

Authority: Government Management Committee Item 16.3, as adopted by City of Toronto Council on July 15, 16 and 17, 2008 and § 169-26B of City of Toronto Municipal Code Chapter 169, Officials, City  
Enacted by Council: September 25, 2008

## **CITY OF TORONTO**

### **BY-LAW No. 1042-2008**

#### **To amend further By-law No. 15-92 of the former Municipality of Metropolitan Toronto respecting pensions and other benefits.**

WHEREAS By-law No. 15-92 of the former Municipality of Metropolitan Toronto, a by-law “To provide pensions for employees, their spouses and children of the Metropolitan Corporation and other participating employers”, as heretofore amended, governs the Metropolitan Toronto Pension Plan; and

WHEREAS it is desired to modify the provisions thereof respecting the constitution of the Board of Trustees and the quorum at meetings thereof, to add provisions respecting conflicts of interest and abstention from voting at such meetings, and to repeal By-law No. 858-2008;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. In this by-law,
  - (a) “By-law No. 15-92” means By-law No. 15-92 of the former Municipality as heretofore amended;
  - (b) “former Municipality” means The Municipality of Metropolitan Toronto.
2. (1) Subsection 3(1) of By-law No. 15-92 as heretofore amended is further amended by:
  - (a) inserting at the beginning of clause (d) thereof the text “subject to subsections (1.1) and (1.2), ”; and
  - (b) inserting at the beginning of clause (e) thereof the text “subject to clauses (1.2)(b) and (c), ”.
- (2) Section 3 of By-law No. 15-92 as heretofore amended is further amended by adding thereto the following new subsections:
  3. (1.1) If after clause 5(b) has come into operation no timely nomination is submitted thereunder for the election of a member of the Board of Trustees by the employee members, such Board position shall be filled by election among the pensioners pursuant to subsection 6(3).

“Non-nomination under Clause 5(b)

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| Cessation of Class of Employee Members   | <p>(1.2) From the time of the cessation of the existence of the class of employee members,</p> <p>(a) the following shall cease to apply:</p> <p style="padding-left: 40px;">(i) clauses (1)(d) and (9)(b), subsections 6(2) and (3) and section 7; and</p> <p style="padding-left: 40px;">(ii) except insofar as required for the purposes of subsection 6(1), section 5;</p> <p>(b) the word ‘two’ at the beginning of clause (1)(e) shall be read as ‘three’; and</p> <p>(c) if such cessation coincides with the retirement of the person holding office as a Trustee pursuant to clause (1)(d), such person shall, notwithstanding subsections (8) and (9), be deemed to have been elected by the pensioners pursuant to clause (1)(e) and section 6 for the remainder of the person’s original term.”</p> |
|  | <p>(3) Subsection 3(4) of By-law No. 15-92 as heretofore amended is repealed and the following substituted therefor:</p>  |
| “Board Majority Decisions/ Quorum        | <p><b>3.</b> (4) Subject to subsections (4.1) to (4.4), decisions of the Board of Trustees shall be by majority vote at a meeting of which all its members have been given reasonable advance notice and at which there are present</p>   |
| Quorum                                   | <p>(a) a quorum consisting of four of its members; and</p>  |
| City Treasurer                           | <p>(b) the City Treasurer or such Treasurer’s designate.</p>  |
| Attending Trustee’s Conflict of Interest | <p>(4.1) If at any meeting of the Board of Trustees a Trustee is present whose interest with respect to any matter to be considered thereat conflicts with his or her duties and powers as a Trustee,</p> <p>(a) such Trustee shall</p> <p style="padding-left: 40px;">(i) prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;</p> <p style="padding-left: 40px;">(ii) refrain from taking part in the discussion of, or any vote concerning, the matter;</p>  |

- (iii) refrain from attempting in any way whether before, during or after the meeting to influence any such voting; and
  - (iv) leave the meeting prior to, and not return during, consideration of such matter;
  - (b) the person presiding at the meeting shall see that such Trustee is given a reasonable opportunity to comply with subclause (a)(iv) and to return to and fully participate in the meeting whenever that subclause is not in operation.
- Absent Trustee's Conflict of Interest (4.2) Where the interest of a Trustee has not been disclosed as required by subclause (4.1)(a)(i) by reason of his or her absence from the meeting referred to therein, the Trustee shall disclose same and otherwise comply with clause (4.1)(a) at the first subsequent meeting of the Board of Trustees which he or she attends.
- Effect of Conflict on Quorum (4.3) If at any duly constituted meeting of the Board of Trustees the operation of subsection (4.1) would prevent the requirements of clause (4)(a) from being met with respect to any matter under consideration, the Trustees present to whom that subsection does not apply shall, if at least three in number, be deemed to constitute a quorum in that respect.
- Abstention (4.4) For the purposes of subsection (4), any Trustee who abstains from voting on any matter shall be treated as having cast a negative vote.”
- (4) Clause 3(8)(b) of By-law No. 15-92 is amended by
- (a) striking out the text “3(1)(d), (e) or (f)” in the first and second lines thereof and substituting therefor the text “3(1)(d) or (e)”;
  - (b) labelling the part of subclause (i) thereof immediately following the word “shall” as item (A) and adding at the beginning of such part the text “unless item (B) is applicable, ”;
  - (c) adding to subclause (i) thereof as amended by foregoing clause (b) the following new item:
    - “(B) if it is the employee members who must fill the vacancy and subsection 3(1.2) subsequently comes into operation at a time prior to the date for closing of the poll as specified in clause 7(a)(ii),
    - (I) clause (c) of that subsection shall be deemed to have come into operation as if it applied to the retirement which caused

the vacancy and such retirement had occurred at such closing date;

(II) such vacancy shall be deemed to have been filled accordingly; and

(III) item (A) shall cease to apply and all steps taken under it shall be deemed to be of no effect"; and

(d) inserting immediately preceding the word "for" in the last line of subclause (ii) thereof the word "by".

