

ORDINANCE NO. 185140

Amend Chapter 5, Fire and Police Disability, Retirement and Death Benefit Plan of the Charter of the City of Portland to correct clerical errors. (Ordinance; amend Charter Sections 5-113 and 5-126)

The City of Portland ordains:

Section 1. The Council finds:

1. Section 2-507 of the City Charter allows the City Auditor to correct clerical errors and omissions in the Charter, subject to Council approval.
2. Two clerical errors have been discovered in Section 5-113 and Section 5-126(7) of Chapter 5 of the Charter of the City of Portland.
3. In Section 5-113, paragraph 6 reads: "Any member who shall resign after five (5) years of active service shall receive at that time a refund of all his or her contributions made as a regular member during the member's entire service in his or her Bureau, **unless** the amount of non-service connected disability benefits paid to the member from the Fund or previously established pension funds." (Emphasis added). The word "unless" should read "less".
4. In Section 5-126, subsection 7, reference is made to Section 50-122. There is no Section 50-122 in the Charter. The correct reference is Section 5-122.
5. Prior to 1989, the provisions in Section 5-113 and Section 5-126 were correct and without the noted errors.
6. However, in 1989, Charter reform occurred and Chapter 5 was revised in many sections. It appears that the two clerical errors occurred during the rewrite of Chapter 5. The Charter reform did not revise Sections 5-113 or 5-126.
7. The City Attorney's Office has reviewed this matter and has determined that the word "unless" in Section 5-113 and the section reference "50-122" in Section 5-126(7) were inadvertent and clerical in nature.

NOW, THEREFORE, the Council directs as follows:

- a. **Amend City Charter Chapter 5, Section 5-113. Retirement, Resignation, and Discharge as follows:**

The Board of Trustees shall, upon duly verified written application by any member who

shall have been an active member for thirty (30) years and who shall have reached the age of fifty (50) years, retire and relieve said member from service and said member shall receive a monthly pension equal to the earned portion of a maximum pension as hereinafter defined, and said pension shall cease upon the member's death except as hereinafter provided.

The Board of Trustees shall, upon duly verified written application by any member who shall have been an active member for twenty-five (25) years and who shall have reached the age of fifty (50) years, retire and relieve said member from service and said member shall be paid a monthly pension equal to the earned portion of a maximum pension as hereinafter defined, and said pension shall cease upon the member's death except as hereinafter provided.

The Board of Trustees shall, upon duly verified written application by any member who shall have been an active member for twenty (20) years and who shall have reached the age of fifty-five (55) years, retire and relieve said member from service, and said member shall be paid monthly a pension equal to the earned portion of a maximum pension as hereinafter defined, and said pension shall cease upon the member's death except as hereinafter provided.

The Board of Trustees may upon its own motion and by two-thirds (2/3) vote of the entire Board, relieve from service any aged, disabled or infirm member whom it finds unfit for the performance of his or her duty. The Board may by majority vote require any member to appear, submit to and undergo mental or physical examinations by its physician or such additional physicians or psychiatrists as it may appoint. In such cases review of determination based upon the findings of the Board's physicians or psychiatrists may be had as provided in Section 5-107. The member so relieved shall receive his or her earned portion of the maximum pension as hereinafter set forth. Said pension shall cease at the member's death, except as hereinafter provided.

Any member coming within the provisions of this Article having twenty (20) years or more of active service who is discharged shall be entitled to receive his earned portion of the maximum pension upon reaching that age at which such member would otherwise have been eligible to receive the maximum pension had such member not been so discharged; or the member may elect to receive at the time of discharge a refund of all contributions made by the member, less the amount of non-service connected disability benefits paid to the member from the Fund or previously established pension funds.

Any member who shall resign after five (5) years of active service shall receive at that time a refund of all his or her contributions made as a regular member during the member's entire service in his or her Bureau, ~~unless~~ less the amount of non-service

connected disability benefits paid to the member from the Fund or previously established pension funds.

Any member who shall be discharged after five (5) years of active service but before completing twenty (20) years of active service, shall receive at that time a refund of all contributions made by him or her, less the amount of non- service connected disability benefits paid to such member from the Fund or previously established pension funds.

Contributions made by a member while such member was a temporary employee shall not be included in computing contributions made by the member for funds. Any member who shall resign or be discharged before completing five (5) years of active service shall not be entitled to refunds of any contributions paid.

b. Amend City Charter Chapter 5, Section 5-126 Definitions of Terms, Subsection 7 as follows:

7. The term "active service" shall mean that period of time after the date of permanent appointment during which a member serves and is paid from the payroll of the respective bureau of which he or she is a member; and likewise shall include time spent on military leave to the extent provided in Section ~~50-122~~ 5-122, leave of absence from the Bureau of Police or Bureau of Fire to serve as a Chief of the Bureau thereof, during which time the member shall be classified as a member, and time lost as a result of occupational disabilities and service-connected disabilities. Time served under temporary appointment before date of permanent appointment shall not be included in computing "active service." Time lost from active duty as a result of nonservice-connected disability for which period of time benefits are paid to a member from the Fund shall not be included in computing "active service";

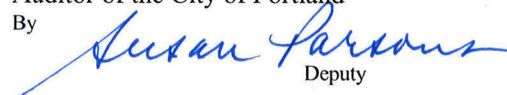
FEB 08 2012

Passed by the Council:
Commissioner Dan Saltzman
LJ:kk
November 28, 2011

LaVonne Griffin-Valade

Auditor of the City of Portland

By


Deputy

Agenda No. **185140**
ORDINANCE NO.
Title

Amend Sections 5-113 and 5-126(7) , Chapter 5, Fire and Police Disability, Retirement and Death Benefit Plan of the Charter of the City of Portland to correct clerical errors. (Ordinance; amend *Charter* Sections 5-113 and 5-126)

INTRODUCED BY Commissioner/Auditor: Dan Saltzman	CLERK USE: DATE FILED <u>JAN 27 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman <i>[Signature]</i> Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Fire & Police Disability & Retirement Bureau Head: Linda L. Jefferson <i>[Signature]</i> Prepared by: Linda L. Jefferson/kk Date Prepared: November 28, 2011 Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input checked="" type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input type="checkbox"/> Council Meeting Date <u>February 1, 2012</u> City Attorney Approval <i>[Signature]</i>	ACTION TAKEN: FEB 01 2012 PASSED TO SECOND READING FEB 08 2012 9:30 A.M.

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: <u>10 minutes</u> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Leonard	4. Leonard <input checked="" type="checkbox"/>	
Adams	Adams <input checked="" type="checkbox"/>	