Employees' Retirement Fund of the City of DALLAS

Dallas City Council Briefing

Dallas Employees' Retirement Fund:

Proposed Changes to Chapter 40A

August 3, 2016

Employees' Retirement Fund of the City of DALLAS

Overview

- The Dallas ERF Board is being proactive and conservative by recommending the new tier of benefits:
  - Maintains a financially sound and sustainable retirement plan based on conservative economic, demographic and actuarial assumptions;
  - Addresses people living longer in retirement by lowering the Fund's normal cost by 36.3% (from 20.36% to 12.96%);
  - Decreases long term liabilities approximately $2.15 billion over a 30-year period;
  - Provides an adequate retirement pension for future employees who do not participate in Social Security;
  - Strengthens the overall trust in the Plan for all members;
  - The proposed Plan changes are prudent and fiscally responsible and promote the long term viability of the Fund.

Conservative Assumptions Highlighted Longevity

- In 2015, Dallas ERF adopted more conservative assumptions, lowering the actuarial rate of return and adopting a new mortality table called *generational mortality* recommended by the Society of Actuaries.

- A *generational mortality table* is one that takes projected future *mortality* improvement into account for each individual member. Instead of basing everyone's benefits on the same factors, life expectancy is tied to the member's birth date and retirement date.

- The younger generations (Gen Y & Z) are expected to live longer and the new generational mortality table significantly increases life expectancy assumptions for them, thus increasing future pension liabilities.

- In 2015, the ERF Trustee Board established the Pension Plan Study Group (PPSG).

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Conservative Assumptions Highlighted Longevity

- The PPSG established a scope of work that included the following:
  - Evaluated the life expectancy of future retirees at age 65 and beyond using actuarially based data;
  - Researched and studied plan designs that would reduce pension liability over time;
  - Conducted a statewide comparison of pension plans;
  - Recommended a series of benefit reduction plans for new hires; and
  - Reported its findings and recommendations to the ERF Trustee Board.

- The PPSG met from October 2015 to March 2016, evaluated sixteen different plan options and presented its recommendations to adjust benefits for new employees hired on or after January 1, 2017 to address longevity and reduce normal costs by 36.3% and reduce pension liabilities by $2.15 billion over a 30-year period.

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Background

Authority	Chapter 40A of the Dallas City Code
History	First established in 1944
Type Plan	Single employer defined benefit plan that provides retirement, disability and death benefits for the permanent civilian employees of the City of Dallas
Governance	Seven member board consisting of three persons appointed by the City Council, three employees elected by the membership, and the City Auditor, ex officio
Design	City of Dallas does not participate in Social Security. City of Dallas does not provide disability insurance. Dallas ERF does not have a Deferred Retirement Option Program ("DROP").

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Governance - Dallas ERF Board Composition

- The Board of the Employees' Retirement Fund of the City of Dallas is composed of seven members consisting of:

  (A) three persons appointed by the City Council who may be City Council members - Lee Kleinman, Dr. John Peavy III, and Randy Bowman;

  (B) three employee members from different departments of the City who are elected by members of the retirement fund - John D. Jenkins (Chair), Carla D. Brewer (Vice Chair), and Tina Richardson; and

  (C) the City Auditor (ex-officio) – Craig Kinton.

- Most appointees are from the private sector and have significant investment experience.

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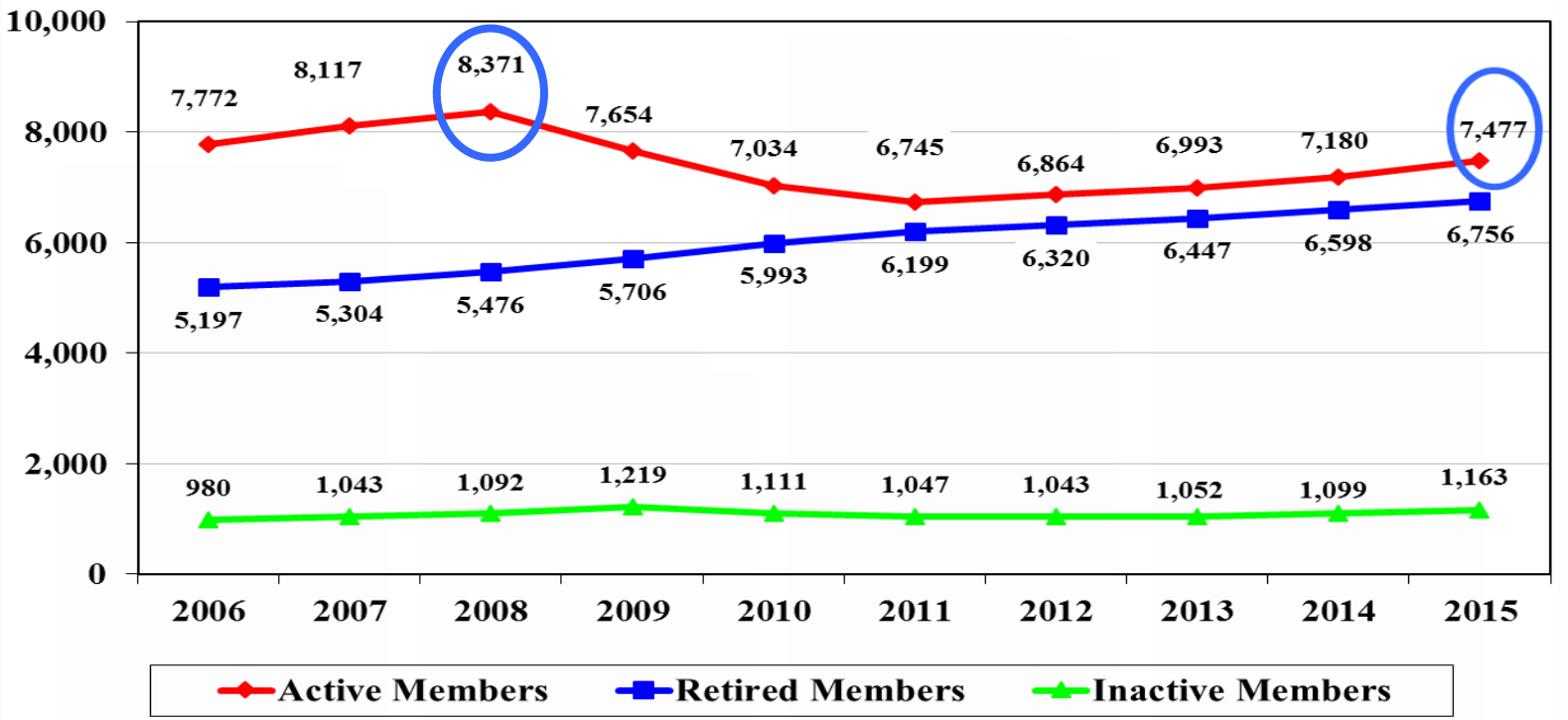
Appropriate Checks and Balances are in Place

- Grant Thornton conducts annual financial audits. Dallas ERF has the same auditor as the City of Dallas.
- Gabriel Roeder Smith & Company conducts annual actuarial valuations and an experience study at least every five years.
- Actuarial Peer Review conducted every three years by a third party actuary mandated per Chapter 40A.
- City of Dallas conducted a five-year peer review on assets and liabilities in 2015 and is now required to conduct an actuarial review every 5 years under State law.

Active Members and Retired Members

Reducing employee headcount reduces the contributions to the Fund.



Note: The number of active employees is 11% lower than the high point in 2008.

- *Active members are defined as permanent civilian employees who contribute to the Fund for vesting and retirement eligibility purposes.*
- *Retired members are former employees who earned eligibility to retire through contributions and are receiving a lifetime annuity.*
- *Inactive members are former employees who earned vesting status (five years of credited service) and will receive a lifetime annuity at age 60.*

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Membership – Actives and Inactives

- **Average age of active members is 46.1, compared to 46.4 last year:**
  - Oldest active employee was born in 1934 (age 82); and
  - Youngest employee was born in 1997 (age 19).
- **Average years of service is 10.0, compared to 10.5 last year:**
  - Longest working current active employee has over 48 years of service; and
  - 17 current active employees have worked over 36.4 years.
- **The oldest living retirees:**
  - Oldest retiree was born in 1911 (age 105);
  - Oldest retirement was a disability retirement in 1965 (50 years ago); and
  - Oldest surviving beneficiary was born in 1914 (age 102).

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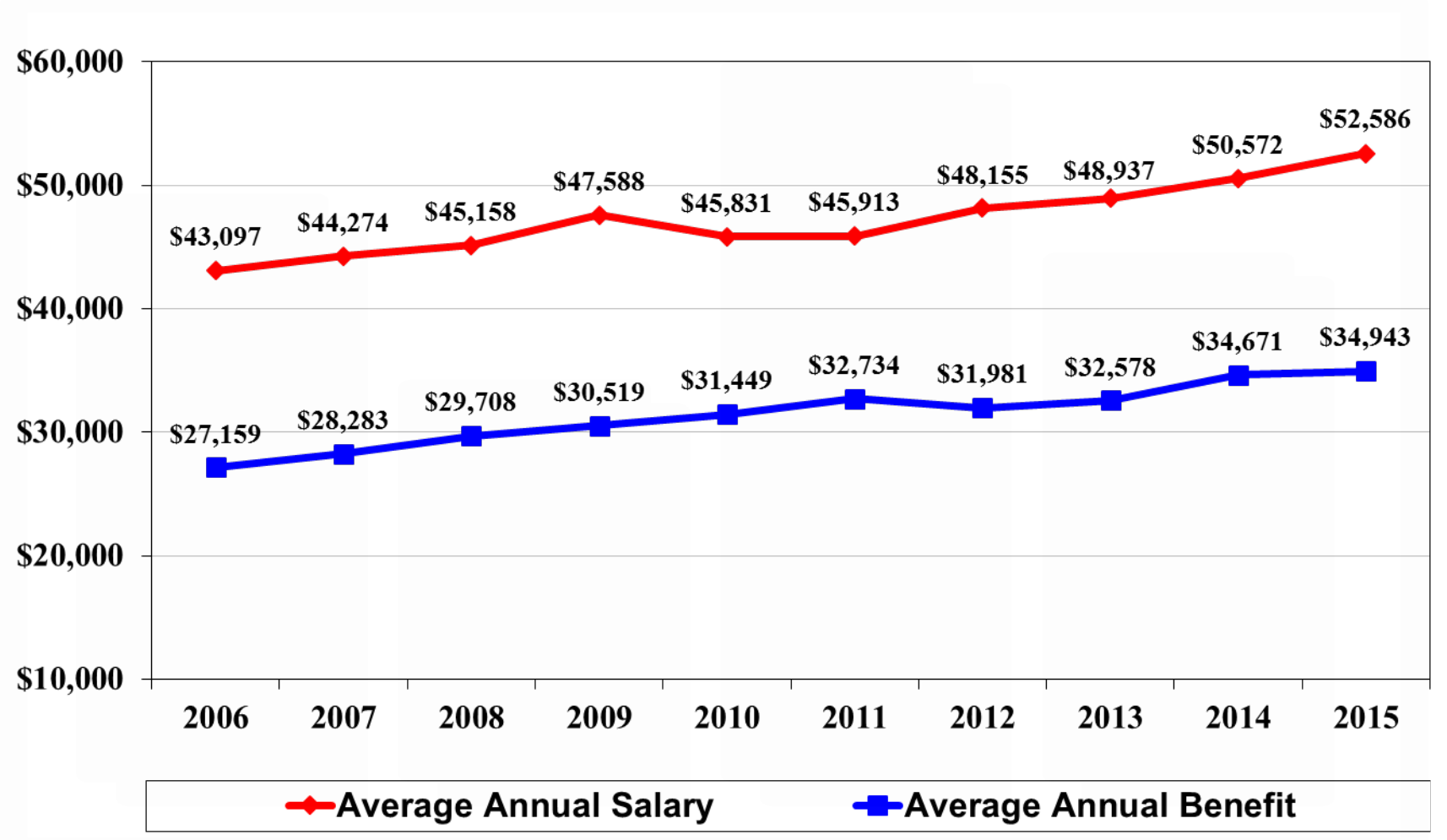
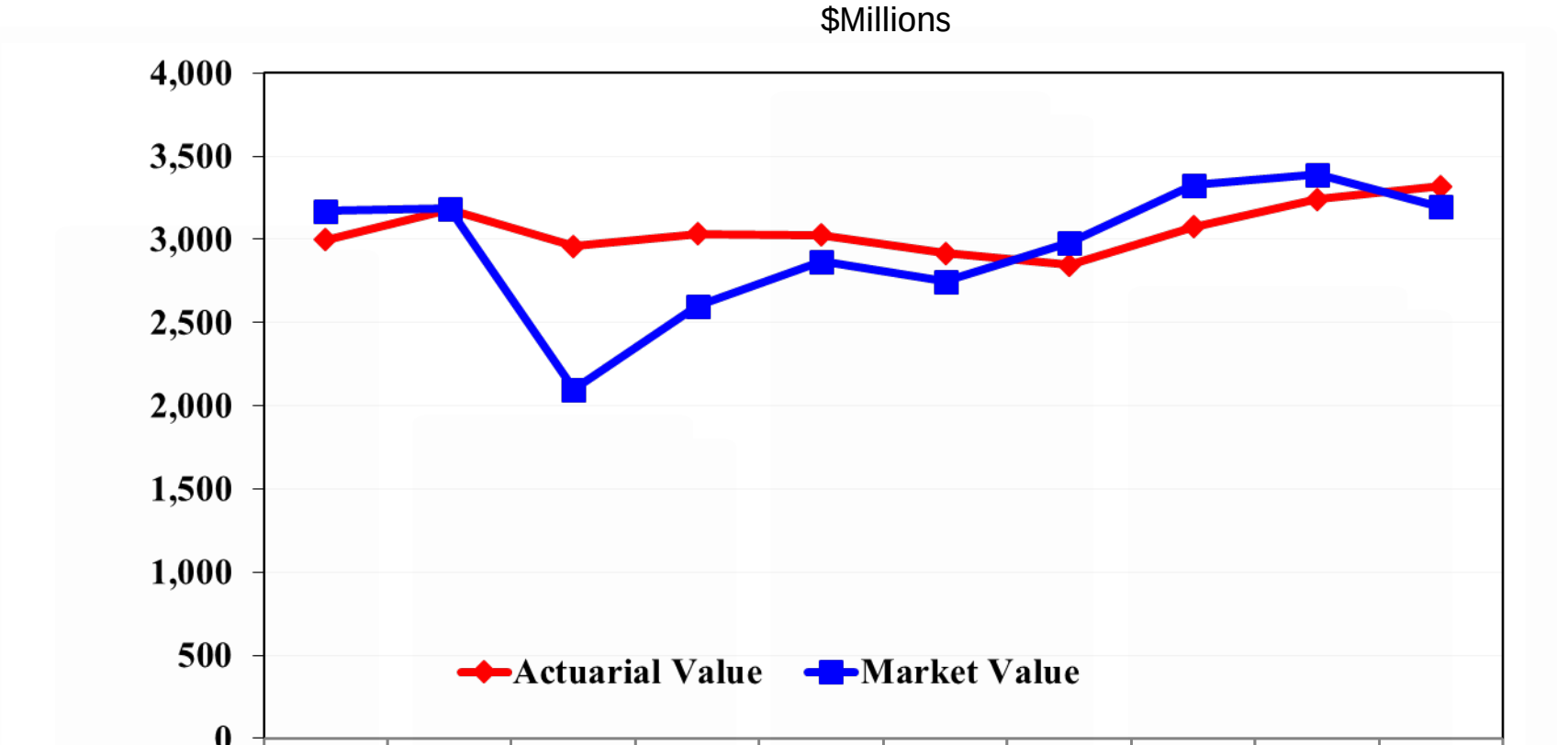
Average Salary and Average Benefit



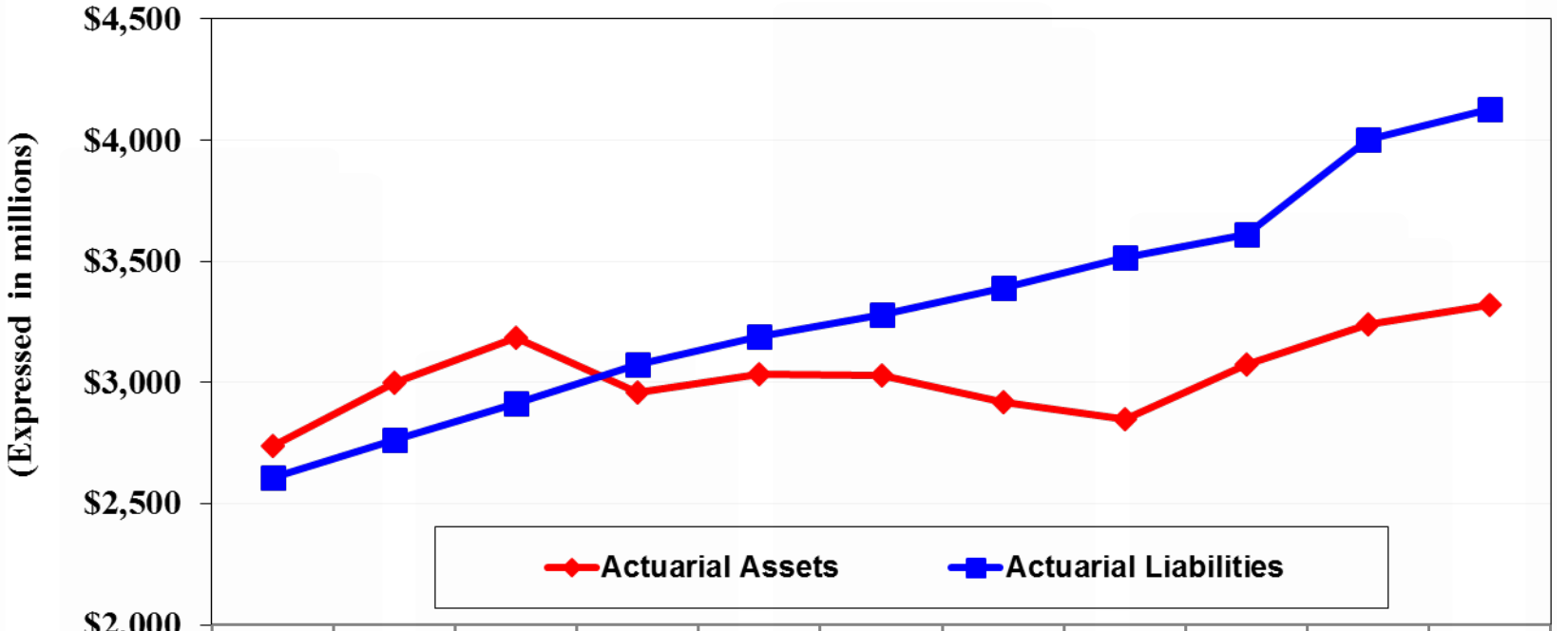
Historical Asset Values



	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Actuarial Value	2,998	3,183	2,958	3,032	3,027	2,917	2,846	3,074	3,241	3,320
Market Value	3,172	3,185	2,097	2,600	2,868	2,748	2,980	3,325	3,391	3,195

Liabilities vs. Assets

Liabilities are growing, but the changes that are being proposed will reduce future liabilities.



