
**Authorizing a Special Tax for Fire and Police Disability,
Retirement and Death Benefit Plan**

**Charter Amendment Submitted
to the Voters by the Council**

RESOLUTION NO. 23724

Adopted August 13, 1948

AN ACT

To amend an Act of the Legislative Assembly of the State of Oregon entitled: "An Act to incorporate the City of Portland, Multnomah County, State of Oregon, and to provide a charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State January 23, 1903, as subsequently amended by said Legislative Assembly and by the people of the City of Portland from time to time and as recodified, revised, arranged and annotated by Ordinances numbered 76832 and 76902, providing for the establishment of a retirement, disability payment and death benefit plan for members of the Bureaus of Police and Fire of the City of Portland and their families, providing a fund for the payment of retirement, disability and death payments, providing for the payment of certain service connected disability payments from the General Fund, providing for the administration of said plan, providing for a Reserve Fund, repealing the present pension systems of both Bureaus, and providing for the levy of a special tax by the Council each year in addition to its regular general levy of a tax not over two and one-half (2½) mills or less than one (1) mill in any one year on the dollar valuation of taxable property in the City of Portland, said tax not to be computed as a part of the revenue raised by taxation which is subject to the tax limitation of Section 11, Article XI of the Constitution of the State of Oregon, and said tax levy being in addition to all other taxes which may be levied according to law.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORTLAND, OREGON:

Section 1. The Act of the Legislative Assembly of the State of Oregon entitled: "An Act to incorporate the City of Portland, Multnomah County, State of Oregon, and to provide a charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State January 23, 1903, as subsequently amended by said Legislative Assembly and by the people of the City of Portland from time to time, and as recodified, revised, arranged and annotated by Ordinances numbered 76832 and 76902, is hereby amended by inserting therein a new chapter to be numbered and titled and reading as follows:

CHAPTER V.

DISABILITY, RETIREMENT AND DEATH BENEFITS

ARTICLE 1. Fire and Police Disability, Retirement and Death Benefit plan.

Section 5-101. CREATION OF FUND. There is hereby created and established a Fire and Police Disability and Retirement Fund for the benefit of the members of the Bureau

of Fire and Bureau of Police of the City of Portland and for the benefit of the widows and dependent minor children of deceased members.

Section 5-102. SOURCES OF FUND. Said fund shall consist of the following:

1. A monthly compulsory contribution to the Fund from each member amounting to six per cent (6%) of his then current salary but not to exceed six per cent (6%) of the then current salary of a First Class Fire Fighter, or whatever name said position shall hereafter bear, for members of the Bureau of Fire, and not to exceed six per cent (6%) of the then current salary of a First Class Patrolman, or whatever name said position shall hereafter bear, for members of the Bureau of Police and from each temporary member, a contribution to the Fund amounting to two per cent (2%) of his then current salary.
2. All moneys, property and investments now in that fund known as the Firemen's Relief and Pension Fund created by Section 5-101 of the charter, and all moneys hereafter earned by or paid into said fund in accordance with provisions of this charter, and all proceeds of the tax levy authorized by Section 7-110 of the charter, which proceeds shall hereafter be paid into the fund created by this article.
3. All moneys, property and investments now in that fund known as the Policemen Relief and Pension Fund created by Section 5-101 of the charter, and all moneys hereafter earned by or paid into said fund in accordance with the provisions of this charter, and all proceeds of the tax levy authorized by Section 7-110 of the charter, which proceeds shall hereafter be paid into the fund created by this article.
4. All interest on the investment of any portion of the Firemen's Relief and Pension Fund, the Policemen's Relief and Pension Fund and funds created in this article.
5. All bequests, fees, gifts or other emoluments paid or given on account of any extraordinary service of any member (except when specifically allowed to be retained by such member by the Council).
6. All other moneys herein made available and all other moneys which may be hereafter made available by law, including loans from the General Fund and advances from the Reserve Fund created in this article.

