



REPORT FOR ACTION

Amendments to By-laws governing the City-sponsored Civic and Fire Fund Pension Plans requested by the Canada Revenue Agency

Date: September 7, 2017
To: Government Management Committee
From: Treasurer and City Solicitor
Wards: All

SUMMARY

This report seeks authority to amend the respective by-laws governing the Toronto Civic Employees' Pension Plan and the Toronto Fire Department Superannuation and Benefit Fund as requested by Canada Revenue Agency for purposes of harmonization with the *Income Tax Act* (Canada) and the Regulations under it pertaining to registered pension plans.

RECOMMENDATIONS

The Treasurer and City Solicitor recommend that:

1. City Council amend By-law No. 380-74 governing the Toronto Civic Employees' Pension Plan to implement modifications requested by the Canada Revenue Agency, as set out in Appendix A to this report, subject to any technical or stylistic adjustments deemed necessary by City Legal Services.
2. City Council amend By-law No. 10649 governing the Toronto Fire Department Superannuation and Benefit Fund, to implement modifications requested by the Canada Revenue Agency, as set out in Appendix B to this report subject to the approval of the administrator of that Fund (the Benefit Fund Committee) and subject to any technical or stylistic adjustments deemed necessary by City Legal Services.

FINANCIAL IMPACT

Since the modifications requested by the CRA to the text of the governing by-laws in effect place technical limitations on benefits to ensure conformity with the provisions of the *Income Tax Act* (Canada), the amendments to implement those modifications will have no financial impact on that Fund.

There will therefore be no financial impact on the City either.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

COMMENTS

CRA's Requests for Amendments to the By-laws governing the Fire Fund and the Civic Plan

Canada Revenue Agency (CRA) has requested certain modifications to the plan texts of the Toronto Civic Employees' Pension Plan and the Toronto Fire Department Superannuation and Benefit Fund, to ensure compliance with the Regulations under the *Income Tax Act* (Canada) relating to registered pension plans

The governing by-laws of both the Civic Fund and the Fire Fund expressly grant power to the City to make amendments "at any time to reduce the retirement benefits provided to members under any of its provisions to the extent necessary to avoid the revocation of the registration of the Fund."

In this case, it is not expected that as a practical matter any reduction in benefits will occur. The only possible reduction in benefits flowing from the requested amendments would be to the estate of a Fire pensioner's deceased spouse if the spouse were pre-deceased by the member and died within 5 years of the member's retirement. The by-law governing the Fire Fund as currently worded would in such a case provide a residuary benefit to the spouse's estate of the difference between, on the one hand, the total of the amounts received by the member and the spouse and on the other hand the amount that would have been paid if the member had died before retiring. The requested amendment would restrict the residuary benefit to the amount, if any, by which the amounts so received fell short of the member's contributions.

Legal Services has now prepared wording that can be inserted into appropriate amending by-laws which if enacted will implement the modifications requested by the CRA. That wording appears in Appendix A to this report for the Civic Plan and Appendix B to this report for the Fire Fund.

Since By-law No. 10649 governing the Fire Fund requires in Section XXV that the by-law not be amended, changed or altered without the affirmative vote of five members at a regular meeting of The Benefit Fund Committee (which is the Fund's administrator), Recommendation 2 respecting the amendments to that by-law is expressed to be subject to the approval of The Benefit Fund Committee. That Committee is expected to provide an affirmative vote with respect to such amendments at its next meeting in mid-October, 2017.

CONTACT

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SIGNATURE

Mike St. Amant
Treasurer

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City Solicitor

ATTACHMENTS

Appendix A: Proposed Amendments to By-law No. 380-74 governing the Toronto Civic Employees' Pension Plan.

Appendix B: Proposed Amendments to By-law No. 10649 governing the Toronto Fire Department Superannuation and Benefit Fund.

