 - 1. The retirement benefit, if any, the participant was receiving as of his or her date of death; or
 - 2. If the participant died before his or her annuity commencement date, but after he or she was credited with five or more years of service or suffered an ordinary disability, the retirement benefit to which he or she was entitled under Section 4-28-10, 4-28-11 or 4-28-12.
- B. The beneficiaries described in subsection C of this section of a participant who does not meet the definition of grandfathered participant other than as described in Section 4-28-16(A), and who has not elected deferred retirement under Section 4-28-13, shall receive a death benefit in accordance with Section 4-28-19 equal to seventy-five (75) percent of:
 - 1. The retirement benefit, if any, the participant was receiving as of his or her date of death. The retirement benefit the participant was receiving should be actuarially equivalent in accordance with Section 4-4-1-2 to the single life annuity form of benefit; or
 - 2. If the participant died before his or her annuity commencement date, but after he or she was credited with five or more years of service or suffered an ordinary disability, the retirement benefit to which he or she was entitled under Section 4-28-10, 4-28-11 or 4-28-12.
- C. The only beneficiaries of the benefit under subsection A of this section shall be the participant's spouse, if married to the participant at the time of his or her death, or, if no such spouse, his or her surviving children and handicapped children.

B.

Ordinary Disability. Upon application by or on behalf of the participant or by the director of the city division for which he or she works, any participant determined to have incurred an ordinary disability shall receive, during the period he or she suffers from such disability, a retirement benefit equal to his or her accrued benefit as of the date of such disability; provided, however, the board shall deny any such benefit payments and, instead, refund the participant's employee contributions in accordance with Section 4-28-14, if the board has proof that such disability is a result of the participant's gross and willful misconduct.

C.

Re-Examination of Disability. At the discretion of the board, a participant receiving benefits under this section may be required to undergo a medical examination by a qualified physician to determine whether the participant continues to suffer from the disability.

D.

Cancellation of Disability Retirement.

1.

If a participant refuses to undergo medical examination under subsection C of this section, his or her benefits shall be discontinued until he or she withdraws his or her refusal.

2.

If a participant is determined under subsection C of this section to have recovered from his or her line-of-duty or ordinary disability his or her disability benefits shall be cancelled and he or she shall be reinstated to city employment. Upon returning to city employment, he or she shall have full credit for all employee contributions and years of service credits to him or her as of the original date of his or her disability.

3.

If a participant's disability benefits under this section are cancelled for any reason other than returning to city employment, he or she shall receive a refund of his or her employee contributions, in accordance with Section 4-28-14, reduced by the amount of any benefit payments previously made to him or her.

4.

If a participant suffering from an ordinary disability and receiving benefits under this section, nevertheless engages in a gainful occupation not with the city or returns to employment with the city and re-enters the 1978 plan as a participant, his or her disability benefits shall be reduced so that the sum of his or her disability benefit payments and his or her compensation from such occupation or city employment shall not exceed his or her average monthly compensation as of the original date of his or her disability.

**City of Memphis
Pension Reforms**

DRAFT

July 22, 2011

Agenda

Overview

City's Contributions Versus Suggested Contributions

Status of Unfunded Pension Liability

Recommended Revisions to the Pension Ordinance

1. Change Eligibility Requirements / Implement Early Retirement Reductions
2. Change Accrual Rate / Definition of Final Average Compensation
3. Change the Normal Form of Benefit (Elimination of Survivor Coverage)
4. Re-define "Line-of-Duty" Disability
5. Transition Employees Disabled via "Line-of-Duty" to Retirement at Age 65
6. Prohibit Reinstatement of Surviving Spouses

APPENDIX

- Proposed Ordinance
- PriceWaterhouseCoopers (PwC) Projection of Future Funded Status

Overview

Why make changes?

The City is making reasonable modifications to the pension plan that are necessary to protect and enhance the actuarial soundness of the plan.

Who is affected?

New employees. Employees with 10 years of service or more are not impacted by these changes. For employees with less than 10 years of service, these changes do not impact benefits earned.

Effective date?

October 1, 2011

City's Contributions versus Suggested Contributions

Historically, the City has contributed 5% of pay to the Retirement system on behalf of employees. In recent years, the gap between the City's contribution and contributions suggested by our actuaries, PriceWaterhouseCoopers (PwC), has widened. In gap is driven largely by poor market returns in 2008 and 2009. In FY 2011, the City began contributing 6% of pay to the Retirement System.