Section 5-103. LEVY BY COUNCIL. The Board of Trustees hereinafter in this article created shall annually, on or before the first day of March of each year, prepare and transmit to the Council a statement containing the following items:

1. The amount of money required for the next succeeding fiscal year to pay and discharge all requirements of the fund for said succeeding fiscal year except repayment of authorized loans and advances.
2. The estimated revenue to said fund during the next succeeding fiscal year from all sources except the levy in this section provided plus the estimated balance in said fund at the beginning of said year.
3. A statement of all payments made and estimated to be made from the fund during the current fiscal year.
4. The total amount paid into and estimated to be paid into said fund from all sources except loans from the General Fund and advances from the Reserve Fund created by Sections 5-104 of this article, during the current fiscal year plus the balance in said fund at the beginning of said year.
5. A statement setting forth in dollars and cents the total amount of money required by the fund to discharge its requirements for the next succeeding fiscal year and the current fiscal year. This amount of money shall be computed by adding the amount that item 1 exceeds item 2, if any, to the amount that item 3 exceeds item 4, if any.

The Council shall levy each year, at the same time and in the same manner that other taxes are levied, a tax upon all taxable property within the City of Portland not exempt from taxation, not to exceed two and one-half (2½) mills on each dollar valuation, sufficient to produce and provide a sum equal to said required amount so prepared and transmitted by the Board. Said levy shall in no event be less than one (1) mill on said dollar valuation, unless the Reserve Fund created in the following section will as a result of said minimum levy exceed five hundred thousand dollars (\$500,000.00) in which event said levy shall only be sufficient to provide the amount required and to maintain said Reserve Fund at five hundred thousand dollars (\$500,000.00).

The additional tax herein provided for hereby is specifically authorized and shall not be computed as a part of the revenue raised by taxation which is subject to the tax limitation of Section 11, Article XI of the Constitution of the State of Oregon, and said tax levy hereby authorized shall be in addition to all other taxes which may be levied according to law. The proceeds of said tax levy to the extent of the amount required by the fund shall be paid into the fund. Any balance shall be paid into the Reserve Fund created in Section 5-104.

Section 5-104. RESERVE FUND. There is hereby created and established a Reserve Fund which shall consist of all moneys paid into it as provided in Section 5-103. Advances may be made by the Board of Trustees hereinafter created from said Reserve Fund to the Fire and Police Disability and Retirement Fund in cases where said fund is depleted to the extent that it cannot meet its current obligations. Said advances shall be repaid at a time set by said Board of Trustees, which time shall not exceed two (2) years from the date of the advances. The Board of Trustees shall have the same powers of investment of said Reserve Fund that it has with the Fire and Police Disability and Retirement Fund.

Section 5-105. SALARY DEDUCTIONS. It shall be the duty of the Auditor, in making out warrants, to deduct and withhold monthly from the salary of each member the amount above provided during all the time such member may be in the employ of said Bureau of Fire or said Bureau of Police. It shall be the duty of the Auditor to draw a warrant for the total amount so withheld payable monthly to the fund.

Section 5-106. BOARD OF TRUSTEES. The Fire and Police Disability and Retirement Fund shall be under the supervision and control of the Board of Trustees, which Board shall be composed of the Mayor (who shall act as chairman); the City Treasurer (who shall act as treasurer); the City Auditor (who shall act as secretary); the Chief Engineer of the Bureau of Fire; the Chief of Police; three members of the Bureau of Fire, one of whom shall be elected annually to membership on the Board by the regular membership of said Bureau of Fire; and three members of the Bureau of Police, one of whom shall be elected annually to membership on the Board by the regular membership of said Bureau of Police. All members of said Board shall serve without compensation. The first election shall be held within thirty days of the enactment of this article, under supervision of the City Auditor, at which time there shall be elected three members of each Bureau for terms of one, two and three years. Subsequent elections shall be held annually beginning in March, 1950, and in each March thereafter at which election one regular member of the Bureau of Fire and one regular member of the Bureau of Police shall be elected to the Board for three-year terms to succeed the members whose terms expire at the time of said election. Members so elected in March shall take office in July. Similar elections for unexpired terms shall be held to fill other vacancies within thirty days after they occur. Said elections shall be held in a manner prescribed by the rules and regulations adopted by said Board of Trustees, which must be in writing and filed with the secretary of the Board. Said Board shall keep a record of all of its proceedings and hold regular meetings on the first Tuesday of each month, and seven members shall constitute a quorum at any and all meetings of the Board.