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Actuarial Assets	2,739	2,998	3,183	2,958	3,032	3,027	2,917	2,846	3,074	3,241	3,320
Actuarial Liabilities	2,606	2,761	2,915	3,075	3,192	3,282	3,392	3,518	3,611	4,004	4,128

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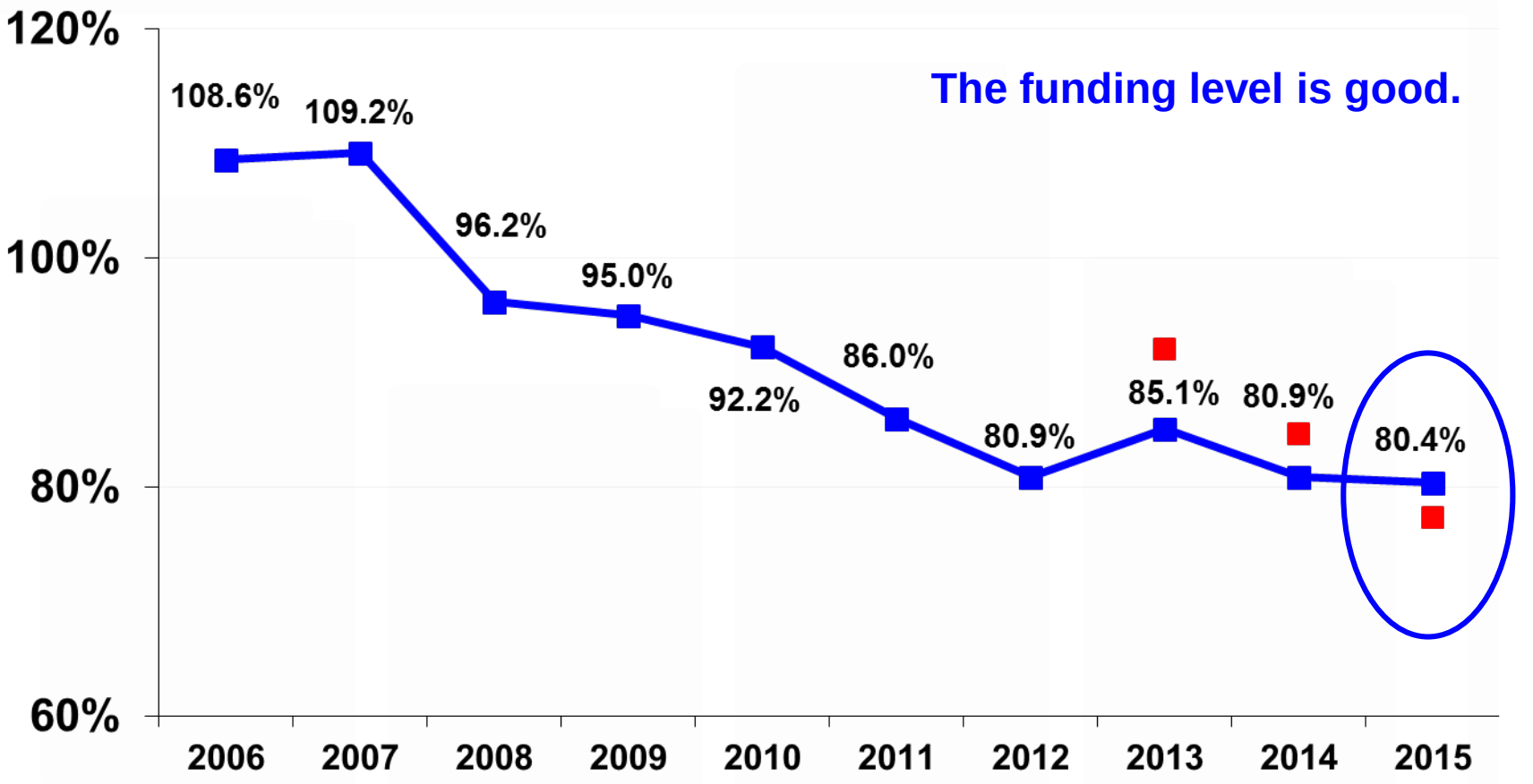
Historical Funded Ratios



Funded ratio using market value of assets as of December 31, 2013 is 92.1%.
Funded ratio using market value of assets as of December 31, 2014 is 84.7%.
Funded ratio using market value of assets as of December 31, 2015 is 77.4%.

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Comparison of Large City Funding Levels

City	Funding Level	Fiscal Year End Date
City of Dallas – ERF	80.4%	12-31-2015
City of El Paso ERF	79.0%	08-31-2015
City of San Diego	75.6%	06-30-2015
City of Austin ERF	68.0%	12-31-2015
City of Fort Worth ERF	60.6%	12-31-2015
City of Phoenix	55.4%	06-30-2015
City of Houston MEPS	54.0%	06-30-2015

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What is GASB 67/68?

- Governmental Accounting Standards Board (GASB) Statements No. 67 & No. 68 describe the disclosure information that must be included in the financial statements of public sector pension systems and their sponsors.

- These rules became effective for the City of Dallas with the 2015 fiscal year end reporting.

- The most significant difference between the new statements and the prior statements is that the plan sponsor now must recognize the Net Pension Liability (NPL) on its balance sheet.

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GASB 67 NPL Calculation

- The NPL is the Total Pension Liability (TPL) less the market value of assets.
  - TPL is similar to the actuarial accrued liability (AAL).
  - If the GASB "Single Discount Rate (SDR) Test" is passed then for ERF, the TPL would equal the AAL.

- GASB Test – a proscribed cash flow model using:
  - Current market value of assets;
  - Projected benefit payments for current members;
  - Projected contributions of current members; and
  - Projected City contributions not associated with future members' cost of benefits (excludes future members' normal costs).

- If projected assets go to zero before all benefit payments are made, then remaining payments are discounted at the municipal bond rate.

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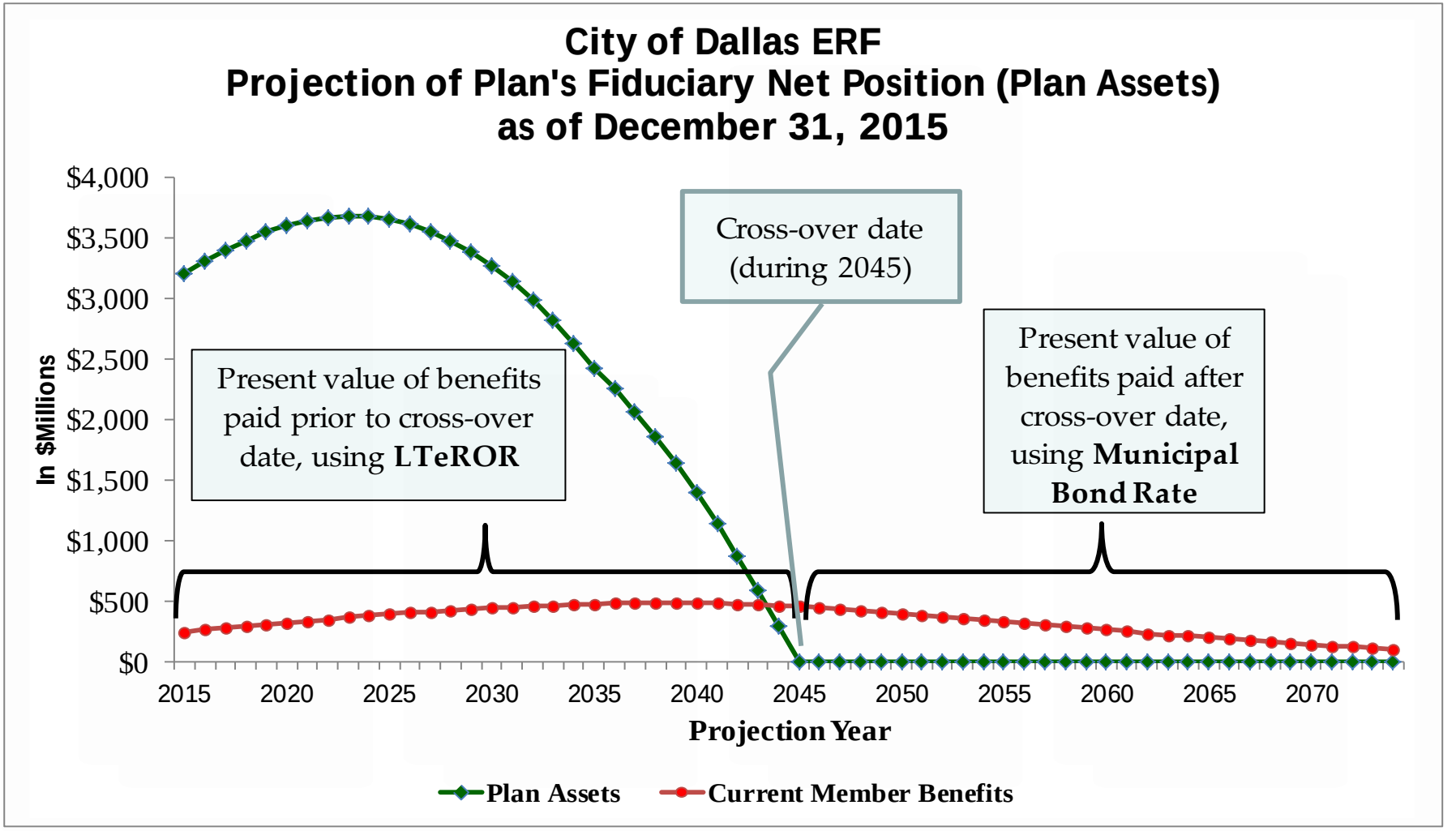
GASB 67 NPL Calculation

- The NPL can be very volatile due to:
  - The use of the market value of assets – year to year fluctuations in the market value of assets flow directly into the NPL;
  - Bouncing back and forth between passing and failing "SDR Test" and
  - Changes in the municipal bond rate from year to year if required to use a blended discount rate.
- Last year Dallas ERF passed the SDR test and used the long-term rate of return (8%) for the SDR.
- This year Dallas ERF did not pass the SDR test and was required to use a blended discount rate.
  - Projected benefit payments through 2045 were discounted at 8%.
  - Projected benefit payments after 2045 were discounted at 3.57%.
  - The single discount rate equivalent is 5.76%.
  - The TPL determined with a 5.76% discount rate is $1.2 billion greater than if an 8.0% rate had been used.

Single Discount Rate – Accounting Purposes



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Current Unfunded Liability Cost

- Based on the December 31, 2015 actuarial valuation, the unfunded liability of the ERF was $808 million.
  - $935 million if the market value of assets is used.
- Based on the December 31, 2015 GASB 67/68 report, the NPL was $2.165 billion.
- What is the unfunded liability?
  - If the ERF received $935 million, then the ERF would be fully funded ($0 unfunded liability) on a market value of asset basis.
  - The NPL would also be $0.
- **The ERF Board is proposing benefit changes to the Chapter 40A effective January 1, 2017 for new hires only. If the proposed benefit changes had been effective January 1, 2016, the ERF would have passed the SDR test and the NPL would have been $935 million.**

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Proposed Benefit Changes

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2014 Experience Study Review

- In 2014, the Board requested a five-year experience study.
- Experience study answers these questions for each assumption.
  - What was the Plan's actual experience?
  - How does that compare with current assumptions?
  - Is a change warranted?
- Types of Assumptions:
  - **Economic Assumptions** - Price Inflation (CPI), Investment Return, Payroll Growth Rate, Investment Rate (also used as the Discount rate);
  - **Demographic Assumptions** - Mortality, Disability Retirement, Other terminations; and
  - **Actuarial Methods** - Funding Method, Asset Smoothing Method.

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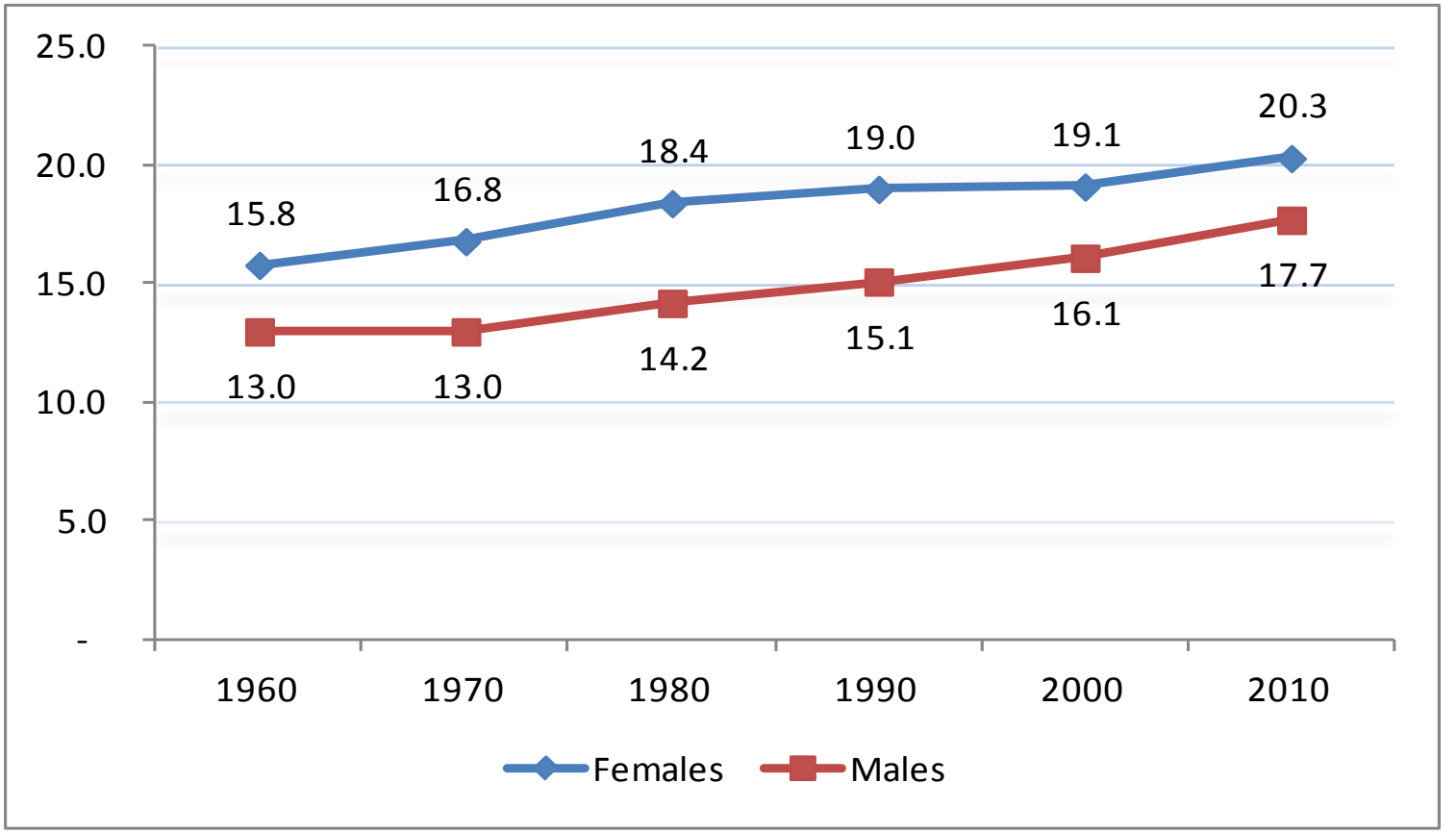
Life Expectancy Increases from Age 65



Since 2010, life expectancies continue to increase. The latest published rates (2012) are 20.5 years for females and 17.9 years for males, both from age 65.

Source: National Vital Statistics Reports

More Conservative Assumptions - Better Positions the Fund for the Future

- 2015 Actuarial Valuation reflects the Board's adoption of new assumptions:
  - Decrease in discount rate from 8.25% to 8.00%. Discount rate change increased liabilities by $106 million and
  - New demographic assumptions, including generational mortality, increased liabilities by $187 million.
- The adoption of more conservative assumptions above represents almost $293 million of the current $800 million Unfunded Actuarial Accrued Liability (UAAL).
- Based on the new assumptions, the Employees' Retirement Fund's normal cost for the current plan year increased to 20.36% of payroll for FYE 2015.
- The "normal cost" of a defined-benefit plan is the annual cost of the future liability associated with the benefits earned in that particular year.

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Proposed Changes to Chapter 40A (Financial Impact)

Benefit Factors	Proposed Plan Changes for New Employees Only (Hired on January 1, 2017 and After)
Retirement Eligibility	• Change from Age 60 to 65 w/5 years of credited service • From 30 years to 40 years of service (unreduced) • Rule of 78 (unreduced ≥ 50 YOA) to Rule of 80 (actuarially reduced < 65 years of age)
Benefit Multiplier	• Reduce from 2.75% to 2.5%
CPI Cost of Living Adjustment (COLA)	• Reduce from a maximum of 5% to a maximum of 3%
Average Monthly Earnings	• Change from 3 to 5 year average
Survivor Benefits	• Change from Joint & 50% survivor to Life Only as the normal form of retirement • All survivor benefits continue to have a 10 year guarantee • Now Joint & 50% survivor benefits, like Joint & 100% survivor benefits, will be actuarially reduced
Health Benefit Supplement	• Eliminate $125 monthly Health Supplement

Note - All non-financial changes to Chapter 40A are included in the Appendix.