APPENDIX A

Proposed Amendments to By-law No. 380-74 governing the Toronto Civic Employees' Pension Plan

1. Subsection 4(1) of By-law No. 380-74 is amended by adding thereto the following paragraph:

“(d) Notwithstanding paragraph (a), the aggregate of member contributions thereunder for current service in any year shall not exceed \$ 1,000.00 plus 70 per cent of the pension credit earned in the year as determined under Part LXXXIII of the Regulations under the *Income Tax Act (Canada)* unadjusted for the transitional amounts set out in paragraphs 8302(2)(b) and (3)(g) of those Regulations.”

2. Subsection 4(2) of By-law No. 380-74 is amended by adding thereto the following paragraph:

“(c) Notwithstanding paragraph (a), the aggregate of member contributions thereunder for current service in any year shall not exceed \$ 1,000.00 plus 70 per cent of the pension credit earned in the year as determined under Part LXXXIII of the Regulations under the *Income Tax Act (Canada)* unadjusted for the transitional amounts set out in paragraphs 8302(2)(b) and (3)(g) of those Regulations.”

3. Paragraph 4(3)(e) of By-law No. 380-74 is amended by adding at the end thereof the following:

“, provided that if the Plan's actuary determines that the Plan is in an excess surplus position under subparagraphs 147.2(2)(d)(i) to (iii) of the *Income Tax Act (Canada)*, no such contributions shall be made”.[]

4. Paragraph 4(4)(d) of By-law No. 380-74 is amended by adding at the end thereof the following:

“, provided that if the Plan's actuary determines that the Plan is in an excess surplus position under subparagraphs 147.2(2)(d)(i) to (iii) of the *Income Tax Act (Canada)*, no such contributions shall be made”.

5. (1) Each of subsections 5.A(1), 5.B(4) and 5.C(3a) of By-law No. 380-74 is amended by inserting immediately following the words “actuarially reduced” where they appear therein the following:

“in accordance with the table set forth in subsection 5.C(4a)”.

(2) Clause 5.C(3)(a) of By-law No. 380-74 is amended by striking out the text thereof and substituting therefor the following:

“a pension commencing at an earlier age, actuarially reduced in accordance with the table in subsection (4a) below, or” .

6. Paragraph 5.C (1)(d) of By-law No. 380-74 is amended by adding at the end thereof the following:

“except that for all members retiring on or after January 1, 1992, such dollar amount shall instead be an amount equal to \$ 275.00 per year of service credits”.

7. Section 5 of By-law No. 380-74 is amended by adding immediately following subsection (4) under the heading “C” thereof the following subsection:

“(4a) Where a pension is actuarially reduced as contemplated by subsection (1) under heading `A` of this Section, subsection (4) under heading `B` of this Section, clause (3)(a) under this heading `C`, or subsection (3a) below, the reduction shall be in accordance with the following table:

Age at which pension commences			
With 20 Years of Service Credits	With 25 years of service credits	% of Accrued Pension Payable on Early Retirement	% Reduction
65	60	100	0
64	59	91.5	8.5
63	58	83.8	16.2
62	57	76.9	23.1
61	56	70.7	29.3
60	55	65.0	35.0
59	54	59.9	40.1
58	53	55.2	44.8
57	52	50.9	49.1
56	51	47.0	53.0
55	50	43.5	46.5
54	49	40.3	59.7

With 20 Years of Service Credits	With 25 years of service credits	% of Accrued Pension Payable on Early Retirement	% Reduction
53	48	37.3	62.7
52	47	34.6	65.4
51	46	32.1	67.9
50	45	29.8	70.2
49	44	27.7	72.3
48	43	25.8	74.2
47	42	23.9	76.1
46	41	22.3	77.7
45	40	20.7	79.3. ”

8. Section 9 of By-law No. 380-74 is amended by adding the following subsection immediately preceding subsection (1):

“(1.0.1) The maximum benefit payment under this Section shall not exceed the greater of the commuted value of the whole of the member's accrued benefits and the member's contributions with interest.”