Section 5-107. POWERS OF BOARD. Said Board of Trustees shall have the power to prescribe its own rules and regulations and enforce the same. Said Board is hereby authorized and empowered to designate one or more regularly licensed physicians to act at any time with the physicians appointed by the Civil Service Board in the mental and physical examinations of applicants for membership in the Bureau of Fire or Bureau of Police. Said Board is further authorized and empowered to require applicants for pension and/or any benefits from the fund to submit to and undergo mental and physical examinations by one or more regularly licensed physicians designated by said Board for that purpose. The Board shall keep a permanent record of all examinations made on its own order, as well as those made by its physicians in association with the physicians that may be appointed by the Civil Service Board. It shall hear and determine all applications for pensions or benefits as hereinafter provided for; provided, however, that the Board shall review any of its determinations based upon the findings of its physicians upon the written request of any applicant; in such cases it shall refer the matter to three physicians, one of whom shall be selected by the ex-officio members of the Board, one of whom shall be selected by the other members of the Board, and one of whom shall be selected by the applicant; the Board of Trustees shall base its findings upon review on the findings of the majority of the said physicians, provided further that an appeal by the applicant may be taken from any decision said Board may make to the Council of the City of Portland. Said Board is hereby authorized and empowered to administer oaths, subpoena and examine witnesses, to require the production and examination of papers and documents, to order any member drawing disability benefits to appear for physical examination, to, upon proper showing of necessity or hardship, waive the residence requirements of this article, to pay its administrative expense from the fund, and to borrow from the General Fund. No member of the Board shall act on his own claim. It is hereby authorized and empowered, in the name of the Board of Trustees of the Fire and Police Disability and Retirement Fund, to invest any part of said fund or the Reserve Fund in interest-bearing bonds specified in Section 7-104 of this charter, preference, however, to be given in all instances to interest-bearing bonds of the City of Portland. All such securities shall be deposited with the City Treasurer.

Section 5-108. APPEALS TO COUNCIL. The Council of the City of Portland is hereby authorized and empowered to review the action of the Board of Trustees on appeal by the applicant and to remand the cause appealed back to the Board with instructions as to the final determination of such cause.

Section 5-109. CUSTODIAN AND DISBURSING OFFICER. Said funds created in Sections 5-102 and 5-104 shall be in the care and custody of the City Treasurer, and shall be paid out by him on warrants signed by the chairman (Mayor) and countersigned by the secretary of said Board (Auditor) and not otherwise; provided, however, that no warrants shall be drawn upon either of said funds except by order of the Board, which order shall be duly entered upon the record of the proceedings of said Board.

Section 5-110. BOOKS AND ACCOUNTS. The books and accounts of said Board of Trustees shall, at all times, be subject to the inspection of any person interested, and shall upon the expiration of the term of office of the treasurer, be surrendered and delivered to his successor, together with all records and documents, securities, moneys and property which may have come into the possession of said treasurer.

Section 5-111. LEGAL ADVISER. It shall be the duty of the City Attorney to give advice to the Board of Trustees in all matters pertaining to their duties and the management of either of said funds whenever required by said Board, and he shall represent and defend said Board as its attorney in all suits or actions at law or in equity that may be brought against it, and institute all suits and actions in its behalf that may be required or determined upon by said Board.

Section 5-112. MONTHLY PAYMENTS. All pensions, benefits and allowances payable out of the Fire and Police Disability and Retirement Fund and hereinafter provided for and allowed by said Board of Trustees shall be paid monthly out of said fund by warrants as herein provided, except that in cases involving financial hardship as result of disabilities the Board may direct otherwise.

Section 5-113. BENEFITS OF RETIREMENT. The Board of Trustees shall, upon duly verified written application, by any member who shall have been an active member for thirty (30) years and who shall have reached the age of fifty (50) years, retire and relieve said member from service and said member shall receive monthly a maximum pension as hereinafter defined, which maximum pension shall cease upon death except as hereinafter provided.