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Proposed Changes Reduce Normal Cost by 36.3%

Current Normal Cost	20.36%
Total Reduction to Normal Cost	(7.40%)
Proposed Normal Cost	**12.96%**

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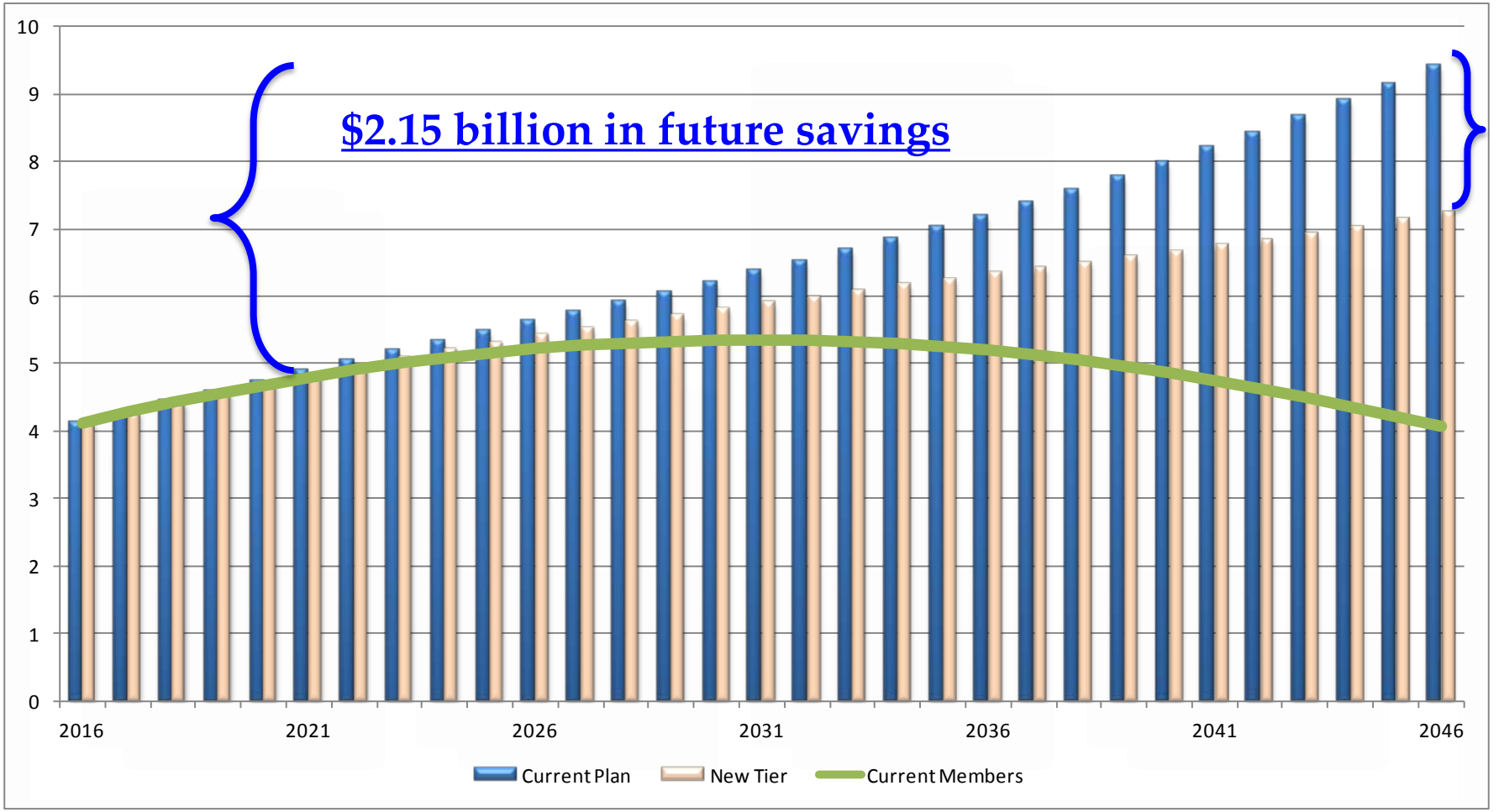
Proposed Changes Reduce Liabilities by $2.15 Billion



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Stress Test of Plan Changes

- GRS performed a "Stress Test" on the proposed plan changes
- In a "Stress Test" several factors are analyzed to determine what scenario if any would result in an unsuccessful outcome
  - For our purposes an unsuccessful outcome would be the exhaustion of the Fund's assets
- In this stress test we have isolated the impact of two different assumptions
  - Investment Return
  - Payroll Growth
- It is important to understand that the actuarial model is built on a multitude of assumptions. While we have studied the impact of two of these assumptions, experience different than assumed for other assumptions could result in significantly different results.

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Stress Test of Plan Changes

- The following "Stress" items were studied
  - Lower long-term investment returns than assumed
  - Significantly lower short-term investment returns than assumed
  - Significant reduction in the projected future payroll (10% and 20%)
  - Impact if the Board lowers the investment return assumption

- We were also requested to look at the impact of significant increases in projected future payroll (10% and 20%)
  - These events would help the Fund and not add "Stress"

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Lower Long-term Investment Return Results

- We have modeled lower investment return results to determine the rate at which Fund's exhaustion occurs
- A 7.25% compound return over all future years would result in the exhaustion of the Fund's assets in approximately 100 years
  - Given the long time frame this should allow for future corrections before the Fund becomes insolvent
- A 7.00% compound return over all future years would result in the exhaustion of the Fund's assets in approximately 50 years
  - Shorter period before exhaustion may require more significant changes
  - Fund would be less than 50% funded when pension obligation bonds are paid off in 2035
- A 6.00% compound return over all future years would result in the exhaustion of the Fund's assets in approximately 30 years

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Lower Short-term Investment Return Results

- We have modeled significantly lower investment return results over the next 10 years to determine its impact on Fund
- The worst 10-year period in the funds history still resulted in a compound return over the 10 years of 5.4%
- We modeled a 5.4% return over the next 10 years with a return to the long-term rate of return of 8.00% for all years after 2025
  - The model shows the Fund would become exhausted in 2048
- The minimum rate of return over the next 10 years (with 8% thereafter) that does not exhaust the Fund is 6.65%
  - Funded ratio would be expected to continuously decline until bottoming out below 30% before turning upwards
  - This would not occur for more than 50 years

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Impact of Lower Investment Return Assumption

- We have modeled three different scenarios where the Board lowers the investment return assumption effective with the next valuation
  - 7.75% return by decreasing the inflation assumption by 0.25% (2.75%)
  - 7.75% return by decreasing the real return assumption by 0.25% (4.75%)
  - 7.50% return by decreasing both the inflation assumption and the real return assumption by 0.25% (2.75% and 4.75% respectively)
  - These all reflect the proposed benefit changes
  - The Fund is expected to remain solvent under all three scenarios if the assumed returns are met
- The following page has a chart showing the projected funded ratio for the current valuation results, the proposed plan changes with the current assumptions, and the three scenarios described above

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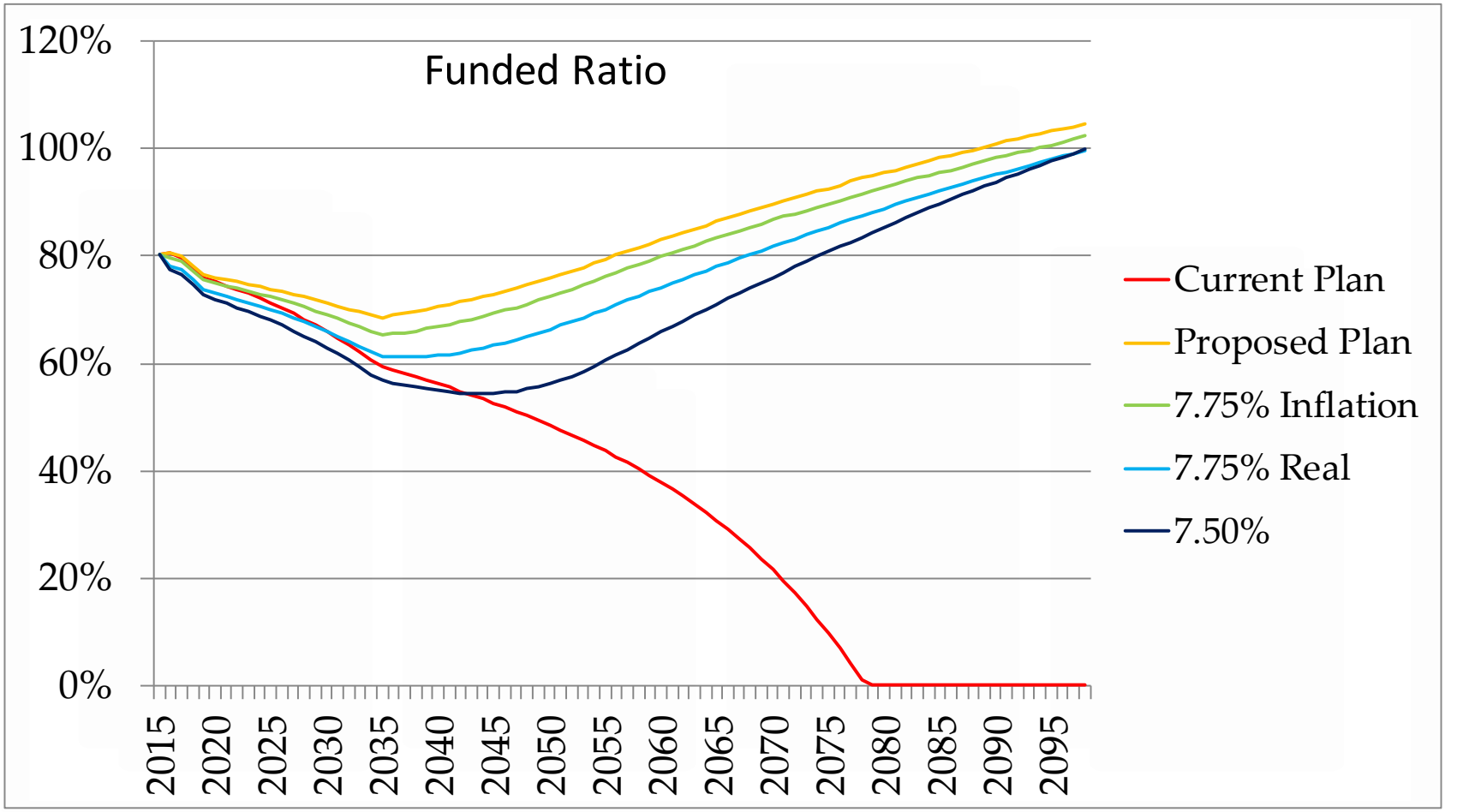
Impact of Lower Investment Return Assumption



As of December 31st

Employees' Retirement Fund of the City of DALLAS

Significant Reduction in Payroll

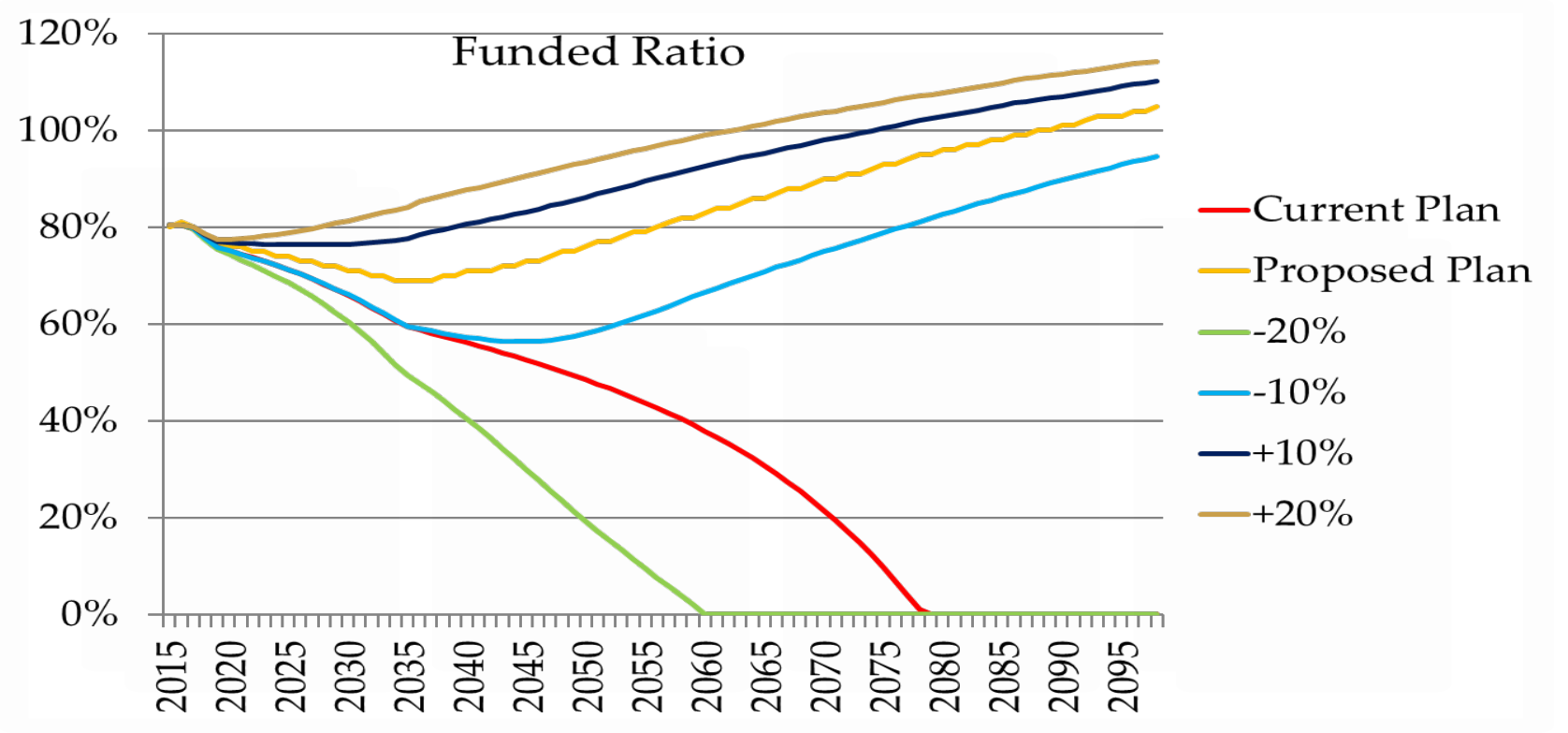
- We have modeled a significant reduction in the covered payroll of the Fund
- 20% reduction in the projected payroll three years from now was accomplished by assuming that members leaving would not be replaced for the next two years and that the active covered employee population would then stabilize at 5,800
  - Represents a 20% reduction in what the payroll was expected to be three years from now, not 20% from current payroll
- 20% reduction in payroll with normal growth thereafter would be expected to result in the Funds exhaustion in 2062
- 10% reduction in the projected payroll three years from now was accomplished by assuming that half of the members leaving would not be replaced for the next two years and that the active covered employee population would then stabilize at 6,640
- 10% reduction in payroll with normal growth thereafter would not be expected to result in the exhaustion of the Fund

Employees' Retirement Fund of the City of DALLAS

Significant Changes in Payroll

- As requested, we have modeled a significant increase in the covered payroll of the Fund
  - This would be beneficial to the Fund
- 20% increase in the projected payroll three years from now was accomplished by assuming that the number of active members would increase by 580 each of the next three years and the employee population would then stabilize at 9,200
- 10% increase in the projected payroll three years from now was accomplished by assuming that the number of active members would increase by 290 each of the next three years and the employee population would then stabilize at 8,350
- The following page has a chart showing the projected funded ratio for the current valuation results, the proposed plan changes with the current assumptions, and the two payroll reduction scenarios as well as the two payroll increase scenarios described above
- All of the payroll modeling is based on the proposed benefit changes

Impact of Significant Changes in Payroll



- All funding ratios include the proposed plan changes except the "Current Plan" (red line)
- The -10% payroll reduction line (light blue line) assumes a downward trajectory of funding until approximately the year 2045

As of December 31st

Employees' Retirement Fund of the City of DALLAS

Chapter 40A Amendment Process

- Chapter 40A-35 requires all interested parties to approve any changes – Dallas ERF Board, Dallas City Council, and the voters of the City of Dallas.
  - (a) Except as provided in Subsection (b), this chapter may not be amended except by a proposal initiated by either the board or the city council that results in an ordinance approved by the board, adopted by the city council, and approved by a majority of the voters voting at a general or special election.
  - (b) A provision of this chapter, other than this section, that is determined by the board to require amendment in order to comply with federal law may be amended by ordinance of the city council, without voter approval, upon recommendation of the board.
- Texas Constitution Article XVI, Section 66(d) (added in 2003)
  - On or after the effective date of this section, a change in service or disability retirement benefits or death benefits of a retirement system may not reduce or otherwise impair benefits accrued (**earned)** by a person if the person: (1) could have terminated employment or has terminated employment before the effective date of the change; and (2) would have been eligible for those benefits, without accumulating additional service under the retirement system, on any date on or after the effective date of the change had the change not occurred.
  - The political subdivision or subdivisions and the retirement system that finance benefits under the retirement system are jointly responsible for ensuring that benefits under this section are not reduced or otherwise impaired.

Employees' Retirement Fund of the City of DALLAS

Timeline for Chapter 40A Changes

Action Plan	Date
Briefing to Dallas City Council – Transportation and Trinity River Corridor Project Committee	June 27, 2016
Briefing to Dallas City Council	August 3, 2016
Chapter 40A Approval by Dallas ERF Board	August 9, 2016
Chapter 40A Agenda Item for Dallas City Council	August 10, 2016
Chapter 40A Ballot Agenda Item for Dallas City Council	August 10, 2016
Chapter 40A Ballot Item for Dallas Voters	November 8, 2016
Anticipated Chapter 40A New Benefit Tier Start Date	January 1, 2017

Employees' Retirement Fund of the City of DALLAS

Summary

- The Dallas ERF Board is being proactive and conservative by recommending the new tier of benefits:
  - Addresses people living longer in retirement by:
    - Raising the normal retirement age from 60 to 65 years;
    - Changing the Rule of 78 to the Rule of 80;
    - Requiring an actuarial reduction to a member's benefit commencing before 65 years of age; and
    - Increasing the eligibility requirements for a service retirement, not actuarially reduced, from 30 years to 40 years of credited service.
  - Lowers the Fund's normal cost by 36.3% (from 20.36% to 12.96%);
  - Decreases long term liabilities approximately $2.15 billion over a 30 -year period;
  - Provides an adequate retirement pension for future employees who do not participate in Social Security;
  - Strengthens the overall trust in the Plan for all members;
  - In August 2016, the City Council will be presented two agenda items for consideration:
    - Amendments to Chapter 40A and
    - A special election item scheduled for November 8, 2016
  - The proposed plan changes are prudent and fiscally responsible and promote the long term viability of the plan.

