



REPORT FOR ACTION

Amendments to Governing By-laws of City-sponsored Pension Plans to harmonize with the Pension Benefits Act

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

SUMMARY

This report seeks authority to amend the by-laws governing the five City-sponsored pre-OMERS pension plans to harmonize them with a recent change to the meaning of the text “parents of a child” as used in the definition of the expression “spouse” in the *Pension Benefits Act*.

RECOMMENDATIONS

The Treasurer and City Solicitor recommend that:

1. City Council amend the following by-laws to stipulate that wherever the text “parents of a child” appears as part of the definition of the expression “spouse”, “widow” or “widower” in such by-laws, that text is to be interpreted as set out in the *Children's Law Reform Act*, as required in the *Pension Benefits Act*.
 - By-law No. 380-74 governing the Toronto Civic Employees' Pension Fund;
 - By-law No. 15-92 governing the Metropolitan Toronto Pension Plan;
 - By-law No. 181-81 governing the Metropolitan Toronto Police Benefit Fund;
 - Schedule “A” to By-law No. 3349-96 governing The Corporation of The City of York Employee Pension Plan; and

- By-law No. 10649 governing the Toronto Fire Department Superannuation and Benefit Fund subject to the approval of the administrator of the Fund, the Benefit Fund Committee.

FINANCIAL IMPACT

The respective actuaries of the five City-sponsored pension plans have confirmed that the recommended amendments will have no measurable financial impact on any of the plans.

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

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

COMMENTS

Modification of Meaning of “parents of a child” in the PBA

From the time of its enactment in 1987 until December 31, 2016, Ontario's *Pension Benefits Act* (PBA) had included in its definition of “spouse” a person living together with a plan member in a conjugal relationship “of some permanence if they are the natural or adoptive parents of a child, both as defined in the *Family Law Act*”.

That part of the definition of “spouse” was reflected in the respective by-laws governing the five pre-OMERS pension plans sponsored by the City, not only for an unseparated spouse at the time of a post-1987 retirement, who under the PBA is entitled to survivor benefits, but also, if no such spouse exists, for a spouse in other specified circumstances, most commonly at the member's death.

However, as of January 1, 2017, the PBA was amended so that in the definition of “spouse” the words “natural or adoptive” in connection with “child” were dropped, and the text which had originally followed the phrase “parents of a child” was replaced with the text “as set out in the *Children's Law Reform Act*”. That Act deals not only with adopted children but also *in vitro* fertilization, surrogate motherhood and births following the death of a plan member.

Accordingly, the above-described part of the definition of “spouse” in the PBA now covers a person living together with a plan member in a conjugal relationship “of some permanence if they are the parents of a child, as defined in the *Children's Law Reform Act*”.

It is appropriate that each of the by-laws governing the City's pension plans laws be amended to mirror the modified definition of “spouse” in the PBA as of January 1, 2017,

not only for a person who has survived a deceased pensioner and was the member's unseparated spouse at the time of a post-1987 retirement (often the same person as the spouse at the member's death) but also any other qualified surviving spouse where there is no entitled at-retirement spouse.

By-law No. 181-81 governing the Metropolitan Toronto Police Benefit Fund uses the expressions "widow" and "widower" rather than "surviving spouse", but the meaning is the same.

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, and therefore 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

Derek Brown, Solicitor
Telephone: (416) 392-8055
Email: dbrown4@toronto.ca

SIGNATURE

Mike St. Amant
Treasurer

Wendy Walberg
City Solicitor