

OFFICIAL ACTION OF THE DALLAS CITY COUNCIL

June 28, 1989

89-2054

Agenda item 83: Employee Retirement Fund Changes

Ordinance amending Chapter 40A, "Retirement" of the Dallas  
City Code

Mayor Pro Tem Evans moved passage of the ordinance.

Motion seconded by Councilwoman Palmer and unanimously adopted.

Assigned ORDINANCE NO. 20354.

6/28/89

ORDINANCE NO. 20354

An ordinance adding a new Section 40A-32, entitled "Maximum Annual Benefits," to CHAPTER 40A, "RETIREMENT," of the Dallas City Code, as amended; limiting, in accordance with Section 415 of the Internal Revenue Code, annual benefits received under the employees' retirement fund and other defined benefit plans and defined contribution plans of the city; providing for no reduction in annual benefits for employees participating in the retirement fund before January 1, 1990; 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," of the Dallas City Code, as amended, is amended by adding a new Section 40A-32, entitled "Maximum Annual Benefits," to read as follows:

"SEC. 40A-32. MAXIMUM ANNUAL BENEFITS.

(a) Definitions. In this section:

(1) ANNUAL ADDITIONS means the sum credited to a participant's account for any limitation year from:

(A) employer contributions;

(B) employee contributions, other than rollover contributions from a plan maintained by an employer other than the city;

(C) forfeitures;

(D) amounts allocated after March 31, 1984 to an individual medical account, as defined in Section 415(1)(2) of

the Internal Revenue Code, that is part of a pension or annuity plan maintained by the city; and

(E) amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419(d)(3) of the Internal Revenue Code) under a welfare benefit plan (as defined in Section 419(e) of the Internal Revenue Code) maintained by the employer.

The amounts described in Subparagraphs (D) and (E) of this paragraph are not annual additions for the purpose of computing the percentage limitation described in Subsection (j)(3)(B)(ii). For any limitation year beginning prior to January 1, 1987, only that portion of employee contributions equal to the lesser of employee contributions in excess of six percent of 415 compensation or one-half of employee contributions shall be considered an annual addition.

(2) ANNUAL BENEFIT means the benefit payable annually under the terms of the retirement fund, exclusive of any benefit not required to be considered for purposes of applying the limitations of Section 415 of the Internal Revenue Code to the retirement fund, payable in the form of a straight life annuity with no ancillary benefits. In computing the limitations under this section, the annual benefit is adjusted to the equivalent of a straight life annuity pursuant to Subsection (f)(1).

(3) 415 COMPENSATION means a member's wages, salaries, and other amounts for personal services actually rendered in the course of employment with the city during a limitation year. 415 compensation shall include any amount that is contributed by the city pursuant to a salary reduction agreement and that is not includable in the gross income of the employee under Section 125, 402(a)(8), 402(h), or 403(b) of the Internal Revenue Code. 415 compensation shall not include:

(A) contributions made by the city to a plan of deferred compensation, other than pursuant to a salary reduction agreement as described in Section 125, 402(a)(8), 402(h), or 403(b) of the Internal Revenue Code, to the extent that, before the application of the limitations provided in Section 415 of the Internal Revenue Code to the plan, the contributions are not includable in the gross income of the employee for the taxable year in which contributed;

(B) employer contributions made on behalf of an employee to a simplified employee pension plan described in Section 408(k) of the Internal Revenue Code, other than as provided in Section 402(a)(8) of the Internal Revenue Code, to

the extent such contributions are excludable from the employee's gross income;

(C) any distributions from a plan of deferred compensation regardless of whether such amounts are includable in the gross income of the employee when distributed, except any amounts received by an employee pursuant to an unfunded, non-qualified plan to the extent such amounts are includable in the gross income of the employee; and

(D) other amounts that received special tax benefits, such as premiums for group term life insurance, to the extent that the premiums are not includable in the gross income of the employee, or contributions made by the employer. For any limitation year beginning after December 31, 1988, 415 compensation shall be limited to \$200,000, adjusted in the manner permitted under Section 415(d) of the Internal Revenue Code.

(4) LIMITATION YEAR means the plan year of the retirement fund.