Employees' Retirement Fund of the City of DALLAS

Appendix (i)
Chapter 40A - Summary of Proposed Changes

Employees' Retirement Fund of the City of DALLAS

Summary of Proposed Plan Changes to Chapter 40A

Chapter 40A	Recommended Changes
40A-1 DEFINITIONS	• Actuarial Equivalent values and Current Adjusted Total Obligation Rate are based on factors recommended by the actuary and adopted by the board. • Actuary definition added and defined as a person with 5 years of experience as an actuary working with public retirement systems, is a FSA, MAAA, or an enrolled actuary under ERISA. • Average Monthly Earnings for Tier A members or inactive members hired before 1/1/2017 to include last 6,240 hours of credited service. • Average Monthly Earnings for Tier B members or inactive members hired on or after 1/1/2017 to include the 5 calendar years of credited service in which the member was paid the highest wage, the last 10,400 hours of credited service, or the length of credited service if less than five calendar years. • Credited Service definition added and defined as a period during which a member is paid as a permanent employee and contributes to the Fund. • Designee definition expanded to include persons who would receive payment after death of the retiree of the unpaid portion of the final month's pension. • Employee definition revised to exclude someone treated as a leased employee by the City and to remove the exclusion of part-time employees employed less than one-half time.

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Summary of Proposed Plan Changes to Chapter 40A – cont.

Chapter 40A	Recommended Changes
40A-1 DEFINITIONS - CONT.	• Part-Time Employee definition added, referencing Section 34-8(c), as amended. • Restricted Prior Service Credit definition added, allowing employees hired on or after 1/1/2017 to receive credit, for vesting and retirement eligibility purposes only, if they had worked as a permanent, full-time, paid employee for another US governmental entity. • Retirement definition clarifies terminating "city" employment. • Service definition deleted. References changed from service to "credited service" and defined herein. • Tier A definition added and defined to include any person who was employed before January 1, 2017 or rehired or reinstated on or after January 1, 2017 whose credited service has not been canceled by withdrawal or forfeiture and their beneficiaries and designees. • Tier B definition added and defined to include any person who was employed on or after January 1, 2017 or rehired or reinstated on or after January 1, 2017 whose credited service has been canceled by withdrawal or forfeiture and their beneficiaries and designees. • Vested definition added, meaning a member or inactive member who has accumulated sufficient credited service or has reached normal retirement age to qualify for a pension. • Wage definition revised to include prorated service incentive pay and to exclude any lump sum payments made at retirement for sick leave or attendance incentive leave.

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Summary of Proposed Plan Changes to Chapter 40A – cont.

Chapter 40A	Recommended Changes
40A-2 CREATION OF THE RETIREMENT FUND AND BOARD OF TRUSTEES; COMPOSITION AND OFFICERS OF THE BOARD	• If only one member is nominated for an elective board position, that member will be declared elected by the board, without requiring an election by the members. • Board meetings shall be held when necessary but not less than quarterly.
40A-3 TERMS AND REMUNERATION OF THE BOARD	• Employee elected Board terms will be staggered so that only one election will be held in any year. • Board will have 90 days in which to hold an election after a vacancy occurs.
40A-4 POWERS, DUTIES AND IMMUNITIES OF THE BOARD	• Because assets and income are not separated in the custodial account, clarifies that professional services and fiduciary insurance will be paid from fund investments, rather than income from those investments. • Expenditures require board resolution or adoption of the ERF budget. • Requires that an actuarial peer review audit be performed at least every five years or as required by state law. • Clarifies the requirement that a timely notice must be posted prior to board meetings.
40A-4.2 INVESTMENT CUSTODY ACCOUNT	• Expands the investment custody definition to include brokerage firms as authorized by state law.

Employees' Retirement Fund of the City of DALLAS

Summary of Proposed Plan Changes to Chapter 40A – cont.

Chapter 40A	Recommended Changes
40A-5 ADMINISTRATOR OF THE RETIREMENT FUND	• Clarifies that the administrator is the "plan administrator" as defined in 26 USC 414(g). • Stipulates that, when used in relation to the retirement fund in documents, contracts, resolutions and city ordinances, the term "executive director" will have the same meaning as "administrator"
40A-6 EMPLOYEE CONTRIBUTIONS	• Clarifies that members may discontinue contributions while on unpaid military leave.
40A-7 CITY CONTRIBUTIONS	• Eliminates requirement that the city provide the fund with office space and utilities at no charge.
40A-9 ACTUARIAL ASSUMPTIONS	• Actuarial assumptions, interest rates, and mortality tables must be adopted and established by the board based on recommendations by the fund's actuary. • Commuted value payouts must be calculated using the 5-yr average of the 10-yr treasury bond. • Eliminates use of set interest rate assumptions and outdated mortality tables.

Employees' Retirement Fund of the City of DALLAS

Summary of Proposed Plan Changes to Chapter 40A – cont.

Chapter 40A	Recommended Changes
40A-10 CREDITED SERVICE; COMPUTATION OF BENEFITS	• Incorporates 12/31/1988 board resolution which clarifies that part-time employees who work at least 1,000 hours in a year may receive one year of credited service for determining eligibility to retire. • Tier A member or inactive member - benefit multiplier is 2.75%. • Tier B member or inactive member - benefit multiplier is 2.5%.
40A-10.1 RESTRICTED PRIOR SERVICE CREDIT	• Tier B members may be eligible for restricted prior service credit for service performed as a paid employee for another governmental entity to be used in determining vesting and retirement eligibility but not toward calculating benefits. • Application for restricted prior service credit must be submitted to administrator within three years of employment or re-employment by the city.
40A-11 CREDITED SERVICE FOR EMPLOYMENT BEFORE A BREAK IN SERVICE	• The interest rate for repayment of contributions for Tier B members who have left and returned to City employment is the highest actuarial rate of return during the withdrawal period.
40A-14 REDUCTION IN FORCE	• Eliminates requirement that purchase of credited service upon reduction in force be completed during the calendar year in which the member terminated.

Employees' Retirement Fund of the City of DALLAS

Summary of Proposed Changes to Chapter 40A-cont.

Chapter 40A	Recommended Changes
40A-15 RETIREMENT	Tier B Retirement Eligibility: • Normal retirement at age 65 with 5 years service. • Early retirement Rule of 80, with reduced benefit for retirements effective before age 65. • Service retirement after 40 years service. • Allows members who are eligible under the Rule of 80 and who terminate employment before age 65 to defer drawing their pension, thus lessening their actuarial reduction.
40A-16 RETIREMENT PENSION	• Tier B Early retirement will be actuarially reduced. • Tier B Joint & One Half survivor option will be actuarially reduced. • Actuarial equivalency factors must be adopted by the board at least six months prior to use and must be maintained in the fund office and published on the fund's website. • Tier B inactive member may elect to defer retirement until age 65 with no actuarial reduction.
40A-17 DISABILITY RETIREMENT	• No Change. Original language in Chapter 40A remains
40A-18 DISABILITY RETIREMENT PENSION	• Minimum pension for service-connected disability increased from $500 to $1,000.
40A-21 DEATH BENEFITS BEFORE RETIREMENT	• Minimum pension for service-connected death increased from $500 to $1,000.

Employees' Retirement Fund of the City of DALLAS

Summary of Proposed Plan Changes to Chapter 40A – cont.

Chapter 40A	Recommended Changes
40A-27 HEALTH BENEFIT SUPPLEMENTS	• Tier A health benefit supplements payable due to retirement or death prior to 1/1/1992 will be grandfathered. • Tier B retiree or beneficiary is not eligible for any health benefit supplement.
40A-28 COST-OF-LIVING ADJUSTMENT TO BENEFITS	• COLA for Tier B members calculated based on Consumer Price Index change of up to 3%. • COLA may not reduce benefits of a retiree or beneficiary.
40A-34 NONALIENATION AND NONREDUCTION OF BENEFITS	• Board will approve valid qualified domestic relations orders pursuant to state law. • Maximum lump sum actuarial value that may be paid to an alternate payee increased from less than $3,500 to less than $10,000.
40A-35 AMENDMENT TO THIS CHAPTER	• No Change. Original language in Chapter 40A remains
RECOMMENDED CHANGES TO VARIOUS SECTIONS THROUGH ELIMINATION, MODIFICATION, OR UPDATE	• Historical date references, if no longer applicable, were removed from 40A-1, 40A-2, 40A-3, 40A-4, 40A-6, 40A-7, 40A-11, 40A-14, 40A-15, 40A-26, and 40A-27. • Making semantic, grammatical, and structural changes made to 40A-1, 40A-2, 40A-3, 40A-4, 40A-5, 40A-6, 40A-10, 40A-11, 40A-14, 40A-15, 40A-16, 40A-21, 40A-22, 40A-23, 40A-26, 40A-27, 40A-31, 40A-32, 40A-33, and 40A-34. • References to statutes and codes updated in 40A-1 and 40A-34.

Employees' Retirement Fund of the City of DALLAS

Retirement Benefit Review

Benefit Factors	Current Plan
Retirement Eligibility	o Age 60 o 30 years of Credited Service (actuarially reduced before age 50) o Rule of 78 Early Retirement (unreduced ≥ 50 YOA)* o Disability Retirement o Contributing members vest at 5 years o Inactive members with 5 years can retire at age 60
Death Benefit	o Joint & 100% (actuarially reduced) o Joint & 50% (unreduced) o Ten-Year Guarantee (unreduced)
Cost of Living Adjustment (COLA)	o Maximum of 5% based on Consumer Price Index (CPI)
Highest Average Earnings	o 3-year average

**** Rule of 78 eligibility occurs when the member's age plus the years of service equal 78.***

Employees' Retirement Fund of the City of DALLAS

Retirement Calculation Example

Benefit Factors	Current Plan	Proposed Plan*
Employee Contribution Rate	13.32%	13.32%
Example of an Average Annual Salary	$50,000.00	$50,000.00
Employee's Age for Normal Retirement Eligibility	60	65
Years of Credited Service	25	25
Multiplier	2.75%	2.50%
Annual Pension Benefit	$ 34,375.00	$31,250.00
Health Benefit Supplement ($125/monthly)	$ 1,500.00	N/A
Annual Benefit	$35,875.00	$31,250.00
Monthly Benefit	$ 2,989.58	$ 2,604.17

*** New Employees Hired on or after 1/1/2017**

Employees' Retirement Fund of the City of DALLAS

Comparison – Current Plan vs Proposed Plan

Retirement Factors	Current Plan (Benefit Payments)	Proposed Plan* (Benefit Payments)
Example of an Average Annual Salary	$50,000.00	$50,000.00
Years of Credited Service	25	25
Multiplier	2.75%	2.50%
Monthly Benefit	$ 2,989.58 (With a health supplement)	$ 2,604.17 (Without a health supplement)
Member's annual pension	$35,875.00**	$31,250.00**
Member's accumulated pension 20 years after retirement	$717,500.00**	$625,000.00**
Member's accumulated pension 23 years after retirement	$825,125.00**	$718,750.00**

*** New Employees Hired on or after 1/1/2017**

*****This amount does not include annual cost of living adjustments.***

Employees' Retirement Fund of the City of DALLAS

Appendix (ii)
Chapter 40A – Proposed Ordinance

ORDINANCE NO. _____

An ordinance amending Chapter 40A, "Retirement," (composed of Sections 40A-1 through 40A-35) of the Dallas City Code, as amended; adding and revising various definitions; adding that administrator also means the executive director of the fund; providing for staggered terms for elected members of the retirement fund board; providing that a sole nominee to an elected board position be declared elected without a membership vote; extending the time in which an election must be held to fill a vacancy in an elected board position; requiring the board to meet at least quarterly instead of monthly; authorizing the board to adopt, upon the recommendation of the fund's actuary, actuarial equivalency factors, actuarial assumptions, interest rates, and mortality tables to be used in Chapter 40A; revising the interest assumption used for commuted value of future retirement benefits; classifying fund members, inactive members, and retirees as Tier A (if hired before January 1, 2017 or rehired on or after January 1, 2017 with uncanceled or reinstated credited service) and Tier B (if hired, or rehired with canceled and unreinstated credited service, on or after January 1, 2017); providing a reduced tier of benefits for Tier B and their beneficiaries and designees (including extending normal retirement age from 60 to 65 with five years of credited service, extending service retirement from 30 to 40 years, increasing the sum of age and amount of credited service from 78 to 80 in calculating retirement eligibility with reduced benefits for under-65 retirees, reducing pension benefits for joint and one-half survivor options, decreasing the percentage multiplier used to calculate benefits from 2.75% to 2.5%, extending the period over which average monthly earnings are calculated, eliminating health benefit supplements, lowering the cap on cost-of-living adjustments, and modifying interest rates on buybacks of credited service after a break in service); allowing certain prior service credit with other governmental entities to be used in determining eligibility of a Tier B member to vest or retire, but not in computing

benefits; providing for selection of a designee to receive a retiree's earned but unpaid final month's pension; increasing the minimum monthly service death or service disability benefit from $500 to $1,000; allowing a lump sum payment for establishing credited service after a reduction in force to be made in the following calendar year if within 90 days after termination of employment; clarifying that a cost-of-living adjustment cannot reduce pension benefits; clarifying that a leased employee is not an employee under Chapter 40A; deleting the requirement that the city of Dallas provide office space and utilities for the retirement fund; updating legal citations; deleting obsolete provisions; making certain semantic, grammatical, and structural changes; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Chapter 40A, "Retirement," (composed of Sections 40A-1 through 40A-35) of the Dallas City Code, as amended, is amended to read as follows:

"**SEC. 40A-1. DEFINITIONS.**

In this chapter, unless the context clearly indicates otherwise:

(1) ACTUARIAL EQUIVALENT means the equivalent in value on the basis of the actuarial factors recommended by the fund's actuary and adopted by the board [~~contained in this chapter~~].

(2) ACTUARIAL VALUATION REPORT means the report issued by the fund's actuary and adopted by the board for any relevant period. The board shall provide a copy of each actuarial valuation report to the city promptly after adoption.

(3) ACTUARIALLY REQUIRED CONTRIBUTION RATE means, for any fiscal year, a rate of contribution to the fund, expressed as a percentage of members' projected wages for such fiscal year, that is the sum of the following as determined in the actuarial valuation report for the preceding plan year:

(A) the actuarial present value of the pension plan benefits and expenses that are allocated to a valuation period by the actuarial cost method; and

(B) the contribution that will amortize the difference between the actuarial accrued liability of the fund and the actuarial value of the assets of the fund over the period of years required by generally accepted accounting principles.

[~~ACTUARIAL VALUATION REPORT means the report issued by the fund's actuary and adopted by the board for any relevant period. The board shall provide a copy of each actuarial valuation report to the city promptly after adoption.~~]

(4) ACTUARY means a person with at least five years of experience as an actuary working with one or more public retirement systems; and is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

(5[4]) AVERAGE MONTHLY EARNINGS means wages paid by the city, divided by the number of months of credited service of a member or inactive member, computed for whichever of the following periods is most beneficial to the member or inactive member:

(A) For Tier A members or inactive members, the:

(i) [~~the~~] three calendar years of credited service in which the member or inactive member was paid the highest wage;

(ii[~~B~~]) [~~the~~] last 6,240 hours [~~three years~~] of credited service; or

(iii[~~C~~]) [~~the~~] length of credited service [~~time actually served~~] if less than three years.

(B) For Tier B members or inactive members, the:

(i) five calendar years of credited service in which the member or inactive member was paid the highest wage;

(ii) last 10,400 hours of credited service; or

(iii) length of credited service if less than five years.

(6[~~5~~]) BASE PENSION means the amount of retirement pension or death benefits as computed under this chapter at the time of retirement or death of a member, inactive member, or retiree.

(7[~~6~~]) BENEFICIARY means a person who is entitled to payment of benefits under this chapter upon the death of a member, inactive member, or retiree.

(8[~~7~~]) BOARD means the board of trustees of the employees' retirement fund of the city of Dallas.

(9[~~8~~]) CHILD means an unmarried person whose parent is a member, inactive member, or retiree.

(10[~~9~~]) CITY means the city of Dallas, Texas.

(11[~~0~~]) CITY COUNCIL means the governing body of the city of Dallas, Texas.

(12[~~1~~]) COMMUTED VALUE means the present value of a series of payments to be made in the future, the present value to be calculated using the actuarial interest assumption prescribed in Section 40A-9 as the only discounting factor.

(13) CREDITED SERVICE means any period that a person is paid as an employee of the city and contributes to the fund.

(14[(~~2~~]) CURRENT ADJUSTED TOTAL OBLIGATION RATE means, for any fiscal year, the rate recommended by the fund's actuary and adopted [~~determined~~] by the board as follows, using whichever formula is applicable:

(A) If the current total obligation rate minus the prior adjusted total obligation rate is greater than three, then the current adjusted total obligation rate for such fiscal year is equal to the lesser of:

(i) the prior adjusted total obligation rate plus one-half times the difference of the current total obligation rate minus the prior adjusted total obligation rate; or

(ii) 110 percent times the prior adjusted total obligation rate; or

(iii) 36 percent.

(B) If the difference between the current total obligation rate and the prior adjusted total obligation rate is less than three, then the current adjusted total obligation rate for such fiscal year is equal to the prior adjusted total obligation rate.

(C) If the prior adjusted total obligation rate minus the current total obligation rate is greater than three, then the current adjusted total obligation rate for such fiscal year is equal to the greater of:

(i) the prior adjusted total obligation rate minus one-half times the difference of the prior adjusted total obligation rate minus the current total obligation rate; or

(ii) 90 percent times the prior adjusted total obligation rate.

(15[~~3~~]) CURRENT TOTAL OBLIGATION RATE means, for any fiscal year, the rate adopted by the board that is equal to the sum of the pension obligation bond credit rate for such fiscal year plus the actuarially required contribution rate for such fiscal year.