(5) Clause 3(9)(b) of By-law No. 15-92 as heretofore amended is further amended by inserting immediately following the word "and" in the third line thereof the text ", subject to clause 3(1.2)(c),".

**3.** Section 5 of By-law No. 15-92 as heretofore amended is further amended by

(a) inserting at the beginning thereof the text "Subject to subsection 3(1.1),";

(b) repealing clause (a) thereof and substituting the following therefor:

“(a) in the last year of each term of the Council, the clerk of the City shall, at least one month prior to the third Friday in the month of September in that year, cause to be circulated

(i) to each employee member

(A) a notice calling for nominations for such position;

(B) a nomination form with instructions for completion, taking into appropriate account the content of clause (b) and, if and to the extent applicable, clause (a.1) or (a.2); and

(C) an explanation of the effect of subsections 3(1.1) and 6(2); and

(ii) to each pensioner the material called for by clause 6(2)(a);

(a.1) if there are fewer than three employee members, no seconder shall be required for a nomination;

(a.2) if there is only a single employee member, the member may nominate himself or herself, in which case the member shall be acclaimed as the successful candidate and clauses (c) to (d) shall be disregarded”;

(c) inserting in subclause (b)(i) thereof immediately following the word "and" the text ", subject to clause (a.1),";

(d) inserting in subclause (b)(ii) thereof immediately following the first word “signed” the text “, subject to clause (a.2), ”; and

(e) adding a new subclause to clause (c) thereof as follows:

“(i.1) if no properly completed nomination forms have been received from the employee members, proceed with an election by the pensioners in accordance with subsection 6(3);” .

**4.** Section 6 of By-law No. 15-92 as heretofore amended is repealed and the following substituted therefor:

“Section 5  
Procedure

**6.** (1) The election of the members of the Board of Trustees who are the representatives of the pensioners pursuant to clause 3(1)(e) shall be conducted in accordance with section 5 with appropriate modifications, which shall include, without restriction,

(a) disregard of the opening reference therein to subsection 3(1.1), and of item (a)(i)(C) and subclause (c)(i.1) thereof;

(b) treatment of each instance of the word ‘employee’ and its plural occurring in that section other than in subclause (c)(i) thereof as if such word read ‘pensioner’ or the plural thereof (as applicable); and

(c) treatment of the word ‘employees’ at the end of subclause (c)(i) thereof as if it read ‘members’.

Subclause  
5(a)(ii)

(2) If subclause 5(a)(ii) comes into operation, the clerk of the City shall, simultaneously with the circulation of the material to employee members called for by subclause 5(a)(i), circulate to each pensioner

(a) a notice calling for nominations by pensioners for the same Trustee position to which such material relates, on the basis that such nominations will be acted on only if subsection (3) comes into operation; and

(b) a nomination form with instructions for completion, taking into appropriate account the content of clause 5(b), other than the references to ‘clause (a.1)’ and ‘clause (a.2)’ in subclauses (i) and (ii) thereof respectively.

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- Subsection 3(1.1) (3) If subsection 3(1.1) becomes applicable as a result of the operation of subclause 5(c)(i.1), the clerk of the City shall proceed under section 5 as follows:
- (a) the election by employee members whose process gave rise to such operation will instead be made by the pensioners in accordance with that subclause on the basis of all valid nomination forms received in response to the material circulated to them pursuant to subsection (2); and
  - (b) each instance of the word 'employee' and its plural in subclauses 5(c)(i) and (iii) shall be treated as if it read 'pensioner' or the plural thereof (as applicable)."
5. Section 7 of By-law No. 15-92 as heretofore amended is further amended by striking out the text "3(1)(d), (e) or (f)" in the second line thereof and substituting therefor the text "3(1)(d) or (e)".
6. By-law No. 858-2008 is repealed.
7. (1) Except as provided for in subsections (2) to (4), this by-law shall come into force on the date of its enactment and passing.
- (2) Clause 2(4)(a) and section 5 shall be deemed to have come into force on the 9th day of October, 1997.
- (3) Clause 2(4)(d) shall be deemed to have come into force on the 1st day of January, 1992.
- (4) Section 6 shall be deemed to have come into force on the 17th day of July, 2008.

ENACTED AND PASSED by an affirmative vote of at least two-thirds of the Members of Council present and voting this 25th day of September, A.D. 2008.

SANDRA BUSSIN,  
Speaker

ULLI S. WATKISS  
City Clerk

(Corporate Seal)