(5) PARTICIPANT'S ACCOUNT means any account or accounts established and maintained for each participant with respect to the participant's total interest in a defined contribution plan maintained by the city resulting from annual additions.

(6) SOCIAL SECURITY RETIREMENT AGE has the meaning given the term in Section 415 of the Internal Revenue Code.

(b) Limitation of annual benefits. Notwithstanding any other provision of this chapter, the maximum annual benefit payable in any limitation year to an employee who is a member of the retirement fund shall not exceed the lesser of:

(1) \$90,000; or

(2) 100 percent of a member's 415 compensation averaged over the three consecutive limitation years, or actual number of limitation years for a member who has been employed for less than three consecutive limitation years, during which the member had the greatest aggregate 415 compensation from the employer.

(c) No reduction in annual benefits to certain members. The limitations established in this section shall not cause the annual benefit or pension of any employee who became a member of the retirement fund before January 1, 1990 to be less than the annual benefit or pension the employee would have accrued under the terms of the retirement fund in effect on October 14, 1987.

(d) Annual adjustments to limitations.

(1) The dollar limitation on annual benefits provided in Subsection (b) shall be adjusted annually as provided in Section 415(d) of the Internal Revenue Code pursuant to the regulations prescribed by the Secretary of the Treasury. The adjusted limitation is effective as of January 1 of each calendar year and is applicable to limitation years ending with or within that calendar year.

(2) The limitation provided in Subsection (b)(2) for an employee who has separated from service with a non-forfeitable right to a pension shall be adjusted annually as provided in Section 415(d) of the Internal Revenue Code pursuant to the regulations prescribed by the Secretary of the Treasury.

(e) Adjustments upon retirement.

(1) If the annual benefit begins before an employee's social security retirement age, the \$90,000 limitation, as adjusted, shall be reduced in a manner prescribed by the Secretary of the Treasury that is consistent with the reduction for old-age insurance benefits beginning before the social security retirement age under the Social Security Act.

(2) If the annual benefit begins after an employee's social security retirement age, the \$90,000 limitation, as adjusted, shall be increased so that it is the actuarial equivalent of the \$90,000 limitation at the employee's social security retirement age.

(f) Interest rate assumptions.

(1) For the purpose of adjusting the annual benefit to a straight life annuity, the interest rate assumption shall be the greater of five percent or the rate described in Section 40A-1(1) of this chapter.

(2) For the purpose of adjusting the \$90,000 limitation after an employee's social security retirement age, the interest rate assumption shall be the lesser of five percent or the rate described in Section 40A-1(1) of this chapter, and the mortality decrement shall be ignored to the extent that a forfeiture does not occur at death.

(g) No adjustments.

(1) For purposes of Subsections (d) and (e), no adjustment under Section 415(d) of the Internal Revenue Code

shall be taken into account before the limitation year for which such adjustment first takes effect.

(2) For the purpose of Subsection (b), no adjustment is required for qualified joint and survivor annuity benefits, pre-retirement death benefits, or post-retirement medical benefits.

(h) Total annual benefits not in excess of \$10,000.

(1) The retirement fund may pay an annual benefit to any member in excess of the member's maximum annual benefit otherwise allowed if:

(A) the annual benefit derived from the city's contributions under the retirement fund and all other defined benefit plans maintained by the city does not in the aggregate exceed \$10,000 for the limitation year or for any prior limitation year; and

(B) the city has not at any time maintained a defined contribution plan in which the member participated.

(2) For purposes of this subsection only, employee contributions to the retirement fund will not be considered a separate defined contribution plan maintained by the employer.

(i) Less than 10 years of city service or retirement fund membership.

(1) If a member has less than 10 years of participation in the retirement fund at the time the member begins to receive benefits under the retirement fund, the \$90,000 limitation, as adjusted, shall be reduced by multiplying the limitation by a fraction in which the numerator is the number of years of participation in the retirement fund and the denominator is 10; provided, however, that the fraction shall in no event be less than one-tenth.

(2) The 100 percent limitation of Subsection (b) and the \$10,000 limitation of Subsection (h) shall be reduced in the same manner as provided in Paragraph (1) of this subsection except the numerator shall be the number of years of service with the city rather than years of participation in the retirement fund.