(16[~~4~~]) DEPENDENT PARENT means a member, inactive member, or retiree's parent who is:

(A) totally and permanently disabled and who receives over half of the support for each calendar year from the member, inactive member, or retiree; or

(B) 65 years of age or older.

(17[~~5~~]) DESIGNEE means an estate, a person, or an entity selected by:

(A) a member or inactive member to receive a refund of contributions under Section 40A-21(b); [~~or~~]

(B) a member, inactive member, or retiree to receive a commuted value lump sum payment under Section 40A-16(e[~~d~~]) or 40A-21(c); or

(C) a member, inactive member, or retiree to receive the earned but unpaid portion of the final month's pension due under Section 40A-23(e).

(18[~~6~~]) EMPLOYEE:

(A) means[~~:~~

~~(i)~~] a person employed by the city on a permanent basis who receives regular compensation from the city; and

[~~(ii) a leased employee, to the extent required by Section 414(n) or 414(o) of the Internal Revenue Code; and~~]

(B) does not mean:

(i) an elective officer or nonsalaried appointive member of an administrative board or commission;

(ii) a person [~~an individual, other than a leased employee,~~] retained [~~employed~~] under contract for a definite period or for the performance of a particular service;

(iii) [~~an individual employed on a part-time basis of less than one-half time;~~]

~~(iv)~~] a person [~~an individual, other than a leased employee,~~] given a temporary designation for the purpose of employment by the city; [~~or~~]

(iv) a leased employee; or

(v) a police officer, firefighter, or fire alarm operator as those categories are defined in the classifications of the personnel department of the city.

(19[~~7~~]) FISCAL YEAR means the city's fiscal year, which is the 12-month period commencing October 1 and ending the following September 30.

(20[~~18~~]) INACTIVE MEMBER means a person:

(A) who has terminated employment with the city but who has not retired; and

(B) whose contributions to the fund have not been forfeited or withdrawn.

(21[~~19~~]) INJURY means an accident resulting in damage or harm to the physical structure of the body.

(22[~~0~~]) INTERNAL REVENUE CODE means the Internal Revenue Code of 1986, or its successor, as amended.

(23[~~1~~]) LEASED EMPLOYEE means an individual who is not a common law employee of the city but who provides services to the city, if:

(A) such services are performed pursuant to an agreement between the city and another person;

(B) the individual has performed such services for the city or for the city and a related person or persons on a substantially full-time basis for at least one year; and

(C) such services are performed under the primary direction or control of the city.

(24[~~2~~]) LEAVE OF ABSENCE means:

(A) leave without pay granted by the city in accordance with a uniform and nondiscriminatory leave policy; or

(B) leave during which a member receives worker's compensation benefits or short-term disability benefits.

(25[~~3~~]) MEMBER means an employee who is currently contributing to the retirement fund or who is on an approved leave of absence, but does not include a person establishing credited service under Section 40A-14 after termination of employment because of reduction in force.

(26[~~4~~]) NONSERVICE DISABILITY means total and permanent disability caused by injury, sickness, or disease while not in the performance of official city duties.

(27[~~5~~]) PARENT has the meaning ascribed to that term in Section 51.02 [~~11.01~~] of the Texas Family Code, as amended.

(28) PART-TIME EMPLOYEE means an employee classified as part-time by the city under Section 34-8(c) of this code, as amended.

(29[~~6~~]) PENSION means an amount payable monthly to a person eligible to receive death or retirement benefits under the retirement fund.

(30[~~27~~]) PENSION OBLIGATION BOND CREDIT RATE means, for any fiscal year, the rate adopted by the board that is a percentage calculated by dividing the:

(A) [~~the~~] debt service due during such fiscal year on any pension obligation bonds, the proceeds of which have been deposited in the fund, by[~~:~~]

(B) [~~the~~] total members' projected wages for such fiscal year, as reported in the relevant actuarial valuation report.

(31[~~28~~]) PENSION OBLIGATION BONDS means bonds described in Chapter 107 of the Texas Local Government Code (or any successor law that supersedes such chapter) and issued by the city.

(32[~~29~~]) PERCENTAGE MULTIPLIER means the percentage by which the average monthly earnings of a member or inactive member is multiplied in order to compute benefits.

(33[~~0~~]) PERMANENT BASIS means employment of an individual for an unfixed continuing period.

(34[~~1~~]) PERSON means an individual.

(35[~~2~~]) PLAN YEAR means the calendar year or other plan year adopted by the board.

(36[~~3~~]) PRICE INDEX means the national Consumer Price Index of Urban Wage Earners and Clerical Workers (CPI-W) published by the Bureau of Labor Statistics of the U. S. Department of Labor, or its successor in function.

(37[~~4~~]) PRIOR ADJUSTED TOTAL OBLIGATION RATE means, [~~:~~

~~(A) for the fiscal year commencing October 1, 2006, the current total obligation rate that was effective for the prior fiscal year; and~~

~~(B)~~] for any [~~each~~] fiscal year [~~commencing on or after October 1, 2007~~], the current adjusted total obligation rate that was effective for the prior fiscal year.

(38[~~5~~]) QUALIFIED RECIPIENT means:

(A) the spouse of a deceased member or inactive member at the time of death of the member or inactive member;

(B) the spouse of a deceased retiree, if the spouse was married to the retiree at the time of retirement and at the time of the retiree's death;

(C) each child of a deceased member, inactive member, or retiree under the age of 18, if the child was alive or had been conceived at the time of death of the member, inactive member, or retiree;

(D) each totally and permanently disabled child of a deceased member, inactive member, or retiree if the child was totally and permanently disabled before the age of 18; and

(E) a parent of a deceased member, inactive member, or retiree who was a dependent parent at the time of death of the member, inactive member, or retiree.

(39) RESTRICTED PRIOR SERVICE CREDIT means service credit for work as a permanent, full-time, paid employee of a government entity, agency, authority, or political subdivision of the United States or its states or territories, performed before employment or re-employment by the city.

(40[~~36~~]) RETIREE means a person who was once a member but who has retired from city employment and is receiving a pension from the fund other than a death benefit.

(41[~~37~~]) RETIREMENT means terminating city employment for a reason other than death and fulfilling all requirements for a pension under this chapter.

(42[~~38~~]) RETIREMENT FUND or FUND means the employees' retirement fund of the city of Dallas and the program of benefits established under this chapter and any rule or regulation established by the board.

[~~(39) SERVICE means any period that a person is paid as an employee of the city and contributes to the retirement fund.~~]

(43[~~0~~]) SERVICE DEATH means the death of a member resulting from an injury sustained while in the performance of official city duties. A death resulting from an injury sustained while in the performance of official city duties does not include:

(A) a death caused by an act of God unless the member in the performance of official city duties was subjected to a greater hazard from an act of God than that to which the general public was subjected;

(B) a death caused by an act of a third person who causes the death of the member because of reasons personal to the third person and not for reasons of the member's employment;

(C) a death caused while the member was attempting to injure or kill another person;

(D) a suicide;

(E) a death while on leave of absence, unless the leave was granted solely because of an injury sustained in the performance of official city duties and the injury was the primary cause of death;

(F) a death while on leave for military active duty; or

(G) a death resulting from an injury in which a contributing factor was the member's ingestion of an alcoholic beverage or illegal ingestion, inhalation, or injection of a controlled substance.

(44[~~1~~]) SERVICE DISABILITY means total and permanent disability caused by injury while in the performance of official city duties. An injury while in the performance of official city duties does not include:

(A) an injury caused by an act of God unless the member in the performance of official city duties was subjected to a greater hazard from an act of God than that to which the general public was subjected;

(B) an injury caused by an act of a third person who injures the member because of reasons personal to the third person and not for reasons of the member's employment;

(C) an injury in which a contributing factor was the member's ingestion of an alcoholic beverage or illegal ingestion, inhalation, or injection of a controlled substance;

(D) an injury caused while the member was attempting to injure or kill another person; or

(E) an injury that was self-inflicted.

(45[~~2~~]) SPOUSE means the person to whom the member, inactive member, or retiree is married, as evidenced by the last marriage certificate or declaration of informal [~~common law~~] marriage on file with the retirement fund [~~Retirement Fund~~] and verified by the administrator [~~Fund~~] to be valid in the jurisdiction in which the marriage was celebrated.

(46) TIER A means:

(A) a person who was:

(i) employed by the city before January 1, 2017; or

(ii) re-employed or reinstated by the city on or after January 1, 2017, and whose credited service before January 1, 2017, has not been canceled by withdrawal or forfeiture; and

(B) a beneficiary or designee of that person.

(47) TIER B means:

(A) a person who was:

(i) employed by the city on or after January 1, 2017; or

(ii) re-employed or reinstated by the city on or after January 1, 2017, and whose prior credited service has been canceled by withdrawal or forfeiture; and

(B) a beneficiary or designee of that person.

(48[~~3~~]) TOTAL AND PERMANENT DISABILITY means the continuing inability of a person to obtain [~~procure~~] and retain any type of employment for compensation as a result of a mental or physical impairment caused by an injury or illness. A person is not under a total or permanent disability if, with reasonable effort and safety to the person, the impairment can be diminished to the extent that the person will not be prevented by the impairment from obtaining [~~procuring~~] and retaining any type of employment for compensation.

(49[~~4~~]) TRANSITION YEAR means each of the following:

(A) the first fiscal year in which debt service payments related to pension obligation bonds are due from the city; and

(B) the first fiscal year in which no debt service payments related to pension obligation bonds are due from the city[~~; and~~

~~(C) the fiscal year beginning October 1, 2005~~].

(50) VESTED means that a member or inactive member has accumulated sufficient credited service or age to have earned a nonforfeitable right to receive a pension benefit, payable in accordance with the terms of the plan.

(51[~~45~~]) WAGE:

(A) means:

(i) wages of an employee as defined in Section 3401(a) of the Internal Revenue Code for income tax withholding, including salary continuation payments made to an employee with a job-related injury or illness;

(ii) compensation that by special rule is excluded from Section 3401(a) of the Internal Revenue Code because of the nature or location of the services performed;

(iii) elective contributions to a plan of [~~or~~] deferred compensation [~~program~~], including a plan established under Section 125, 401(k), or 457 of the Internal Revenue Code, and elective reductions in compensation for qualified transportation fringe benefits that are excluded from an employee's gross income by reason of Section 132(f)(4) of the Internal Revenue Code; and

(iv) any lump sum payment made at termination of employment for accrued vacation leave or prorated service incentive pay; and

(B) does not mean:

(i) expense reimbursements, expense allowances, car allowances, or moving expenses;

(ii) cash or noncash fringe benefits;

(iii) welfare benefits, including, but not limited to, health benefits or life insurance benefits;

(iv) deferred compensation, unless made under a plan [~~or program~~] described in Paragraph (A)(iii) of this subsection;

(v) any lump sum payment made at retirement for accrued sick leave or attendance incentive leave;

(vi) workers compensation benefits, short-term disability benefits, or catastrophic leave benefits; or

(vii) any compensation in excess of the limits imposed by Section 401(a)(17)(A), as adjusted in accordance with Section 401(a)(17)(B), of the Internal Revenue Code.

SEC. 40A-2. CREATION OF THE RETIREMENT FUND AND BOARD OF TRUSTEES; COMPOSITION AND OFFICERS OF THE BOARD.

(a) Creation. There is hereby created the employees' retirement fund of the city of Dallas, which is a trust fund, and the board of trustees of the employees' retirement fund of the city of Dallas.

(b) Public entity. The fund is a public entity established for the exclusive purpose of providing benefits to members and their beneficiaries. Except as permitted under this chapter or by state law, t[~~T~~]he employees' retirement fund of the city of Dallas is the name in which all of its business must be transacted, all of its funds invested, and all of its cash, securities, and property held.

(c) Composition of the board.

(1) The [~~Until March 1, 2005, the board shall be composed of five members consisting of:~~

~~(A) two persons appointed by the city council who may be city council members;~~

~~(B) two employees from different departments of the city who are elected by members of the retirement fund and who are members of the retirement fund; and~~

~~(C) the city auditor.~~

~~(2) On and after March 1, 2005, the~~] board shall be composed of seven members consisting of:

(A) three persons appointed by the city council who may be city council members;

(B) three employees from different departments of the city who are elected by members of the retirement fund and who are members of the retirement fund; and

(C) the city auditor.

(2) If only one eligible employee is nominated for an elected board position described in Subsection (c)(1)(B) of this section, that employee will be declared elected to that position by the board without requiring an election by the members of the retirement fund.

(d) Chair and vice chair.

(1) The board shall elect a chair and a vice-chair at the first regular [~~monthly~~] meeting each calendar year. The chair shall call a meeting as frequently as necessary to conduct the [~~at least once a month and at any time there is~~] business of the board, but not less than quarterly [~~to be acted upon~~]. In the absence of the chair, the vice-chair may call meetings or preside over meetings of the board.

(2[~~e~~]) If the office of chair or vice-chair becomes vacant, the board will elect a replacement at its next meeting.

SEC. 40A-3. TERMS AND REMUNERATION OF THE BOARD.

(a) Terms.

(1) Elected board members. [~~Until March 1, 2005, the elected and appointed members of the board shall serve without remuneration and for terms of two years.~~

~~(2) On and after March 1, 2005:~~]

(A) On and after January 1, 2017, the three elected positions on the board will be designated Place 1, Place 2, and Place 3, respectively, as determined by the board.

(B) The [~~the~~] elected members, including incumbents, of the board shall serve without remuneration and for terms as follows: [~~of three years, except~~]

(i) A member elected to Place 1 will serve a three-year term, with the initial term running from January 1, 2017, through December 31, 2019.

(ii) A member elected to Place 2 will serve a three-year term, with the initial term running from January 1, 2019, through December 31, 2021.

(iii) A member elected to Place 3 will serve a three-year term, except that the initial term will be for two years and run from January 1, 2019, through December 31, 2020. [~~that the first term of the elected position created effective March 1, 2005 ends on December 31, 2006; and~~]

(2[~~B~~]) Appointed board members. The [~~the~~] appointed members of the board shall serve without remuneration and for terms of two years.

(b) Vacancy.

(1) A position on the board becomes vacant if the occupant:

(A[~~1~~]) was elected as an employee member and is no longer an employee;

(B[~~2~~]) was appointed while serving as a city council member and is no longer a city council member; or

(C[~~3~~]) gives the chair written notice of resignation from the board.

(2[~~e~~]) If a vacancy occurs on the board in a position held by:

(A[~~1~~]) [~~in a position held by~~] an elected employee member, the board shall hold an election within 90 [~~60~~] days after the vacancy occurs to fill the unexpired term of the member; or

(B[~~2~~]) [~~in a position held by~~] a city council appointee, the city council shall appoint a new member to fill the unexpired term of the member.

SEC. 40A-4. POWERS, DUTIES, AND IMMUNITIES OF THE BOARD.

(a) In addition to other powers and duties it may have under state or federal law, the board shall have the power and duty to:

(1) administer the retirement fund in accordance with this chapter for the exclusive purposes of providing benefits to members, inactive members, retirees, and their beneficiaries and defraying reasonable expenses of administering the fund;

(2) adopt rules and regulations not inconsistent with this chapter and the constitution and laws of this state;

(3) invest, reinvest, alter, and change the funds of the retirement fund with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims;

(4) diversify the investments of the fund to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so;

(5) pay for professional services out of [~~income from~~] investments of the retirement fund when it is actuarially determined that the payments will not have an adverse effect on payment of benefits and when in the judgment of the board the services are necessary;

(6) appoint an administrator and authorize employees to carry out the business of the board;

(7) establish rates of compensation for employees of the retirement fund, subject to the approval of the city council and in accordance with civil service rules of the city;

(8) correct administrative errors and remedy any effects of those errors;

(9) make a final determination of the eligibility of a member, inactive member, retiree, or beneficiary for a normal, early, service, or disability pension or death benefits;

(10) issue subpoenas for the attendance of witnesses and the production of records, papers, or other objects, administer oaths to witnesses, and examine witnesses on any matter relating to the payment of benefits of the retirement fund;

(11) determine the time, method, and manner of election to the board;

(12) prepare and adopt a budget;

(13) pay for fiduciary insurance out of [~~income from~~] investments of the retirement fund when it is actuarially determined that the payments will not have an adverse effect on payment of benefits and when in the judgment of the board the services are necessary;

(14) pay for the costs of administration out of [~~income from~~] investments of the retirement fund when it is actuarially determined that the payments will not have an adverse effect on payment of benefits and when in the judgment of the board the costs are necessary;

(15) sue and be sued in the name of the fund;

(16) appoint an actuary and adopt actuarial assumptions for the fund;

(17) appoint such other professionals as it deems appropriate and necessary;

(18) interpret this chapter as necessary to resolve any problems created by any ambiguities, inconsistencies, or omissions that might be found in this chapter;

(19) direct the fund's actuarial firm to perform an annual experience review of assumptions as part of its annual actuarial valuation;

(20) direct the fund's actuarial firm to perform a complete analysis of actuarial assumptions as frequently as the board deems necessary, but not less frequently than every five years; and

(21) engage a second actuarial firm to perform an actuarial peer review/audit as the board deems necessary.

(b) The board may not cause [~~use~~] the fund to engage in a transaction if the board knows or should know that the transaction directly or indirectly constitutes a prohibited transaction under Section 503(b) of the Internal Revenue Code.

(c) No expenditures may be made from the retirement fund without the approval of the board by resolution or by adoption of its budget.

(d) The board shall adopt the actuarially required contribution rate, the current adjusted total obligation rate, the current total obligation rate, and the pension obligation bond credit rate for each fiscal year no later than [~~commencing on or after October 1, 2005 by~~] June 1 of the preceding fiscal year, and shall promptly notify the city manager of the adoption.

(e) At least every five plan years, or in accordance with state law, whichever is sooner, [~~three plan years,~~] the board shall provide 60 days' notice to the city manager:

(1) that the board intends to engage a second actuarial firm to perform an actuarial peer review/audit; and

(2) the name of the actuarial firm the board intends to engage.

If, within the 60 days, the city manager objects to the actuarial firm selected, the board shall seek another actuarial firm to perform the peer review/audit and re-notify the city manager. This process shall repeat until the city manager no longer objects to the actuarial firm the board intends to engage. The board shall then engage such actuarial firm for such purpose. If the process described in Section 40A-7.1 is used, the requirements of this subsection shall be satisfied for the plan year in which the process concludes.