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

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

The Board of Trustees may, by two-thirds ($\frac{2}{3}$) vote, relieve from service any aged, disabled or infirm member who shall have reached the age of fifty-five (55) years and shall have served as an active member for twenty (20) years and whom it finds is unfit for the performance of his duty. In such cases review of determinations based upon the findings of the Board's physicians may be had as provided in Section 5-107, and appeal may be taken to the Council as provided in Section 5-108. The member so relieved shall receive his earned portion of the maximum pension as hereinafter set forth. Said pension shall cease at his death except as hereinafter provided.

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

Any member who shall resign after five (5) years of active service shall receive at that time a refund of all his contributions made during his entire service in his Bureau, less the amount of non-service connected disability benefits paid to him from the fund or previously established pension funds.

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

Any loss of time from active duty by any member due to service connected disability or occupational disability shall be counted in computing active service.

Any loss of time from active duty not in excess of ninety (90) days in any twelve (12) consecutive months shall be counted in computing active service, except that any period of leave of absence, however long, heretobefore or hereafter to serve as Chief of the Bureau of Police shall be counted.

Section 5-114. COMPULSORY RETIREMENT. On and after the 1st day of July, 1952, any member, except the Chief Engineer of the Bureau of Fire and the Chief of the Bureau of Police, who has reached his sixty-fourth (64th) birthday, shall be retired by the Board forthwith. Any member retired under the provisions of this section having any service less than thirty (30) years shall be retired at his earned portion of the maximum pension.

Section 5-115. BENEFITS UPON SERVICE CONNECTED DISABILITY. Upon duly verified application of a member and a finding by the Board that through injury or sickness caused by the performance of duty or in line of duty the member has been unable to perform his required duties, said member shall be paid disability benefits equal to but not in excess of his full salary from the General Fund of the City until said member recovers or for a period of one (1) year, whichever period is shorter. Said member in accepting said benefits shall waive any right he may have against the City as result of said disability. In the event said member has not recovered at the end of one year he shall receive after said first year and until he recovers, but for a period not to exceed three additional years, disability benefits from the fund equal to but not in excess of his full salary and in no event in excess of the then current salary of a First Class Fire Fighter or First Class Patrolman as the case may be. If the disability continues after the end of four (4) years, the member shall be paid benefits from the fund in an amount equal to a maximum pension until he recovers or until he would have become eligible for a maximum pension by reason of years of service or age, at which time he shall be retired by the Board and receive said maximum pension. In the event said disabled member has at the time of incurring said injury or illness become eligible for a maximum pension, or so becomes during his disability therefrom, he shall be paid a full salary from the General Fund of the City for one year, after which time he shall be retired at said maximum pension; provided, however, that a disabled member shall not be paid from the General Fund of the City disability benefits for over one year during any one disability. A member, after becoming eligible for a maximum pension, shall not receive any payments from the fund in excess of a maximum pension plus the additional percentage allowances for children referred to in this section.

For the purposes of this Act the disabilities of heart disease, hernia, tuberculosis and pneumonia are occupational disabilities and a member so disabled shall be entitled to the same benefits from the General Fund of the City, as a member injured in line of duty or in the performance of duty, for one year from the date of such disability, at which time he shall be paid benefits from the fund in an amount equal to a maximum pension until he recovers or until he would have become eligible for a maximum pension by reason of years of service or age, at which time he shall be retired by the Board and receive said maximum pension.

In the event of recovery of any member from service connected or occupational disability, he shall upon certification by the Board, be restored to service in the rank he occupied at the time of his retirement or disability and his pension or disability benefit shall cease upon restoration to service. Time of disability from service connected or occupational disability shall be included in computing years of service.

Members will not be compensated from the General Fund of the City under the provisions of this section while non-residents of the State of Oregon. Additional percentage allowances for children as set forth in Section 5-117 shall be paid to members receiving a sum equal to the maximum pension under this section.

All medical and hospital expenses arising from service connected disability and/or occupational disability shall be paid from the General Fund of the City.

