

ORDINANCE No. 185876

Pay award ordered by the Employment Relations Board in *Portland Fire Fighters' Association v. City of Portland* (UP-013-10) on December 10, 2012, pending review by the Oregon Court of Appeals. (Ordinance).

The City of Portland ordains:

Section 1. The Council Finds:

1. On December 12, 2012, ERB ordered the City to restore Firefighter Hurley "retirement service credits" that Hurley would have earned had he continued to receive disability benefits from FPDR. ERB stated that "it is the City, not the [FPDR] Fund, that is responsible for any retirement payments due to the restored service credit."
2. The City has appealed ERB's order to the Oregon Court of Appeals. If the appeal is successful, the City will be able to recover any money paid pursuant to ERB's order. However, the petition for judicial review does not automatically stay ERB's order. Based on previous experience and the law, the City Attorney's office does not believe that it would be able to obtain a stay of this ruling from either ERB or the Oregon Court of Appeals.
3. In order to implement ERB's order while this matter remains pending, the City must pay Mr. Hurley cash in the form of monthly payments that take the place of the retirement benefits he is not owed by the Fund. The amount owed is shown on the attached Exhibit A, which by this reference is incorporated herein. Such payments shall be adjusted downward once the Fund begins to pay what it owes to Mr. Hurley.
4. In the event the City prevails before the Oregon Court of Appeals, such payments shall stop immediately, and again, the City will be entitled to reimbursement for payments made.

NOW, THEREFORE, the Council directs:

- a. The Mayor and the Auditor are directed to draw and deliver warrants from the City's General Fund, made payable as directed by the City Attorney, in amounts as shown on the attached Exhibit A, to satisfy the award of the Employment Relations Board in UP 013-10 that was entered on December 10, 2012.

- b. In the event it is ultimately determined that the City is not liable for this payment, the Office of Management and Finance and the City Attorney are directed to use all prudent legal means to recover the payment.
- c. The City Budget Office is directed to transfer \$49,830.76 from the General Fund Compensation Set-Aside to Portland Fire and Rescue in the Winter BMP.

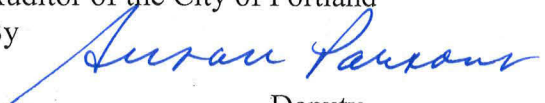
Passed by the Council:

JAN 30 2013

Commissioner: Steve Novick  
Prepared by: James H. Van Dyke  
Date Prepared: January 14, 2013

**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By

  
Deputy

182876

77 96

140

Agenda No. **ORDINANCE NO. 185876**  
Title

Pay award ordered by the Employment Relations Board in Portland Fire Fighters' Association v. City of Portland (UP-013-10) on December 10, 2012, pending review by the Oregon Court of Appeals. (Ordinance).

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Novick</b></p>	<p>CLERK USE: DATE FILED <u>JAN 17 2013</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick <i>80 Novick</i></p>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: NA Bureau Head:</p> <p>Prepared by: Chris Warner Date Prepared: 1/16/2013</p> <p>Financial Impact &amp; Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date <b>1/23/2013</b></p> <p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter</p>	
<p><b>ACTION TAKEN:</b></p> <p><b>JAN 23 2013 PASSED TO SECOND READING JAN 30 2013 9:30 A.M.</b></p>	

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

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. Novick	4. Novick <input checked="" type="checkbox"/>	
Hales	Hales <input checked="" type="checkbox"/>	