(f) [~~Quorum and vote of the board.~~] The

[~~(1) Until March 1, 2005, the board shall meet at any time to act on business, and three members of the board constitute a quorum. The approval of three members of the board is necessary for any motion of the board to carry.~~

~~(2) On and after March 1, 2005, the~~] board shall meet at any time after posting timely notice as required by law. Four [~~to act on business, and four~~] members of the board constitute a quorum. The approval of four members of the board is necessary for any motion of the board to carry.

(g) The board is not liable for its acts and conduct or any losses incurred in the administration of the retirement fund, the management of the assets of the fund, or the investment of the fund if the board has met the standards set forth in Subsections (a) and (b) of this section and in Sections 40A-4.1 and 40A-4.2.

(h) If the board, in good faith, is in doubt as to the construction or interpretation of any provision of this chapter, or has any other question that may arise during the administration of the retirement fund, the board may resolve all such doubts and questions without obtaining a judicial construction. All constructions and interpretations made by the board are binding and conclusive.

(i) The board may consult with an actuary, attorney, physician, or accountant, who may also be employed by the city. The board is not liable for any act or conduct that was performed in good faith reliance on the opinion of an actuary, attorney, physician, or accountant with respect to an actuarial, legal, medical, or accounting matter, respectively.

SEC. 40A-4.1. INVESTMENT MANAGERS; FIDUCIARY DUTIES.

(a) The board may appoint investment managers for the fund by contracting for professional investment management services with one or more organizations, which may include a bank if it has a trust department, that are in the business of managing investments.

(b) To be eligible for appointment under this section, an investment manager must be:

(1) an organization registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.);

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(c) In a contract made under this section, the board shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the board may adopt for investment of the fund.

(d) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the board must act prudently and in the interest of the members, inactive members, retirees, and their beneficiaries.

(e) The board is not liable for the acts or omissions of an investment manager appointed under this section, nor is the board obligated to invest or otherwise manage any asset of the fund subject to management by the investment manager.

(f) An investment manager appointed under this section shall acknowledge in writing the manager's fiduciary responsibilities to the fund, which include the same duties assigned to the board in Section 40A-4(a)(1), (3), and (4).

(g) The investment standards provided by Section 40A-4(a) and (b) and the policies, requirements, and restrictions adopted under this section are the only standards, policies, requirements, and restrictions governing the investment of funds of the retirement fund by an investment manager or by the board during a 90-day interim between professional investment management services. Any other standard, policy, requirement, or restriction provided by law is suspended and not applicable during a time, and for 90 days after a time, in which an investment manager is responsible for investment of fund assets. If an investment manager has not begun managing investments before the 91st day after the date of termination of the services of a previous investment manager, the standards, policies, requirements, and restrictions otherwise provided by law are applicable until the date professional investment management services are resumed.

SEC. 40A-4.2. INVESTMENT CUSTODY ACCOUNT.

(a) If the board contracts for professional investment management services, it also shall enter into an investment custody account agreement designating one or more banks, [~~or~~] depository trust companies, or brokerage firms meeting the requirements under Section 802.205(d) of the Texas Government Code, as amended, to serve as custodian for the [~~all~~] assets allocated to or generated under the contract.

(b) Under an investment custody account agreement, the board shall require the designated custodian to perform the duties and assume the responsibilities for funds under the

contract for which the agreement is established that are performed and assumed, in the absence of a contract, by the custodian of system funds.

SEC. 40A-5. ADMINISTRATOR OF THE RETIREMENT FUND.

(a) The administrator of the retirement fund shall carry out the business of the board and keep a record of the proceedings of the board.

(b) The administrator, i[~~I~~]n accordance with civil service rules of the city, [~~the administrator~~] may appoint and hire deputies [~~assistants~~] and other employees.

(c) The administrator shall serve at the will of the board.

(d) The administrator is the "plan administrator," as that term is defined in 26 U.S.C. 414(g).

(e) Whenever the term "executive director" is used in relation to the retirement fund in any plan documents, contracts, resolutions, or other documents generated by the board or the fund, or in any city ordinances, resolutions, or contracts related to the fund, that term will mean "administrator."

SEC. 40A-6. EMPLOYEE CONTRIBUTIONS.

(a) Members. Every employee must be a member of the fund except:

(1) a retiree re-employed by the city, who may elect not to contribute to the fund under Section 40A-(20) [~~19~~]; or

(2) a leased employee who is not eligible to contribute to the fund.

(b) Contribution amount.

(1) [~~For each pay period ending before October 1, 2005, each member shall contribute to the retirement fund an amount equal to 6-1/2 percent of the member's wages for the pay period.~~

~~(2)~~] For each pay period ending during a transition year, each member shall contribute to the retirement fund an amount equal to 37 percent times the current total obligation rate for that fiscal year times the member's wages for the pay period.

(2[~~3~~]) For each pay period ending during a [~~each~~] fiscal year other than [~~commencing on or after October 1, 2005, except for~~] a transition year, each member shall contribute to the retirement fund an amount equal to 37 percent times the current adjusted total obligation rate for that fiscal year times the member's wages for the pay period.

(c) Deductions. The contributions by each member receiving compensation from the city will normally be made by means of deduction on each payday.

(d) Discontinuing contributions.

(1) No member may discontinue contributions to the retirement fund unless the member is on:

(A[~~1~~]) [~~on~~] unpaid leave for military active duty; or

(B[~~2~~]) [~~on~~] a leave of absence.

(2[~~e~~]) A member who discontinues contributions to the retirement fund under Subsection (d)(1[~~2~~])(B) will have any retirement or death benefits computed based on credited service established at the date of discontinuance.

SEC. 40A-7. CITY CONTRIBUTIONS.

(a) Contribution amount.

(1) [~~For each pay period ending before October 1, 2005, the city shall contribute to the retirement fund an amount equal to 11 percent times the members' wages for the pay period.~~

~~(2)~~] For each pay period ending during a transition year, the city shall contribute to the retirement fund an amount equal to:

(A) 63 percent times the current total obligation rate for that fiscal year times the members' wages for the pay period, minus

(B) the pension obligation bond credit rate for that fiscal year times the members' wages for the pay period.

(2[~~3~~]) For each pay period ending during a [~~each~~] fiscal year other than [~~commencing on or after October 1, 2005, except for~~] a transition year, the city shall contribute to the retirement fund an amount equal to:

(A) 63 percent times the current adjusted total obligation rate for that fiscal year times the members' wages for the pay period, minus

(B) the pension obligation bond credit rate for that fiscal year times the members' wages for the pay period.

(b) The city shall provide for costs of administration of the retirement fund, if the board determines that payment of the costs by the retirement fund will have an adverse effect on payment of benefits and that the costs are necessary. The city may modify any budget provision for administrative costs that it is being asked to fund under this subsection.

(c) The total contributions of the employees and the city must be forwarded by the city to the retirement fund not later than the end of each week for all contributions made as to the pay period ending in that week.

(d) [~~The city will provide to the retirement fund adequate office space and the associated utilities without charge.~~

~~(e)~~] The city may not contribute to the retirement fund for an employee on leave of absence or unpaid leave for military active duty.

(e[~~f~~]) The city may not withdraw its contribution previously made to the retirement fund. Nothing in this subsection prohibits the administrative adjustment of future contributions for erroneously made prior contributions, if the adjustment is made within 60 days after the error is made or discovered, whichever occurs later.

(f[~~g~~]) All payments and benefits provided for in this chapter must be made from the retirement fund. There is no obligation on the part of the city, the board, or the employees to provide for payment of benefits from any other source, nor is there any liability on the city or the employees to make any contribution other than those specified in this section and Section 40A-6.

SEC. 40A-7.1. MODIFICATION OF CONTRIBUTION RATES.

(a) Notwithstanding the provisions of Sections 40A-4(d), 40A-6, and 40A-7, for any fiscal year in which the prior adjusted total obligation rate does not equal the current adjusted total obligation rate, the city may, within 45 days after receiving notice of the rates adopted by the board under Section 40A-4(d), retain at its complete discretion its own actuary who shall calculate member and city contributions to the fund based on the methods, assumptions, projections, and calculations determined by the actuary employed by the city; provided, however, that the actuarial assumptions must be consistent with the terms of this chapter. If the city's actuary agrees with the board's actuary, the determinations of the board's actuary shall be used to determine member and city contributions to the fund for the fiscal year.

(b) If there is a dispute between the actuary employed by the board and the actuary employed by the city with respect to the required member and/or city contributions to the fund for a fiscal year, the two actuaries shall attempt to resolve their differences. If the two actuaries resolve their differences, they shall sign a document setting forth the underlying actuarial methods, assumptions, projections, and calculations, and the resulting actuarially required contribution rate, current adjusted total contribution rate, current total obligation rate, and pension obligation bond credit rate, all of which shall be adopted by the board and used to determine member and city contributions to the fund for the fiscal year if the dispute is resolved prior to the commencement of the fiscal year; unless the board determines, in its discretion, that the conclusions agreed to by the two actuaries are not actuarially sound, in which case the board shall adopt sound actuarial assumptions and the resulting actuarially required contribution rate, current adjusted total obligation rate, current total obligation rate, and pension obligation bond credit rate.

(c) If the differences between the two actuaries cannot be resolved within 90 days after the appointment of the second actuary, the board shall retain a third actuary based upon the joint recommendation of the other two actuaries. The third actuary shall review and calculate member and city contributions to the fund based on the methods, assumptions, projections, and calculations determined by the third actuary; provided, however, that the actuarial assumptions must be consistent with the terms of this chapter. The board, the city, and their respective actuaries shall cooperate with the third actuary and promptly provide such information as the third actuary reasonably requests. The three actuaries shall confer regarding the actuarial dispute between the city's and the board's actuaries, and shall attempt to resolve their differences. If any two of the three actuaries agree regarding the underlying actuarial methods, assumptions, projections, and calculations, and the resulting actuarially required contribution rate, current adjusted total obligation rate, current total obligation rate, and pension obligation bond credit rate, such joint determinations shall be communicated in writing to the board and adopted by the board and used in establishing the member and city contributions to the fund for the fiscal year if the dispute is resolved prior to the commencement of the fiscal year; unless the board determines, in its discretion, that the conclusions agreed upon are not actuarially sound, in which case the board shall adopt sound actuarial assumptions and the resulting actuarially required contribution rate, current adjusted total obligation rate, current total obligation rate, and pension obligation bond credit rate.

(d) If a dispute described in this Section 40A-7.1 is not resolved prior to the commencement of the fiscal year, the member and city contributions to the fund for such fiscal year (as a percentage of wages) shall be the same as the prior fiscal year.

(e) Notwithstanding Section 40A-1(37[~~34~~]), for any fiscal year in which the process described in this Section 40A-7.1 results in a change in the current adjusted total obligation rate, then the prior adjusted total obligation rate for the succeeding fiscal year shall be deemed to be the current adjusted total obligation rate determined by the board through the process described in this section.

SEC. 40A-8. EFFECT OF MEMBERSHIP IN THE RETIREMENT FUND.

A person, by becoming or remaining a member, inactive member, retiree, or beneficiary of the retirement fund, binds the person and the person's heirs, administrators, executors, legal representatives, beneficiaries, and survivors to all provisions of this chapter.

SEC. 40A-9. ACTUARIAL ASSUMPTIONS.

(a) Except when specifically provided otherwise in this chapter, the board, upon recommendation of the fund's actuary, shall adopt and establish reasonable [~~When an~~] actuarial assumptions [~~is required under this chapter~~], interest rates, and mortality tables to be used under this chapter. [~~the following will apply:~~]

(b[~~1~~]) When determining the commuted value of future benefits under the fund during a particular calendar year, the five-year average of the [~~a~~] 10-year treasury bond (calculated as of the last business day of each of the last five years averaged together) is the [~~percent~~] interest assumption that must be used.

[~~(2) When calculating service retirement pension benefits for a person who retires before age 50, a five percent interest assumption must be used.~~

~~(3) When calculating the cost of benefits under the fund, the following mortality tables must be used:~~

~~(A) 1965 Railroad Disabled Life Mortality Table, for disability retirement pension benefits; and~~

~~(B) 1984 Unisex Mortality Table, set back four years, for all benefits under the fund except disability retirement pension benefits.~~]

(c[4]) When calculating the limits under Section 415 of the Internal Revenue Code, the applicable mortality table and applicable interest rate determined by the United States secretary of the treasury and in effect at the time of the calculation must be used.

SEC. 40A-10. CREDITED SERVICE; COMPUTATION OF BENEFITS.

(a) A retiree or a beneficiary is entitled to benefits of the retirement fund on the basis of credited service established while a member.

(b) Credited service includes:

(1) the length of credited service performed by the member or inactive member before retirement for which contributions to the fund have not been withdrawn or forfeited;

(2) the length of credited service performed by the member or inactive member prior to withdrawal or forfeiture of contributions to the fund if the credited service has been reinstated under Section 40A-11;

(3) the length of credited service for military active duty under Section 40A-12;

(4) the amount of vacation leave for which the member or inactive member received lump sum payment at termination of employment;

(5) the amount of credited service that is established at the time of a reduction in force in accordance with Section 40A-14; and

(6) the amount of credited service established by a retiree who is re-employed by the city and elects to contribute to the fund in accordance with Section 40A-20[~~19~~].

(c) For purposes of determining eligibility to retire, but not for purposes of computing benefits, a part-time [~~an~~] employee shall receive one year of credited service upon completion of

1,000 hours of service in any 12-consecutive-month period beginning on the employee's date of employment or employment anniversary date.

(d) For the purpose of computing benefits, a member is deemed to be on leave of absence during any portion of a work period for which the member does not receive wages from the city, including, but not limited to, any time for which the member does not receive wages as a result of part-time employment or pro rata compensation. A member receiving sick leave or salary continuation payments in an amount coordinated with workers compensation payments is deemed to be receiving wages for that portion of time covered by sick leave and salary continuation payments and to be on leave of absence for that portion of time covered by workers compensation payments.

(e) Benefits may not exceed 100 percent of the average monthly earnings of the member or inactive member.

(f) For a Tier A member or inactive member, benefits [~~Benefits~~] are computed at the rate of 2-3/4 percent of the average monthly earnings of the member or inactive member for the total amount [~~each full year~~] of credited service by the member or inactive member. Benefits will be prorated for each partial year of credited service.

(g) For a Tier B member or inactive member, benefits are computed at the rate of 2-1/2 percent of the average monthly earnings of the member or inactive member for the total amount of credited service by the member or inactive member. Benefits will be prorated for each partial year of credited service.

(h) Benefits will be computed under this chapter without regard to gender.

SEC. 40A-10.1. RESTRICTED PRIOR SERVICE CREDIT.

(a) A Tier B member may be eligible for restricted prior service credit to be used in determining a member's eligibility to vest or retire, but not toward calculating benefits under this chapter.

(b) To be eligible, a Tier B member must apply for restricted prior service credit not later than three years after the date of employment or re-employment by the city. The application must be on a form approved by the administrator and must be submitted to the administrator. Upon verification of prior restricted service, the administrator shall grant the credit.

SEC. 40A-11. CREDITED SERVICE FOR EMPLOYMENT BEFORE A BREAK IN SERVICE.

(a) An eligible member whose credited service in the fund was canceled by withdrawal or forfeiture of contributions may reinstate the credited service.

(b) To be eligible to reinstate credited service under this section, a member must have:

(1) returned to employment with the city and resumed contributing to the fund within six years of the end of the period of service for which credit was canceled; and

(2) continuously contributed to the fund for 12 consecutive months after returning to city employment.

(c) A member may reinstate credited service only during the 24-month period beginning on the [~~later of:~~

~~(1) January 1, 1992; or~~

~~(2)~~]completion of 12 consecutive months of service following a cancellation of credited service.

(d) A member shall have only one period of time under this section in which to reinstate credited service canceled by any single withdrawal or forfeiture of contributions.

(e) An eligible member choosing to reinstate credited service must reinstate either all of the credited service canceled by a single withdrawal or forfeiture or the amount of credited service canceled by a single withdrawal or forfeiture that is needed to make the member eligible for pension benefits equal to 100 percent of the member's average monthly earnings on the date of reinstatement. Where reinstatement of a portion of credited service is authorized under this subsection, the member must reinstate credited service from the last earned to the first earned.

(f) An eligible member may reinstate credited service as follows:

(1) If credited service was canceled by withdrawal of contributions,

(A) a Tier A member must deposit [~~by depositing~~] in the fund a lump sum equal to the amount withdrawn, or portion of the amount withdrawn where full credited service is not to be reinstated, plus interest of 7-1/2 percent compounded annually from the date of withdrawal to the date of reinstatement[~~, if credited service was canceled by withdrawal of contributions~~]; and [~~or~~]

(B) a Tier B member must deposit in the fund a lump sum equal to the amount withdrawn, or portion of the amount withdrawn where full credited service is not to be reinstated, plus interest at a rate equal to the highest actuarial rate of return assumption used during the withdrawal period compounded annually from the date of withdrawal to the date of reinstatement.

(2) If credited service was canceled by forfeiture of contributions, the member must file [~~by filing~~] an application for reinstatement on a form approved by the administrator and submit the application to the administrator[~~, if credited service was canceled by forfeiture of contributions~~].

(g) If an eligible member has more than one break in service during which credited service was canceled, the credited service must be reinstated from the last canceled to the first canceled.

SEC. 40A-12. CREDITED SERVICE FOR MILITARY ACTIVE DUTY.

(a) A member with a break in service for military active duty is entitled to credited service for the period of military active duty not exceeding five years if the time is spent in the service of the armed forces of the United States, provided the member satisfactorily completes active service and returns to the service of the city after the member's discharge within the period described by law, if any.

(b) Benefits of a member allowed under Subsection (a) for the period of the break in service for military active duty is computed at the appropriate rate of the average monthly earnings of the member on the date the break in service for military active duty was granted for each year the member is on military active duty.

(c) Notwithstanding any other provision to the contrary, contributions, benefits, and service with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

(d) If a member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the beneficiaries of the member are entitled to any additional benefits (other than benefits relating to the period of qualified military service) that would have been provided if the member had returned to service and then died.

SEC. 40A-13. CREDITED SERVICE FOR LEAVE OF ABSENCE.

Except as provided in Section 40A-12, no credited service will be given for time spent on leave of absence.

SEC. 40A-14. REDUCTION IN FORCE.