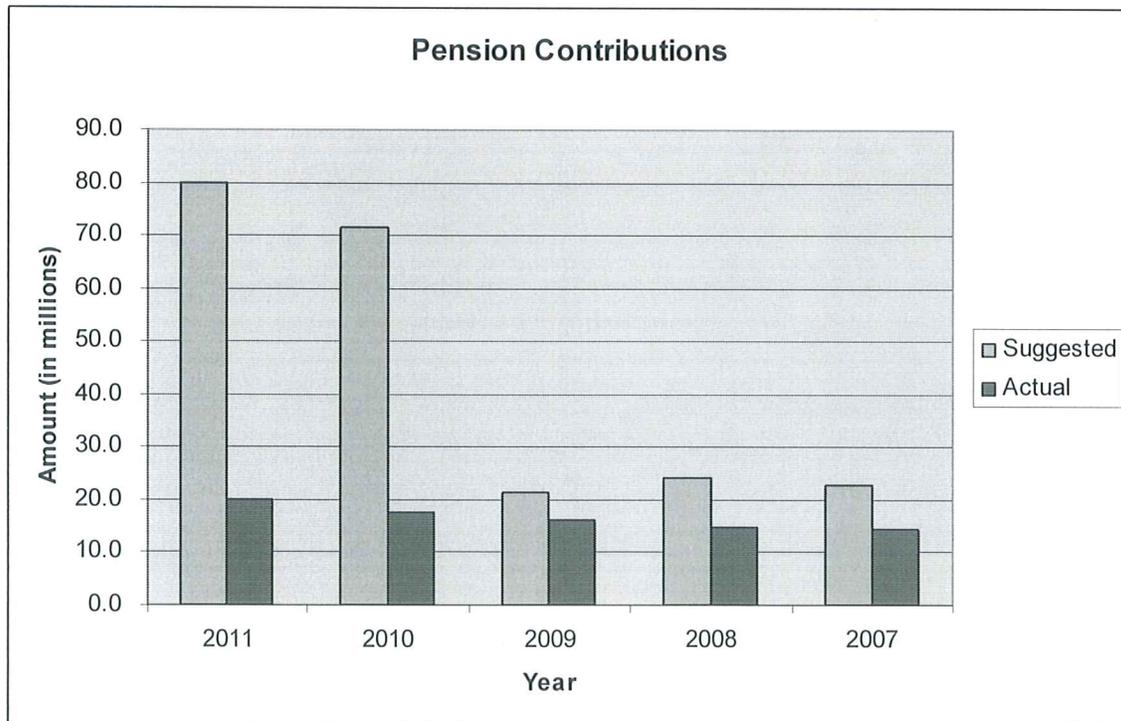
Closing the gap of \$60.0 million annually could result in a property tax rate increase of \$0.522 or 16.1% over the FY 2012 property tax rate of \$3.188.