9. Paragraph 22(4)(a) of By-law No. 380-74 is repealed and the following substituted therefor:

“(a) Subject to the Act, the *Income Tax Act* (Canada) and Regulations made thereunder and every other applicable legislation, including in particular but without restricting the generality of the foregoing the exclusions provided for in clauses 8502(f)(i) and (ii) of the Regulations under the *Income Tax Act* (Canada) and subject to paragraph (d), the pensions, benefits and privileges provided under this by-law may not be assigned, charged, anticipated, given as security, surrendered or otherwise alienated, and contributions by a member may not be borrowed against, or may not be withdrawn other than hereinbefore provided.”

APPENDIX B

Proposed Amendments to By-law No. 10649 governing the Toronto Fire Department Superannuation and Benefit Fund

1. Section III of By-law No. 10649 is amended by
 - (a) striking out the text “Subject to subsection (1a) and (1b)” at the beginning of subsection (1) and substituting therefor the following:

“Subject to subsections (1a) to (1b)”;
 - (b) adding thereto immediately after subsection (1a) the following subsection:

“(1a.1) Notwithstanding subsections (1) and (1a), the aggregate of member contributions thereunder for current service in any year shall not exceed \$ 1,000.00 plus 70 per cent of the pension credit earned in the year as determined under Part LXXXIII of the Regulations under the *Income Tax Act* (Canada) unadjusted for the transitional amounts set out in paragraphs 8302(2)(b) and (3)(g) of those Regulations.” ;
 - (c) striking out the text “The City shall” at the beginning of subsection (2) and substituting therefor the following:

“The City shall, to the extent that the contributions are required pursuant to the recommendation of the Actuary, and permitted under subsection 147.2(2) of the *Income Tax Act* (Canada),” ;
 - (d) striking out the text in subsection (2) from and including the text “provided that where the City contributes” to the end of the subsection.
2. Section XV of By-law No. 10649 is amended by adding thereto immediately after the text “authorized by the Act” the following:

“and the *Income Tax Act* (Canada) and the Regulations made thereunder”.
3. Section XXIII of By-law No. 10649 is amended by
 - (a) striking out the text “Such death benefit shall” at the beginning of the second sentence of subsection (3) and substituting therefor the following:

“Such death benefit shall, except to the extent that it exceeds the commuted value limit stipulated in paragraph 8503(2)(i) of the Regulations under the *Income Tax Act* (Canada),”;

- (b) striking out the text “after November 1, 1974” in subsection (10) and substituting therefor the following:

“prior to December 31, 1989”; and

- (c) striking out the text in subsection (11) from and including the text “provided that where the City contributes” to the end of the subsection

4. Section XXIII A of By-law No. 10649 is amended by

- (a) by adding at the end of each of subsections (4) and (12) and at the end of paragraph (11)(b) the following:

“, except to the extent in excess of the maximum imposed by paragraph 8503(2)(j) of the Regulations under the *Income Tax Act* (Canada)”;

- (b) striking out the text “The amount” at the beginning of subsection (8) and substituting therefor the following:

“Subject to subsection (8b), the amount” ;

- (c) adding thereto immediately after subsection (8a) the following subsection:

“(8b) In no case shall a survivor benefit payable under this Section XXIII A exceed the maximum permissible under paragraph 8503(2)(e) of the Regulations under the *Income Tax Act* (Canada).”

5. Subsection XXIV(1) of By-law No. 10649 is amended by striking out the text “are not capable of assignment, alienation, anticipation, sales, transfer, pledge, attachment or encumbrance of any kind” and substituting therefor the following:

“may not be assigned, charged, anticipated, given as security, surrendered, sold, transferred, pledged, attached, encumbered in any way or otherwise alienated”.

6. Subsection XXIV(1) of By-law No. 10649 is amended by adding at the end the following:

“, but in no case shall the method of determining indexing increases provide a benefit in excess of that permitted under paragraph 8503(2)(a) of the Regulations under the *Income Tax Act* (Canada)”.