(a) The administrator must be notified in writing by the city manager, or by any department head not under the city manager, each time an employee who is a member is terminated as the result of a reduction in force. The determination of the city manager, or a department head not under the city manager, as to the date and the cause of termination is final and binding.

(b) A [~~Effective November 7, 1991, a~~] person is eligible to establish credited service under this section if the person:

(1) had five or more years of credited service at the time of termination;

(2) would have been eligible to retire within two years had employment not been terminated; and

(3) was designated by the city manager, or by a department head not under the city manager, as being terminated as a result of a reduction in force.

(c) A person eligible under Subsection (b) may establish any amount of credited service desired, up to a maximum of the amount of credited service needed to take the person to the earliest retirement date, by making a lump sum payment of the amount required by Subsection (d)[~~:~~

~~(1)~~] within 90 days after the person's termination date[~~; and~~

~~(2)~~ ~~within the same calendar year in which employment was terminated~~].

(d) The amount of contributions required to be paid to establish credited service under Subsection (c) is equal to the employee contribution rate being paid under Section 40A-6 plus the city contribution rate being paid under Section 40A-7 multiplied by the average monthly wage earned by the person during the last 12 full months of service prior to termination multiplied by the number of months of credited service to be established.

(e) Credited [~~S~~]service established under this section will be credited to the person purchasing the credited service on a month-by-month basis as if the person had remained a city employee and a member.

(f) If a person who paid to establish credited service under this section is reinstated as a member before establishing all of the service purchased, then any unused portion of the lump sum payment will be returned to the person without interest, and any uncredited service for which payment was made will be canceled.

(g) If a person who paid to establish credited service under this section dies before establishing all of the credited service purchased, then any unused portion of the lump sum payment will be paid to the beneficiary, or, if there is no beneficiary, to the decedent's estate without interest, and any uncredited service for which payment was made will be canceled.

SEC. 40A-15. RETIREMENT.

(a) A Tier A [~~An~~] inactive member with five or more years of credited service or a Tier A member is eligible for:

(1) a normal retirement pension at age 60;

(2) [~~an early retirement pension at age 55, if credited service began before May 9, 1972;~~

~~(3)~~] an unreduced [~~a~~] service retirement pension at age 50, if the member or inactive member has 30 years of credited service; or

(3[~~4~~]) a service retirement pension at any age below age 50, if the member or inactive member has 30 years of credited service, provided that benefits will be actuarially reduced from age 50 in accordance with Section 40A-16(c).

(b) A Tier A member[~~, or a person establishing credited service under Section 40A-14 through the month in which the retirement occurs~~,] is eligible for an unreduced [~~a~~] service retirement pension at or after age 50 if the person's age and years and partial years of credited service, when added together, total at least 78. [~~A member may not retire under this subsection while on leave of absence.~~]

(c) A Tier B inactive member with five or more years of credited service or a Tier B member with five or more years of credited service is eligible for:

(1) a normal retirement pension at age 65; or

(2) an unreduced service retirement pension if the member or inactive member has 40 years of credited service.

(d) A Tier B member with five or more years of credited service is eligible for a retirement pension if the person's age and years and partial years of credited service, when added together, total at least 80.

(1) Benefits for a member retiring under Subsection 40A-15(d) before the age of 65 will be actuarially reduced in accordance with Section 40A-16(d).

(2) A member who is eligible to retire under this subsection before the age of 65 may terminate city employment and elect to defer retirement and the receipt of benefits until age 65, at which age the benefits received will not be actuarially reduced under Section 40A-16(d). At any time before the age of 65, the person may revoke this election and choose to retire and receive benefits, which benefits will be actuarially reduced under Section 40A-16 based on the person's age on the date the revocation application is approved by the administrator. The application for an election to defer a retirement as described in Section 40A-15(d) of this chapter or to revoke that election must be on a form approved by the administrator and must be submitted to the administrator. The administrator must approve the application in accordance with rules and procedures adopted by the board.

SEC. 40A-16. RETIREMENT PENSION.

(a) A member or inactive member eligible for a retirement pension is entitled to a pension for life computed on the amount of credited service of the member or inactive member.

(b) Except as provided in Section 40A-18(a), a member or inactive member eligible for a retirement pension is entitled to a pension beginning from the date of eligibility, but not before the member or inactive member's last paid day of employment with the city.

(c) A Tier A member or inactive member eligible for a service retirement pension who retires before the age of 50 is entitled to the following percentage of a [~~normal pension~~] benefit calculated under Section 40A-10(f):

Age	**Percentage**
49	93.3
48	87.2
47	81.5
46	76.3
45	71.5
44	67.0

(d) A Tier B member eligible for an early retirement pension under Section 40A-15(d) of this chapter who retires before the age of 65 is entitled to a benefit calculated under Section 40A-10(g) and then reduced in accordance with actuarially equivalent factors adopted by the board and in effect at the time of the member's retirement. These actuarially equivalent factors may not be given effect for at least six months after their adoption by the board. Copies of the actuarially equivalent factors must be maintained in the fund office and published on the fund's website.

(e) The following retirement options are payable from the fund:

(1) Life with a 10 year certain option. Under this option, a retiree will receive an unreduced pension for life. If the retiree dies before 120 monthly payments have been made, then an unreduced pension will be paid to the designated beneficiary or beneficiaries for the remainder of 10 years from the effective date of the retiree's retirement. Only qualified recipients of the retiree are eligible to be beneficiaries. If the retiree dies and if all designated beneficiaries die or cease to be eligible before 120 monthly payments have been made, then a final payment equal to the commuted value of the balance of the 120 monthly payments will be paid in the following order of priority:

(A) to one or more designees; or

(B) if no designee exists, to the retiree's estate.

(2) Joint and one-half survivor option. Under this option, a Tier A retiree will receive an unreduced pension for life and, after the retiree's death, one-half of the unreduced pension will be paid for the life of one beneficiary designated by the retiree before retirement. A Tier B retiree will receive an actuarially reduced pension for life and, after the retiree's death, one-half of the reduced pension will be paid for the life of one beneficiary designated by the retiree before retirement. Only a qualified recipient of the retiree other than one described in Section 40A-1(38[~~35~~])(C) is eligible to be the beneficiary. If both the retiree and the designated beneficiary die before 120 monthly payments have been made, then a final payment equal to the commuted value

of the balance of the 120 monthly payments will be made to one or more designees or, if no designee exists, to the estate of the last person entitled to monthly benefits.

(3) Joint and full survivor option. Under this option, a retiree will receive an actuarially-reduced pension for life and, after the retiree's death, the same pension will be paid for the life of one beneficiary designated by the retiree before retirement. Only a qualified recipient of the retiree other than one designated in Section 40A-1(38[~~35~~])(C) is eligible to be the beneficiary. If both the retiree and the designated beneficiary die before 120 monthly payments have been made, then a final payment equal to the commuted value of the balance of the 120 monthly payments will be made to one or more designees or, if no designee exists, to the estate of the last person entitled to monthly benefits.

(f[~~e~~]) Except as provided in Subsection (g[~~f~~]), at the time of a normal, early, service, or disability retirement, a member or inactive member may select either a:

(1) [~~a~~] joint and one-half survivor option; or

(2) [~~a~~] life with a 10 year certain option.

(g[~~f~~]) At the time of normal, early, service, or disability retirement, a member who is eligible by age and years of credited service for a normal, early, or service retirement pension or a member or inactive member who is retiring with 15 or more years of credited service may select:

(1) a joint and one-half survivor option;

(2) a life with a 10 year certain option; or

(3) a joint and full survivor option.

(h[~~g~~]) Each retiring member or inactive member who is married shall designate the spouse as beneficiary under the joint and full survivor option, if eligible to select that option, or under the joint and one-half survivor option, if not eligible to select the joint and full survivor option. Any other designation of a beneficiary or selection of a retirement option will be effective only if agreed to by the spouse in writing on a form filed with the administrator.

(i[~~h~~]) Except as provided in Section 40A-20[~~19~~], a retirement option may not be changed after the effective date of retirement.

SEC. 40A-17. DISABILITY RETIREMENT.

(a) Any member or inactive member who is totally and permanently disabled with a service disability is eligible for a disability retirement pension.

(b) Any member who is totally and permanently disabled with a nonservice disability and who has five or more years of credited service is eligible for a disability retirement pension.

(c) Any inactive member who is totally and permanently disabled with a nonservice disability and who has 10 or more years of credited service is eligible for a disability retirement pension.

(d) The board shall determine the disability of a member or inactive member. The determination of the board is final.

SEC. 40A-18. DISABILITY RETIREMENT PENSION.

(a) A member or inactive member is not eligible for a disability retirement pension until 90 days after the member or inactive member's last working day before being disabled, or until application is made to the board, whichever occurs later.

(b) A member or inactive member eligible for a disability retirement pension is entitled to a disability retirement pension for life with benefits computed at the rates reflected in Section 40A-10, subject to the following minimums:

(1) The minimum disability retirement pension payable for a nonservice disability is equal to 10 times the percentage multiplier used in computing benefits of the member or inactive member on the date of retirement multiplied by the member or inactive member's average monthly earnings.

(2) The minimum disability retirement pension payable for a service disability is equal to the greater of:

(A) $1,000 [~~500~~] a month, regardless of the date of retirement; or

(B) 10 times the percentage multiplier used in computing benefits of the member or inactive member on the date of retirement multiplied by the member or inactive member's average monthly earnings.

SEC. 40A-19. TERMINATION OF A DISABILITY RETIREMENT PENSION [~~RE-EMPLOYMENT OF A RETIREE~~].

(a) A retiree entitled to a disability retirement pension may not receive a disability retirement pension if the retiree:

(1) does not submit, when requested by the administrator, a truthful sworn affidavit stating any earnings from any gainful activity;

(2) is re-employed by the city or capable of performing the duties of the position previously held with the city;

(3) refuses, when requested by the administrator, to submit to a medical examination by a doctor approved by the board;

(4) is found to be earning or be capable of earning compensation in an amount greater than $250 per month, whether or not such a position is available; or

(5) is found to be involved in any gainful activity not commensurate with health limits imposed by the attending physician.

(b) The board shall discontinue a disability retirement pension if it determines that one of the conditions of Subsection (a) exists. The determination by the board is final.

(c) A person whose disability retirement pension is discontinued under this section is entitled to other benefits payable under the fund for all credited service previously accrued and not canceled by forfeiture or refund of contributions. Any refund of the person's contributions based on credited service previously accrued will be made without interest, less any previous retirement pension payments.

[~~(a) If a retiree is re-employed by the city in a position normally covered by the fund, the retiree:~~

~~(1) irrevocably waives all rights to payment of pension benefits for the period of re-employment; and~~

~~(2) may elect to become a member and contribute to the retirement fund during the period of re-employment.~~

~~(b) Upon termination of re-employment of a retiree who elects to contribute to the fund under Subsection (a), pension benefits will be calculated as follows:~~

~~(1) If the period of re-employment was for less than 12 months, pension benefits for the credited service from which the person had previously retired will be reinstated in the form and amount previously paid, modified by any intervening cost-of-living adjustments. Pension benefits for credited service for the period of re-employment will be calculated in accordance with the formulas and options available under the fund on the date of termination of re-employment.~~

~~(2) If the period of re-employment was for at least 12 months, the person may choose to have pension benefits paid in accordance with Paragraph (1) of this subsection or calculated on all credited service for all periods of employment in accordance with the formulas and options available under the fund on the date of termination of re-employment. If the new election changes or adds a retirement option or designated beneficiary for a period of credited service from which the person had previously retired and the change would have a negative actuarial effect on the fund, the pension benefits will be reduced by an amount calculated by the fund's actuary as necessary to prevent the loss.~~

~~(c) A retiree re-employed by the city who does not contribute to the fund is, after termination of re-employment, entitled to those pension benefits payable on the date of re-employment, modified by any intervening cost-of-living adjustments.~~]

SEC. 40A-20. RE-EMPLOYMENT OF A RETIREE [~~TERMINATION OF A DISABILITY RETIREMENT PENSION~~].

(a) If a retiree is re-employed by the city in a position normally covered by the fund, the retiree:

(1) irrevocably waives all rights to payment of pension benefits for the period of re-employment; and

(2) may elect to become a member and contribute to the retirement fund during the period of re-employment.

(b) Upon termination of re-employment of a retiree who elects to contribute to the fund under Subsection (a), pension benefits will be calculated as follows:

(1) If the period of re-employment was for less than 12 months, pension benefits for the credited service from which the person had previously retired will be reinstated in the form and amount previously paid, modified by any intervening cost-of-living adjustments. Pension benefits for credited service for the period of re-employment will be calculated in accordance with the formulas and options available under the fund on the date of termination of re-employment.

(2) If the period of re-employment was for at least 12 months, the person may choose to have pension benefits paid in accordance with Paragraph (1) of this subsection or calculated on all credited service for all periods of employment in accordance with the formulas and options available under the fund on the date of termination of re-employment. If the new election changes or adds a retirement option or designated beneficiary for a period of credited service from which the person had previously retired and the change would have a negative actuarial effect on the fund, the pension benefits will be reduced by an amount calculated by the fund's actuary as necessary to prevent the loss.

(c) A retiree re-employed by the city who does not contribute to the fund is, after termination of re-employment, entitled to those pension benefits payable on the date of re-employment, modified by any intervening cost-of-living adjustments.

[~~(a) A retiree entitled to a disability retirement pension may not receive a disability retirement pension if the retiree:~~

~~(1) does not submit, when requested by the administrator, a truthful sworn affidavit stating any earnings from any gainful activity;~~

~~(2) is re-employed by the city or capable of performing the duties of the position previously held with the city;~~

~~(3) refuses, when requested by the administrator, to submit to a medical examination by a doctor approved by the board;~~

~~(4) is found to be earning or be capable of earning compensation in an amount greater than $250 per month, whether or not such a position is available; or~~

~~(5) is found to be involved in any gainful activity not commensurate with health limits imposed by the attending physician.~~

~~(b) The board shall discontinue a disability retirement pension if it determines that one of the conditions of Subsection (a) exists. The determination by the board is final.~~

~~(c) A person whose disability retirement pension is discontinued under this section is entitled to other benefits payable under the fund for all credited service previously accrued and not canceled by forfeiture or refund of contributions. Any refund of the person's contributions based on credited service previously accrued will be made without interest, less any previous retirement pension payments.~~]

SEC. 40A-20.1. SELECTION OF A DESIGNEE.

(a) A member, inactive member, or retiree may at any time select a designee or designees or change a previous selection of a designee or designees.

(b) If a designee is a former spouse, the designation must have been signed by the member, inactive member, or retiree after the divorce, or the designation of the former spouse is void.

(c) A designee who is a person must be alive at the time payment is due, or the designation of that person is void. A designee that is an entity must be in existence at the time payment is due, or the designation of that entity is void.

(d) Any selection of a designee by a member or inactive member must be ratified at the time of retirement, or it becomes void.

SEC. 40A-21. DEATH BENEFITS BEFORE RETIREMENT.

(a) Before retirement, a member or inactive member is eligible for the death benefits described in this section.

(b) Refund of contributions.

(1) If a member who is not eligible to retire by both age and years of credited service dies with less than two years of credited service, a refund of the member's contributions will be paid to one or more designees or, if no designee exists, to the member's estate.

(2) If an inactive member who terminated city employment without having at least five years of credited service dies before receiving a refund of contributions, a refund of the contributions will be paid to one or more designees or, if no designee exists, to the inactive member's estate, except that if more than three years have passed between the date of termination of city employment and the date of death, then the contributions are forfeited under Section 40A-30 and are not refundable.

(c) Death benefit options.

(1) 10 year certain option. Under this option, the designated beneficiary or beneficiaries will receive an unreduced pension for 120 months. Only qualified recipients of the member or inactive member are eligible to be beneficiaries. If all beneficiaries die or cease to be eligible before 120 monthly payments have been made, then a lump sum payment equal to the commuted value of the balance of the 120 monthly payments will be paid in the following order of priority:

(A) to one or more designees; or

(B) if no designee exists, to the estate of the member or inactive member.

(2) One-half survivor option. Under this option, one designated beneficiary will receive one-half of an unreduced pension for life. Only a qualified recipient of the member or inactive member other than one described in Section 40A-1(38[~~35~~])(C) is eligible to be the beneficiary. If the designated beneficiary dies or ceases to be eligible before 120 monthly payments have been made, then a lump sum payment equal to the commuted value of the balance of the 120 monthly payments will be paid in the following order of priority:

(A) to one or more designees;

(B) if no designee exists and if an eligible beneficiary survived the member or inactive member, to the estate of the beneficiary; or

(C) if no designee exists and if no eligible beneficiary survived the member or inactive member, to the estate of the member or inactive member.

(3) Full survivor option. Under this option, one designated beneficiary will receive a reduced pension for life based upon the relative ages of the member or inactive member and the beneficiary on the day before the member or inactive member's death in an amount actuarially equivalent to an unreduced pension payable to the member or inactive member. Only a qualified recipient of the member or inactive member other than one described in Section 40A-1(38[~~35~~])(C) is eligible to be the beneficiary. If the designated beneficiary dies or ceases to be eligible before 120 monthly payments have been made, then a lump sum payment equal to the commuted value of the balance of the 120 monthly payments will be paid in the following order of priority:

(A) to one or more designees;

(B) if no designee exists and if an eligible beneficiary survived the member or inactive member, to the estate of the beneficiary; or

(C) if no designee exists and if no eligible beneficiary survived the member or inactive member, to the estate of the member or inactive member.

(d) If an inactive member dies with at least five years, but less than 15 years, of credited service, a death benefit is payable in accordance with this subsection. The pension will not be reduced because of the age of the inactive member. The pension will be based upon the inactive member's actual credited service or 10 years credited service, whichever is greater, and the benefit formulas in effect at the time of termination of city employment. The death benefit will be paid as either:

(1) a 10 year certain option; or

(2) a one-half survivor option.

(e) If a member who is not described in Subsection (f) dies with at least two years, but less than 15 years, of credited service, a death benefit is payable in accordance with this subsection. The pension will not be reduced because of the age of the member. The pension will be based upon the member's actual credited service or 10 years credited service, whichever is greater. The death benefit will be paid as either:

(1) a 10 year certain option; or

(2) a one-half survivor option.