Section 5-116. BENEFITS FOR NON-SERVICE CONNECTED DISABILITIES. Any member who has at least one (1) year of active service and who becomes incapacitated from performing his duties on account of injury or sickness not service connected shall, upon the cessation of his salary by the City of Portland for such cause be retired by the Board and paid

monthly his earned portion of the maximum pension as hereinafter set forth, but not less than twenty per cent (20%) of the then current salary of a First Class Fire Fighter or First Class Patrolman, provided such member remains a resident of the State of Oregon. Said action by the Board shall be based upon a duly verified application of the member and a finding of the Board in accordance with the foregoing. Said pension shall cease upon the member's death except as hereinafter provided. In event of the recovery of such member, upon certification by the Board he shall be restored to duty at the rank he held at the time of his retirement, and the benefits he received shall cease at the time of his restoration to duty. No member shall be eligible for benefits under this section unless, at the time of his disability, he was contributing monthly to the fund in an amount equal to that set forth for a member under Section 5-102.

Section 5-117. BENEFITS TO WIDOWS AND CHILDREN IN SERVICE CONNECTED DEATHS. If any member shall die from any cause while in line of duty or as the result of an occupational disability of heart trouble, hernia, tuberculosis or pneumonia, and shall leave a widow, said widow shall be entitled to benefits while remaining unmarried and a resident of the State of Oregon. Said benefits shall be paid from the fund and shall be at the rate of fifty per cent (50%) of the current salary of a First Class Fire Fighter or First Class Patrolman, as the case may be, until such time as the deceased member would have become eligible to a maximum pension had he lived, at which time said widow, while unmarried, shall receive a monthly pension from the fund equal to the widow's pension which the deceased member, had he lived, would have been eligible to select, from the Modified Joint and Survivor Annuity Table, as contained in this Act in accordance with the provisions of Section 5-118.

Said widow of said deceased member, if and as long as she has a dependent minor child or dependent minor children, shall be further entitled to an additional twenty-five per cent (25%) of said widow's benefits or pension, as the case may be, for the first child, fifteen per cent (15%) for the second child and ten per cent (10%) in toto for all children over two in number. If there be no widow qualified to receive a widow's benefits or pension, then the dependent minor child or dependent minor children of such deceased member shall receive the benefits or pension to which a widow alone would have been entitled as heretofore provided in this section, to be divided equally among them. Any dependent minor child's interest in said pension or benefits shall cease when he is no longer a dependent minor child as defined herein, and any widow's right to an additional allowance for a dependent minor child shall cease under the same conditions.

If any member shall die from any of the causes specified in the first paragraph of this section, leaving a dependent minor child or children of a former marriage or marriages and a widow, then the widow's benefits or pension, as the case may be, plus children's allowances to which she might be entitled, were all the children hers, shall be divided equally with the child or children of all marriages, fifty per cent (50%) to said widow and fifty per cent (50%) to the child or children of all the marriages to be divided equally among said children. Any dependent minor child's interest in said pension or benefits plus allowances, if any, shall cease when he is no longer a dependent minor child as defined herein, and any widow's right to an additional allowance for a dependent minor child shall cease under the same conditions.

All persons deriving benefits from the death of any one member under the provisions of this section may elect, if the Board after hearing finds it to be financially beneficial to the fund, to receive collectively a five thousand dollar (\$5,000.00) cash settlement from the fund in lieu of all further claims to benefits and/or pension. Said cash settlement shall not be paid if the deceased member was at the time of his death or one year thereafter would have been eligible for a maximum pension.

Section 5-118. BENEFITS TO WIDOWS OR CHILDREN IN NON-SERVICE CONNECTED DEATHS. Any member retiring under the provisions of Section 5-113, 5-114 or 5-115 must elect, at the time of his retirement, to provide or reject the benefits for the sur-

viving widow as determined by the "Modified Joint and Survivor Annuity Table" contained in this Act and in accordance with this section. Any member retiring between July 1, 1947, and the effective date of this Act, or his widow, must likewise so elect at the time of said effective date. Said table shows the amount of reduced pension, as a percentage of the maximum pension or earned portion of the maximum pension, as the case may be, that a member shall receive if he elects the Joint and Survivor option of providing for his widow. In using the Table, the difference between the members' and widows' ages shall be figured to the closest year.

If there has been an election to provide said benefits, upon the death of the member, his widow shall receive a monthly pension equal to two-thirds ($\frac{2}{3}$) of the reduced pension until her death or remarriage; if there be no widow, the dependent minor child or children shall receive said pension while so remaining.