SUGGESTED CONTRIBUTIONS versus ACTUAL CONTRIBUTIONS

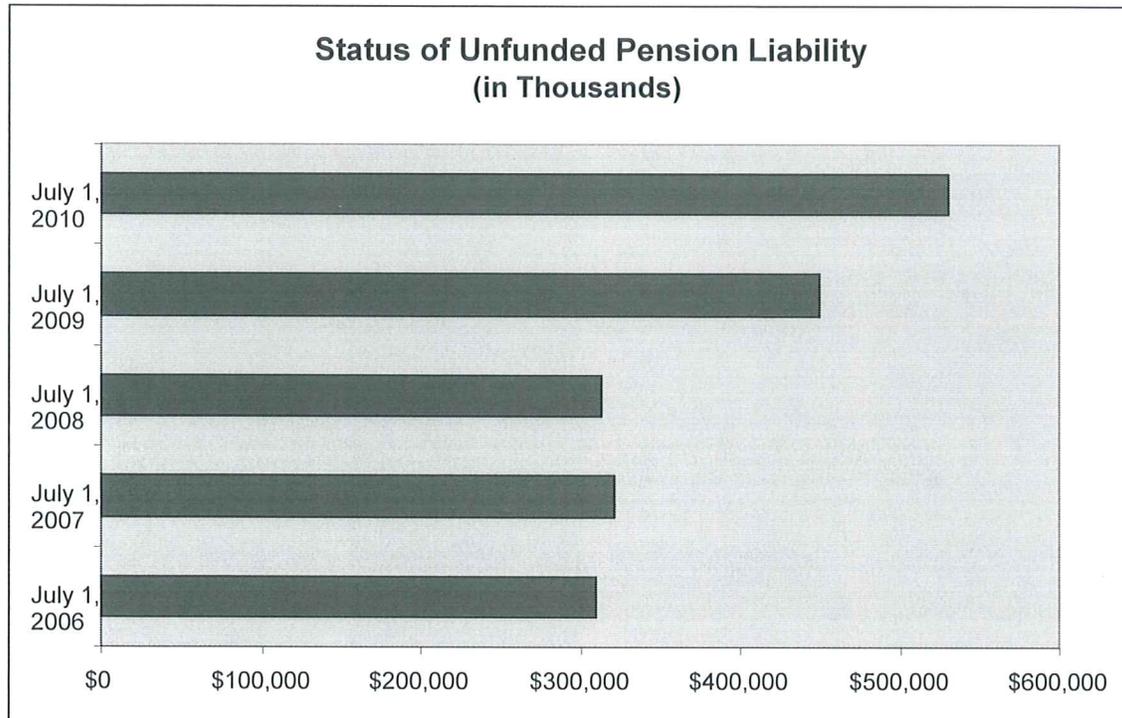
Fiscal Years 2007-2011

(Amounts in millions)

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
Suggested	80.0	71.4	21.2	24.1	22.7
Actual	20.0	17.4	16.2	14.6	14.4



Status of Unfunded Pension Liability



At the beginning of each fiscal year, the funding status of the Retirement System is assessed by PwC. As the chart above shows, the unfunded pension liability has increased more than 70% from 2006 to 2010 largely due to the poor stock market performance in 2008 and 2009 without a corresponding change to the structure of the pension benefits.

Recommended Revisions to the Pension Ordinance

MEMPHIS, TENNESSEE CODE OF ORDINANCES TITLE 4 – PENSION AND RETIREMENT SYSTEM CHAPTER 4-4 – DEFINITIONS AND GENERAL PROVISIONS

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MEMPHIS, TENNESSEE CODE OF ORDINANCES TITLE 4 – PENSION AND RETIREMENT SYSTEM CHAPTER 4-28 – 1978 BENEFIT PLAN ARTICLE 3 – RETIREMENT BENEFITS

Sections:

- Sec. 4-28-10 – Normal retirement.
- Sec. 4-28-11 – Involuntary retirement.
- Sec. 4-28-12 – Disability retirement.
- Sec. 4-28-13 – Deferred retirement.
- Sec. 4-28-14 – Refund of employee contributions.
- Sec. 4-28-15 – Benefits upon reemployment.

MEMPHIS, TENNESSEE CODE OF ORDINANCES TITLE 4 – PENSION AND RETIREMENT SYSTEM CHAPTER 4-28 – 1978 BENEFIT PLAN ARTICLE 4 – DEATH BENEFITS

Sections:

- Sec. 4-28-16 – Line-of-duty death benefit.
- Sec. 4-28-17 – Other death benefit.
- Sec. 4-28-18 – Refund upon death.
- Sec. 4-28-19 – Distribution.
- Sec. 4-28-20 – Residual benefits.
- Sec. 4-28-21 – Increase in monthly retirement allowance authorized.

Change Eligibility Requirements / Implement Early Retirement Reductions

Eligibility Requirements (Section 4-4-1 – References, construction and definitions)

- **Add a minimum age requirement to years of service in order for employees to receive full retirement benefits.**
- The current plan provides for normal retirement with as little as 25 years of service regardless of age.
- Proposed Age Minimums:
 - General Employees – Retirement Age: 65
 - Commissioned Fire and Police Personnel – Retirement Age: 55
- This particular change would have the added benefit of lengthening the time to eligibility for Retiree Medical benefits, thus positively impacting the OPEB liability as well.

Implement Early Retirement Reductions (Section 4-28-xx – Early retirement)

- Set a minimum age limit of 65 years for General employees and 55 years for commissioned Fire and Police personnel. **Employees who retire before reaching the minimum age would experience a 5% reduction, per year, in their pension benefits.**
- The current plan provides for a full retirement benefit regardless of age at retirement.
- **Apply early retirement reductions if retirement occurs prior to retirement age.**

Estimated reductions in the suggested employer contributions and the actuarial accrued liability: \$xxx million and \$xxx million, respectively.