(f) If a member who is eligible to retire by both age and years of credited service or a member or inactive member who has at least 15 years of credited service dies, a death benefit is payable in accordance with this subsection. The pension will not be reduced because of the age of the member or inactive member. The pension will be based upon the member or inactive member's actual credited service or 10 years credited service, whichever is greater. The death benefit will be paid as either:

(1) a 10 year certain option; or

(2) a full survivor option.

(g) Death benefits for any service death will be determined as follows:

(1) The benefits will be computed using the greater of:

(A) the decedent's actual credited service; or

(B) 10 times the percentage multiplier used in computing benefits of the decedent on the date of death multiplied by the decedent's average monthly earnings.

(2) The benefits may never be less than $1,000 [~~500~~] per month, regardless of the date of death, or the amount computed under Paragraph (1) of this subsection, whichever is greater.

(h) If two or more beneficiaries are entitled to pension payments from the account of a deceased member or inactive member and one of the beneficiaries dies or becomes ineligible, then that beneficiary's share of the pension will be divided equally among any remaining beneficiaries.

SEC. 40A-22. SELECTION OF DEATH BENEFITS PRIOR TO RETIREMENT.

(a) A member or inactive member described in Section 40A-21(d), (e), (f), or (g) is eligible to select a death benefit option for the payment of a pension as provided by those provisions. The selected option will become effective only if the member or inactive member dies while eligible to select the option.

(b) Designation of beneficiaries.

(1) Each member or inactive member who is married at the time a death benefit option is selected shall designate the spouse as beneficiary under the full survivor option or, if not eligible for the full survivor option, under the one-half survivor option. Any other designation of a beneficiary or selection of a death benefit option will become effective only if agreed to by the spouse in writing on a form filed with the administrator.

(2) A death benefit option that designates a spouse as beneficiary becomes void if the member or inactive member and the spouse become divorced.

(3) Upon the marriage of a member or inactive member, a death benefit option that does not designate the new spouse as beneficiary under either the full survivor option or the one-half survivor option becomes void.

(c) If a member or inactive member selects a one-half survivor option, and the member or inactive member is eligible to select a full survivor option at the time of death, then benefits under a full survivor option will be paid.

(d) If an eligible member or inactive member dies without having selected a death benefit option or if the selection cannot be made effective, the surviving spouse may select an option as if the member or inactive member had made the selection. If there is no surviving spouse, the personal representative of the estate of the member or inactive member may make the selection for the benefit of the qualified recipients. If there are no qualified recipients, then a lump sum payment equal to the commuted value of a 10 year certain option will be paid to the estate of the member or inactive member.

SEC. 40A-23. DEATH BENEFITS AFTER RETIREMENT.

(a) A retiree who dies shall have death benefits determined and distributed in accordance with the provisions of the retirement option selected at retirement.

(b) If two or more beneficiaries are entitled to a pension upon a retiree's death and one of the beneficiaries subsequently dies or becomes ineligible, then that beneficiary's share of the pension will be divided equally among any remaining beneficiaries.

(c) If a retiree marries after retirement, the spouse of this marriage is not eligible for any retirement benefit from the fund other than as the retiree's heir, [~~or~~] devisee, or designee.

(d) If the retiree is divorced, the former spouse has no right to benefits except as provided in Section 40A-34(b).

(e) When a retiree or beneficiary dies, the earned but unpaid portion of the final month's benefit will be paid as follows:

(1) To the beneficiary or beneficiaries entitled to future monthly benefits from the fund, to be divided in the same proportional shares as the future monthly benefits are to be divided.

(2) If there are no future monthly benefits payable, then to the decedent's surviving spouse, if any.

(3) If there are no future monthly benefits payable and if there is no surviving spouse, then to the executor or administrator of the decedent's estate, if any.

(4) If there are no future monthly benefits payable, if there is no surviving spouse, and if no executor or administrator has been named within 120 days of the decedent's death, then to the decedent's heirs as established by an affidavit of heirship filed with the administrator of the retirement fund.

SEC. 40A-24. DEATH BENEFITS TO MINORS.

If a minor is entitled to benefits from the retirement fund, the board must pay the benefits to the minor's legal guardian or, until one is appointed, the minor's natural guardian, who shall be entitled to receive the benefits for the best interest of the child.

SEC. 40A-25. BENEFITS TO INCOMPETENT RETIREES OR BENEFICIARIES.

If a court has appointed a personal representative of a retiree or qualified recipient entitled to benefits from the retirement fund, the board shall pay those benefits to the court-appointed representative.

SEC. 40A-26. DIRECT ROLLOVER.

(a) [~~This section applies to distributions made on or after January 1, 1993.~~] Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions. In this section:

(1) ELIGIBLE ROLLOVER DISTRIBUTION means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(B) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; or

(C) any distribution that is made upon hardship of the employee.

(2) ELIGIBLE RETIREMENT PLAN means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, an eligible deferred compensation plan that is maintained by an eligible employer described in Section 457(e)(1) of the Internal Revenue Code, an annuity contract described in Section 403(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. An eligible retirement plan means only an individual retirement account or individual retirement annuity in the case of an eligible rollover distribution for a designated beneficiary that is not:

(A) the surviving spouse; or

(B) an alternate payee under a qualified domestic relations order who is a spouse or former spouse.

(3) DISTRIBUTEE means:

(A) an employee or former employee;

(B) the employee or former employee's surviving spouse;

(C) an alternate payee under a qualified domestic relations order who is the employee or former employee's spouse or former spouse, but only with regard to the interest of the spouse or former spouse under the qualified domestic relations order; or

(D) the employee or former employee's designated beneficiary.

(4) DIRECT ROLLOVER means a payment by the plan to the eligible retirement plan specified by the distributee.

(5) DESIGNATED BENEFICIARY means an individual who is designated to receive an eligible rollover distribution.

SEC. 40A-27. HEALTH BENEFIT SUPPLEMENTS.

(a) A Tier A retiree or beneficiary is eligible for a [~~Retirements and deaths after December 31, 1991. A~~] health benefit supplement [~~will be paid for each account on which payments become effective after December 31, 1991~~] in addition to the amount otherwise payable under the fund. The health benefit supplement is equal to $25 a month for each full year of credited service or $125 a month, whichever is less. Payment of the health benefit supplement will be prorated for each partial year of credited service.

(b) [~~Retirements and deaths before January 1, 1992. Beginning January 1, 1992, the board shall pay a health benefit supplement of:~~

~~(1) $125 a month for each account on which payments became effective on or before April 4, 1987, regardless of the amount of credited service;~~

~~(2) $125 a month for each account on which payments are being made as a result of a service death or service disability, regardless of the date payments began; and~~

~~(3) $25 a month for each full year of credited service or $125 a month, whichever is less, for each account in pay status on December 31, 1991 that is not described in Paragraph (1) or (2) of this subsection.~~

~~(c)~~] If more than one beneficiary is receiving a pension from the account of a deceased member, inactive member, or retiree, the health benefit supplement will be divided among the beneficiaries in shares proportionate to their rights to the pension.

(c[~~d~~]) A health benefit supplement is not includable when calculating lump sum death benefit payments.

(d) Health benefit supplements attributable to retirements and deaths that occurred before January 1, 2017 shall not be reduced by reason of Subsection (a).

(e) A Tier B retiree or beneficiary is not eligible for any health benefit supplement.

SEC. 40A-28. COST-OF-LIVING ADJUSTMENT TO BENEFITS.

(a) On January 1 of each year, a cost-of-living adjustment will be made to the base pension payable to each retiree or beneficiary, if the person was entitled to a base pension on or before December 31 of the preceding year. If a base pension becomes payable during the 12 months preceding the cost-of-living adjustment, the adjustment will be prorated, with one-twelfth being paid for each whole or part month from the date the base pension became payable to the end of the year.

(1) A health benefit supplement under Section 40A-27 is not base pension and is not subject to any cost-of-living adjustment.

(2) The minimum amount payable as a disability retirement pension for a service disability under Section 40A-18(b)(2) or as death benefits for a service death under Section 40A-21(g)(2) will be considered the base pension for computing cost-of-living adjustments unless a greater base pension is payable under this chapter.

(b) The cost-of-living adjustment to the base pension will be made by using one of the following methods, whichever is the most beneficial to the retiree or beneficiary:

(1) the percentage of change in the price index for October of the current year over October of the previous year, up to:

(A) five percent for a Tier A retiree or beneficiary; or

(B) three percent for a Tier B retiree or beneficiary; or

(2) the percentage of the annual average change of the price index for the latest 12 months available, up to:

(A) five percent for a Tier A retiree or beneficiary; or

(B) three percent for a Tier B retiree or beneficiary.

(c) The cost-of-living adjustment may not reduce benefits of a retiree or beneficiary [~~below the base pension~~].

(d) In addition to the regular cost-of-living adjustment payable under Subsection (a) of this section, the board may from time to time grant an additional temporary or permanent adjustment if there exists investment income in excess of that needed to maintain the actuarial soundness of the fund. The adjustment is discretionary with the board in both its grant and application after the board has considered the funding of the increase and the relative needs of the retirees and beneficiaries. The adjustment may not increase or decrease the base pension of the retirees and beneficiaries. Any discretionary adjustment granted by the board under this subsection will not become effective unless approved by an ordinance or resolution of the city council.

SEC. 40A-29. TERMINATION OF CITY EMPLOYMENT PRIOR TO RETIREMENT; BENEFITS.

(a) A member with five or more years of credited service who terminates employment before becoming eligible for a normal, early, or service retirement pension is entitled to:

(1) a refund of contributions to the retirement fund, without interest, any time after termination, less any previous retirement pension payments; or

(2) payment of a retirement pension and benefits at the time the member becomes eligible.

(b) An inactive member with more than 10 years of credited service who terminated employment before becoming eligible for a normal, early, or service retirement pension is eligible to apply for a disability retirement pension as provided in Section 40A-17.

(c) A member with less than five years of credited service at the time of termination of employment who does not retire or withdraw contributions to the fund and who is later re-employed:

(1) before contributions are forfeited under Section 40A-30(b), shall have any pension benefits payable for all periods of credited service based on the provisions of the fund in effect on the date of termination of re-employment;

(2) after contributions are forfeited under Section 40A-30(b), but who reinstates credited service by filing the application required under Section 40A-11, shall have pension benefits payable for all periods of credited service based on provisions of the fund in effect on the date of termination of re-employment; or

(3) after contributions are forfeited under Section 40A-30(b), but who is not eligible to reinstate credited service under Section 40A-11, shall be treated as a new employee by the fund and have no right to pension benefits based on the period of canceled credited service.

(d) A member with five or more years of credited service at the time of termination of employment who does not retire or withdraw contributions to the fund and who is later re-employed <u>for</u>:

(1) [~~for~~] less than 12 full months of continuous service, shall have pension benefits payable on the period of credited service earned prior to the break in service based on provisions of the fund in effect at the time such service ended, while pension benefits for the period of credited service earned during re-employment will be based on provisions of the fund in effect on the date of termination of re-employment;

(2) [~~for~~] at least 12 full months of continuous service, shall have pension benefits payable on all periods of credited service based on provisions of the fund in effect on the date of termination of re-employment.

SEC. 40A-30. REFUND OR FORFEITURE OF CONTRIBUTIONS.

(a) A member who terminates employment without either retiring or having sufficient credited service to retire at a future date is entitled to the amount of the member's contributions to the retirement fund, without interest, less any previous retirement pension payments, except as provided by federal law.

(b) A member who terminates employment without either retiring or having sufficient credited service to retire at a future date must make written application with the retirement fund for the refund of the member's contributions within three years of the date of termination or all of the member's rights to a refund of contributions will be forfeited, and the contribution will remain in the retirement fund.

(c) Actuarial gains and forfeitures of employee or city contributions must be applied to reduce the cost of the fund and may not be used to increase benefits otherwise payable under the fund.

SEC. 40A-31. LEAVE OF ABSENCE.

(a) A member on leave of absence, who is eligible to retire because of disability or because of age and length of credited service, is entitled to:

(1) receive a pension for normal, early, or service retirement; or

(2) receive a pension for disability retirement or have death benefits paid to the beneficiaries if the leave of absence was granted for sickness or injury.

(b) The administrator of the retirement fund must be notified in writing by the city manager, or by any department head not under the city manager, of a member who has been granted a leave of absence and must be furnished with a copy of a written authorization for the leave of absence.

(c) A leave of absence will be regarded for retirement fund purposes as a break in service and not as a termination of employment.

SEC. 40A-32. LEAVE FOR MILITARY ACTIVE DUTY.

The administrator of the retirement fund must be notified in writing by the city manager, or by any department head not under the city manager, of a member who has been granted a leave for military active duty and must be furnished with a copy of a written authorization for the leave.

SEC. 40A-33. COMPLIANCE WITH FEDERAL TAX LAWS.

(a) A member or survivor of a member of the pension system may not accrue a retirement pension, or any other benefit under this chapter, in excess of the benefit limits applicable

to the fund under Section 415 of the Internal Revenue Code. The board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If total benefits under this fund and the benefits and contributions to which any member is entitled under any other qualified plans maintained by the city would otherwise exceed the applicable limits under Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from the fund shall be reduced to the extent necessary to enable the benefits to comply with Section 415. The limits shall be adjusted annually in accordance with Section 415(d) of the Internal Revenue Code. The annual adjustment shall apply to the benefits of both active and inactive members and shall apply without regard to whether retirement benefits are being received.

(b) The total salary taken into account for any purpose for any member of the pension system may not exceed the limit imposed pursuant to Section 401(a)(17) of the Internal Revenue Code for any year ($360,000 for an eligible participant and $245,000 for an ineligible participant for 2009). These dollar limits shall be adjusted from time to time in accordance with guidelines provided by the United States secretary of the treasury. For purposes of this subsection, an eligible participant is a person who first became an active member before 1996, and an ineligible participant is a member who is not an eligible participant.

(c) Amounts representing forfeited nonvested benefits of terminated members may not be used to increase benefits payable from the fund.

(d) Distribution of benefits must begin not later than April 1 of the year following the calendar year during which the member entitled to the benefits becomes 70-1/2 years of age or terminates employment with the city, whichever is later, and must otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

(e) [~~Termination of the retirement fund and discontinuance of city contributions.~~] If the retirement fund is fully terminated or partially terminated, as determined by the Internal Revenue Service, or if all city contributions to the retirement fund are discontinued, the rights of each member affected by the termination or discontinuance that have accrued at the date of termination or discontinuance will be fully vested to the extent funded.

(f) It is intended that the provisions of this chapter be construed and administered in such a manner that the fund's program of benefits will be considered a qualified plan under Section 401(a) of the Internal Revenue Code. In determining qualification status under Section 401(a), the fund's program of benefits will be considered the primary retirement plan for members of the fund.

(g) The right of each member to such member's interest accrued under this chapter shall become 100 percent vested, if not already vested, upon the member's attainment of normal retirement age, and the member shall have a right to terminate employment and commence to receive a pension at that time.

SEC. 40A-34. NONALIENATION AND NONREDUCTION OF BENEFITS.

(a) Title/ownership. Except with respect to fund assets subject to a securities lending agreement, the legal and equitable title and ownership of all assets at any time constituting a part

of the fund will be and remain with the board, and neither the city nor any member or other person who may be entitled to benefits under the fund shall ever have any legal or equitable estate in the fund, except to receive distributions lawfully made in accordance with this chapter.

(b) Qualified domestic relations orders. The administrator shall determine whether a domestic relations order is [~~In the event of receipt of~~] a valid qualified domestic relations order, and the determination by the administrator may be appealed only to the board. In the event of receipt of a valid qualified domestic relations order, the interest in the fund of the member, inactive member, or retiree will be divided between the member, inactive member, or retiree and the spouse, former spouse, or child in accordance with the terms of the order as follows:

(1) A spouse or former spouse who is named as an alternate payee is entitled to receive a court-ordered lump sum distribution of accumulated employee contributions or monthly pension benefit in the form of payments for life. If the actuarial value of the pension is less than $10,000 [~~3,500~~], the board, at its option, may pay the actuarial present value to the alternate payee as a lump sum. A lump sum distribution of a portion of the member, or inactive member, or retiree's contributions, but not of annuity payments, may be made to an alternate payee who is a spouse or former spouse if such distribution is authorized by a qualified domestic relations order, even if the earliest retirement age has not been reached.

(2) A child who is named as an alternate payee is entitled to receive a part of the retiree's monthly pension benefit in an amount ordered by the court. Payments will terminate on the date designated by the court or upon the retiree's death, whichever occurs first. Payments may be made to a person legally authorized to receive them on behalf of the child.

(3) All rights and benefits provided to the member, inactive member, or retiree are subject to the rights afforded to any alternate payee under a valid qualified domestic relations order that meets the requirements of this section.

(4) For purposes of this section, alternate payee, domestic relations order, and qualified domestic relations order have the meanings given under Texas Government Code Chapter 804 [~~Section 414(p) of the Internal Revenue Code~~], as in effect on January 1, 2017.

(c) Exemptions. Contributions and benefits payable under the retirement fund are exempt from attachment, execution, garnishment, judgments, and all other suits or claims, with the exception of a "qualified domestic relations order," and are not assignable or transferable.

(d) Waiver of benefits.

(1) A person may, on a form prescribed by and filed with the administrator, waive all or a portion of any benefits from the retirement fund to which the person is entitled. A person may revoke a waiver of benefits in the same manner as the original waiver was made, unless the original waiver by its terms was made irrevocable.

(2) A waiver or a revocation of a waiver applies only to benefits that become payable on or after the date the document is filed.

(3) Unless otherwise expressly provided for in this chapter, the board may not take action to reduce an individual pension.

SEC. 40A-35. AMENDMENT TO THIS CHAPTER.

(a) Except as provided in Subsection (b) of this section, this chapter may not be amended except by a proposal initiated by either the board or the city council that results in an ordinance approved by the board, adopted by the city council, and approved by a majority of the voters voting at a general or special election.

(b) A provision of this chapter, other than this section, that is determined by the board to require amendment in order to comply with federal law may be amended by ordinance of the city council, without voter approval, upon recommendation of the board. The board shall recommend the exact amending language to be included in the ordinance, which language may not be limited or added to by the city council. An amendment may be made under this subsection only to the extent necessary to comply with federal law."

SECTION 2. That Chapter 40A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on January 1, 2017, subject to its approval by the voters of the City of Dallas in a special election on November 8, 2016, and publication, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER D. BOWERS, Interim City Attorney

By _____
Assistant City Attorney

Passed _____