(3) To the extent provided in regulations prescribed by the Secretary of the Treasury, the reductions described in this subsection shall be applied separately with respect to each change in the benefit structure of the retirement fund.

(j) Participation in both defined benefit and defined contribution plans. If an employee is or has been a participant in one or more defined benefit plans and one or more defined contribution plans maintained by the city, the following provisions shall apply:

(1) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0.

(2) The defined benefit plan fraction for any limitation year is a fraction in which:

(A) the numerator is the projected annual benefit of a member under the retirement fund, determined as of the close of the limitation year pursuant to Section 1.415-7(b)(3) of the Income Tax Regulations; and

(B) the denominator is the lesser of:

(i) the product of 1.25 multiplied by the maximum dollar limitation provided in Subsection (b)(1), as adjusted, for the limitation year; or

(ii) the product of 1.4 multiplied by the amount that may be taken into account under Subsection (b)(2) for the limitation year.

(3) The defined contribution plan fraction for any limitation year is a fraction in which:

(A) the numerator is the sum of the annual additions to the participant's account as of the close of the limitation year; and

(B) the denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the city:

(i) the product of 1.25 multiplied by the dollar limitation in effect under Section 415(c)(1)(A) of the Internal Revenue Code for the limitation year, determined without regard to Section 415(c)(6) of the Internal Revenue Code; or

(ii) the product of 1.4 multiplied by the amount that may be taken into account under Section 415(c)(1)(B) of the Internal Revenue Code for the limitation year. For any limitation year beginning before January 1,

1987, the annual additions shall not be recomputed to treat all employee contributions as an annual addition.

(4) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of the retirement fund, the administrator shall limit, to the extent necessary, the annual additions to the participant's account for that limitation year. If after limiting to the extent possible the annual additions to the participant's account for the limitation year, the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the administrator shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the participant.

(k) Combining of plans.

For purposes of this section, all qualified defined benefit plans, whether terminated or not, ever maintained by the city shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by the city shall be treated as one defined contribution plan.

(l) Internal Revenue Code application. Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed in this section shall at all times comply with the provisions of Section 415 of the Internal Revenue Code, as amended, and all regulations promulgated under the Internal Revenue Code, the terms of which are specifically incorporated into this section by reference."

SECTION 2. That CHAPTER 40A of the Dallas City Code, as amended, shall 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 shall take effect immediately from and after its approval by the voters of the



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city of Dallas in a special election on August 12, 1989, and it is accordingly so ordained.

APPROVED AS TO FORM:

ANALESIE MUNCY, City Attorney

By *Lisa Davidson*  
Assistant City Attorney

Passed JUN 28 1989

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(b) A member with less than five years of service at the time he terminates his service who is entitled to a refund of his contributions must make written application with the retirement fund for the refund within three years of the date he terminated his service or he shall forfeit his right to a refund of his contribution and the contribution shall remain in the retirement fund. (Ord. Nos. 15414; 18181)

SEC. 40A-30. LEAVE OF ABSENCE.

(a) A member on leave of absence is entitled to:

(1) receive a pension for normal, early, or service retirement when he is eligible; or

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

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

(c) A leave of absence shall be regarded for retirement fund purposes as a break in service. (Ord. 15414)

SEC. 40A-31. LEAVE FOR MILITARY DUTY.

(a) A nonvested member on leave for military duty is not entitled to a retirement pension or death benefits.

(b) The administrator of the retirement fund shall be notified in writing by the city manager or department head not under the city manager of a member who has been granted a leave for military duty and shall be furnished with a copy of a written authorization for the leave. (Ord. Nos. 15414; 19470)

SEC. 40A-32. RESERVED. (20354)

(Repealed by Ord. 16886)

SEC. 40A-33. NONALIENATION AND NONREDUCTION OF BENEFITS.

(a) Contributions and benefits payable under the retirement fund shall be exempt from attachment, execution, garnishment, judgments and all other suits or claims, with the exception of a "qualified domestic relations order," as that term is defined in Section 414 of the Internal Revenue Code of 1986, as amended, and shall not be assignable or transferable.