Change Accrual Rate / Definition of Final Average Compensation

Accrual Rate (Section 4-4-1, 27.1.b – Accrued benefits)

- **Lower the accrual rate from 2.5% to 2.25% for the first 25 years of service.**
- The current plan provides for 2½% of Average Pay times years of service up to 25 years, and 1.0% of Average Pay times years of service for the next 10 years. This means that the Plan provides an annual annuity of 62½% of final pay after 25 years of service and 72½% after 35 years of service.
- The benefit formula would be revised to lower the accrual rate for future service (i.e., service earned after 9/30/11).

Final Average Compensation (Section 4-4-1, 27.4.b – parts i, ii, iv, v – Average monthly compensation)

- **Base pension calculations on the average of the highest five consecutive years' pay as the formula for the final average compensation to determine the salary on which to calculate the pension annuity.**
- The benefit would be revised to change the average period to determine Final Average Compensation. **THIS WILL NOT APPLY TO FIRE AND POLICE.**
- General Employees – Final Average Compensation would be determined based on five-year average earnings versus the most recent one year's earnings.

Estimated reductions in the suggested employer contributions and the actuarial accrued liability: \$xxx million and \$xxx million, respectively.

Change the Normal Form of Benefit (Elimination of Survivor Coverage)

Joint & Survivor Benefit (Section 4-28-17 – Other death benefit)

- **Reduce the amount of the Joint & Survivor benefit to recognize the value of providing the Survivor protection to the spouse.**
- The City currently provides Survivor protection in the form of a 75% Joint & Survivor annuity for married participants at “no charge.”
- Married participants who become eligible for the Joint & Survivor benefit after 9/30/11 would receive a benefit that is reduced by 10% to reflect the additional Plan cost associated with providing Survivor protection to a retiree’s spouse.
 - This benefit is automatic for surviving spouses.
 - Reductions would apply only to benefits earned after the effective date.

Estimated reductions in the suggested employer contributions and the actuarial accrued liability: \$xxx million and \$xxx million, respectively.

Re-define “Line-of-Duty” Disability

- *Section 4-28-12.A – Disability Retirement*
- Current language defines “Line-of-Duty” Disability as a “job” disability (i.e., an employee is granted disability due to an inability to perform in his/her current job.)
- **Revise language in order to allow an employee to be reassigned to a comparable position within City government – with comparable pay – if the employee is physically able to work within a different capacity.**

Transition Employees Disabled via “Line-of-Duty” to Retirement at Age 65

- *Section 4-28-12.A – Disability Retirement*
- **Revise language to state that an employee who is granted “Line-of-Duty” Disability, and is still permanently and totally disabled at age 65, must transition to a regular retirement.**
- The employee’s compensation percentage would then be reduced from 60% to his/her calculated rate.

Prohibit Reinstatement of Surviving Spouses

- *Section 4-28-17.A, B, C – Other Death Benefit*
- Under Chapter 25, Article I, Section 93, surviving spouses can be reinstated to a spousal City pension upon the death of a subsequent spouse.
- **Revise ordinance to state that a surviving spouse shall permanently forfeit his/her spousal pension upon remarriage, regardless of whether the subsequent marriage ends.**

APPENDIX

MEMPHIS, TENNESSEE CODE OF ORDINANCES TITLE 4 – PENSION AND RETIREMENT SYSTEM RED-LINED VERSION

CHAPTER 4-4 – DEFINITIONS AND GENERAL PROVISIONS

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CHAPTER 4-28 – 1978 BENEFIT PLAN ARTICLE 3 – RETIREMENT BENEFITS

Sections:

- Sec. 4-28-10 – Normal retirement.
- Sec. 4-28-11 – Involuntary retirement.
- Sec. 4-28-12 – Disability retirement.
- Sec. 4-28-13 – Deferred retirement.
- Sec. 4-28-14 – Refund of employee contributions.
- Sec. 4-28-15 – Benefits upon reemployment.

CHAPTER 4-28 – 1978 BENEFIT PLAN ARTICLE 4 – DEATH BENEFITS

Sections:

- Sec. 4-28-16 – Line-of-duty death benefit.
- Sec. 4-28-17 – Other death benefit.
- Sec. 4-28-18 – Refund upon death.
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PwC Projection of Future Funded Status