MODIFIED JOINT AND SURVIVOR ANNUITY TABLE

Member Older than Widow

Difference Between Member's and Widow's Ages	Reduced Pension As Per cent of Earned Pension
None.....	82.8%
Member one year older.....	82.1%
" two years older.....	81.4%
" three years older.....	80.7%
" four years older.....	80.0%
" five years older.....	79.2%
" six years older.....	78.5%
" seven years older.....	77.9%
" eight years older.....	77.1%
" nine years older.....	76.4%
" ten years older.....	75.8%
" eleven years older.....	75.1%
" twelve years older.....	74.4%
" thirteen years older.....	73.8%
" fourteen years older.....	73.1%
" fifteen years older.....	72.5%
" sixteen years older.....	71.8%
" seventeen years older.....	71.1%
" eighteen years older.....	70.4%
" nineteen years older.....	69.7%
" twenty years older.....	69.0%
" twenty-one years older.....	68.3%
" twenty-two years older.....	67.6%
" twenty-three years older.....	66.9%
" twenty-four years older.....	66.2%
" twenty-five years older.....	65.5%
" twenty-six years older and over.....	65.0%

Widow Older Than Member

Difference Between Member's and Widow's Ages	Reduced Pension As Per cent of Earned Pension
None.....	82.8%
Widow one year older.....	83.5%
" two years older.....	84.2%
" three years older.....	84.9%
" four years older.....	85.6%
" five years older.....	86.3%
" six years older.....	87.0%
" seven years older.....	87.7%
" eight years older.....	88.3%
" nine years older.....	89.0%
" ten years older.....	89.7%
" eleven or more years older.....	90.0%

If, at the time of a member's retirement, he does not have a wife qualified to receive a widow's pension on his death, and if at said time he does not have a dependent minor child or dependent minor children, he may elect to accept ninety per cent (90%) of his then earned pension and thereby provide a survivor's pension for a surviving dependent minor child or children so long as they remain dependent child or children as defined in this Act. Upon the death of a member who so elected, the surviving dependent minor child or children shall receive a monthly pension equal to two-thirds ($\frac{2}{3}$) of his reduced pension, to be equally divided between them if there is more than one child. No dependent minor child shall share in such a division after he has ceased to be a dependent minor child as defined herein.

The widow of a permanently retired member shall receive benefits or a pension only if she was his lawful wife for five (5) years immediately prior to the date of his retirement, and not otherwise.

If any member shall die from any cause, not in line of duty but before retirement, then his widow, or, if there be no widow, or no widow who has been married to him at least one (1) year, his surviving dependent minor child or children shall be entitled to receive benefits or a pension under one of the following provisions:

1. If a deceased member has at least one year of active service, the widow or surviving dependent minor child or children, as the case may be, shall be entitled to a cash settlement of fifteen hundred dollars (\$1,500.00) plus an additional one hundred dollars (\$100.00) per year for every year of active service up to twenty (20) years, or to the return of his contributions, less the amount of non-service connected disability benefits paid to him from the fund and previously established pension funds, whichever is the greater.
2. If the deceased member has twenty (20) years or more of active service, the widow or surviving dependent minor child or children, as the case may be, shall be entitled to receive a widow's pension, to be computed from the "Modified Joint and Survivor Annuity Table," based on the earned portion of the maximum pension of the deceased member, or may elect, if the Board after hearing so permits, within one (1) year after the member's death to receive a cash settlement of thirty-five hundred dollars (\$3,500.00) or to the return of the member's contributions made to this fund and to any previously established fire or police retirement fund, less the amount of non-service connected disability benefits paid to him from such funds, whichever is the greater.

If a member shall die before retirement from any cause not in line of duty leaving a dependent minor child or dependent minor children by a former marriage or marriages and a widow qualified to receive a pension under this Act, then the widow's pension shall be shared equally with the child or children of all marriages; fifty per cent (50%) to said widow and fifty per cent (50%) to the child or children of all marriages, to be divided equally among said children. No dependent minor child shall share in such division of the fifty per cent (50%) last named after he has ceased to be a dependent minor child as defined herein. Upon dependent minor children ceasing to have said status as defined herein, their fifty per cent (50%) shall revert to the qualified widow. In the event a cash settlement option is exercised, the election to accept it must be by or on behalf of all the persons deriving benefits therefrom.

Section 5-119. BENEFITS TO PREVIOUSLY RETIRED MEMBERS AND THEIR WIDOWS AND CHILDREN. The pension of any retired member or the pension of a widow or dependent minor child or children of a deceased member, being paid as of July 1, 1947, shall be increased thirty-three and one-third per cent ($33\frac{1}{3}\%$) over and above the amount being paid on said July 1, 1947, and the total amount of such pension shall be paid from the Fund established by this Act, and not otherwise. Any widow of a member who retired prior to July 1, 1947, and who dies or died after July 1, 1947, shall be paid on the same basis as widows receiving a pension as of July 1, 1947. The minimum pension for any person on pension before July 1, 1947, shall be fifty dollars (\$50.00) per month after the above mentioned thirty-three and one-third per cent ($33\frac{1}{3}\%$) increase has been effected.

Previously retired members of the Bureaus of Police and Fire and their widows and dependent minor children by accepting any benefits provided by this Act shall thereby waive all alleged, asserted or claimed rights under the provisions of any previous retirement and/or relief act in effect before the passage of this article.

Section 5-120. VARIATION IN AMOUNT OF BENEFIT PAYMENTS. All benefits and pensions granted and paid from the Fire and Police Disability and Retirement Fund under this Act except those paid under Section 5-119 shall vary annually and shall be based upon the current salary of a First Class Fire Fighter or First Class Patrolman, computed annually at the beginning of the fiscal year.

Section 5-121. TEMPORARY MEMBERS. A temporary fireman or police officer, or the widow and/or dependent children of either, shall only be eligible for the provisions of this Act relating to service connected disabilities and service connected death, not including occupational disabilities as herein defined, and not otherwise.

Section 5-122. MILITARY SERVICE. Members entering military service in time of a national emergency so declared by the President of the United States or inducted by the Federal or State government into the armed forces or the reserve components thereof shall receive credit for all time spent in said service toward retirement under this Act, and shall also receive credit for compulsory contributions which he would have made had he remained in the service of his Bureau and not entered the said service; provided said member returns to active duty in the Bureau of Fire or Police, as the case may be, within sixty (60) days after being relieved, other than dishonorably, from said service and not voluntarily remain in said service after the emergency; and provided further, however, that if a member shall become eligible, while in said service, to receive a pension according to years of service and age, as provided in Section 5-113, it shall not be necessary for him to return to active duty in the Bureau of Fire or Bureau of Police in order to receive his retirement pension. In case of his death while in said service his widow and dependent minor child or children shall be eligible for benefits as provided in Section 5-118. In case of injury or sickness contracted by said member while in said service, after being relieved from said service he shall be entitled to the same benefits he would have received under the paragraph in Section 5-116 hereof providing for benefits upon non-service connected disabilities.

Section 5-123. FUNERAL EXPENSES. Upon the death of any active or retired member, said Board shall pay to the widow or family or other person responsible for the funeral expenses of said deceased member, the sum of one hundred dollars (\$100.00) to be used for funeral expenses.

Section 5-124. APPLICATIONS FOR BENEFITS. All applications under this Act shall be made within such time as may be fixed by the rules and regulations of the Board of Trustees. Pensions or benefits hereunder shall not be paid for any period prior to the date of application for such pensions or benefits.

Section 5-125. EXEMPTION FROM EXECUTION. All pensions, allowances or benefits due or paid under this article shall be exempt from attachment, execution, garnishment or other process issued out of any court for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary thereof.

Section 5-126. DEFINITIONS OF TERMS. The following terms where used herein shall mean as follows:

1. The term "First Class Fire Fighter" shall mean a member of the Bureau of Fire who receives the maximum payment in the Fire Fighter Classification as set forth in the classification of positions in the Bureau of Fire by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Fire Fighter" is used it shall be that position by whatever name it may hereafter be called;
2. The term "First Class Patrolman" shall mean a member of the Bureau of Police who receives the maximum pay in the Police Bureau Classification as set forth in the classification of positions in the Bureau of Police by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Patrolman" is used it shall be that position by whatever name it may hereafter be called;
3. The term "widow" shall also mean widower;
4. The term "dependent minor child" shall mean a legal dependent of a member, under eighteen (18) years of age and unmarried;
5. The term "Maximum Pension" shall mean a pension equal to sixty per cent (60%) of the then current salary of a First Class Fire Fighter for firemen, or that of a First Class Patrolman for police officers, as the case may be, and said pension shall vary annually as said salaries may vary from time to time;
6. The term "Earned Portion of Maximum Pension" shall mean that portion of a maximum pension that the member's years of service bear to the years of service required for a maximum pension, but in no event shall it exceed the maximum pension;
7. The term "Active Service" shall mean that period of time after the date of permanent appointment during which a member serves and is paid from the pay roll of the respective department of which he is a member, and shall include any loss of time from active duty not in excess of ninety (90) days in any twelve (12) consecutive months; and likewise shall include time spent on military leave, as provided in Section 5-122, leave of absence from the Bureau of Police to act as Chief thereof, during which time he shall be classified as a member, and time lost as the result of occupational disabilities and service connected disabilities. Time served under temporary appointment before date of permanent appointment shall not be included in computing "active service";
8. The term "In line of Duty" shall mean those acts which occur during the period of time which elapses between the time a member reports for duty until the time he is re-

lieved from duty, and any other time the member is performing fire or police duties for the City of Portland, provided such acts are not in violation of departmental rules and regulations, City ordinances or laws of the State of Oregon;

9. The term "Member" shall mean any person permanently and duly appointed in the Bureau of Fire or the Bureau of Police, under Civil Service rules and regulations, to perform the duties of a regular fire fighter or police officer, including policewoman, police harbor pilots, police matrons, fireboat pilots and fire department engineers, or any person permanently and duly appointed prior to July 1, 1947, who has paid into the established Firemen's and Policemen's Relief and Pension Funds prior to July 1, 1947, in the City of Portland, under whatever designation he or she may be described, in any salary or departmental ordinance providing compensation for the members of said Bureau of Fire or Bureau of Police;

10. The term "Residence in the State of Oregon or Resident of the State of Oregon" shall mean actually living in the State of Oregon;

11. The term "Current Salary" shall mean all wages or salary paid monthly to a member for services rendered in his Civil Service classification. The term shall not include wages or salaries for extra duties or extra services. For the purposes of payments under this article, current salary shall be computed annually at the beginning of the fiscal year;

12. The term "fund" or "Fund" when not accompanied by any descriptive words shall mean the Fire and Police Disability and Retirement Fund created by Section 5-101 of this article;

13. The term "Contributions," unless otherwise qualified, shall mean all moneys contributed by a member to the Fund established by this Act or to previously established fire and police pension funds of the City of Portland.

Section 5-127. PENSIONS PRORATED WHEN FUND INSUFFICIENT. If at any time said Fire and Police Disability and Retirement Fund becomes insufficient to pay in full all the pensions or benefits allowed by the Board of Trustees, and cannot be made sufficient by loans and advances from other funds, the Board shall pay said pensions and/or benefits pro rata. No deficit shall be made up.

Section 5-128. APPLICATION OF PROVISIONS OF THIS ARTICLE. The provisions of this article shall apply to all former members and widows and/or dependent minor children who have heretofore been granted pensions under former pension systems after July 1, 1947, but prior to the effective date of this article.

Section 5-129. CONSTITUTIONALITY. If any part or section of this article shall be declared unconstitutional, it shall only void that part or section so declared unconstitutional and the remainder shall remain in full force and effect.

Section 5-130. REPEAL OF PREVIOUS PENSIONS. Chapter V of the Charter of the City of Portland as recodified, revised, arranged and annotated by Ordinances numbered 76832 and 76902 be and the same is hereby repealed.

Section 5-131. EFFECTIVE DATE. This Act shall become effective July 1, 1949, except that the Board of Trustees shall organize as herein provided.

Section 5-132. CONTROL OF GENERAL FUND. Whenever in this Act benefits of any nature are payable from the General Fund of the City of Portland, the action of the Board, with reference thereto, shall be considered advisory only; and final action with reference to the payment of any such benefits from said General Fund shall be approved by the City Council. The term "general fund" or "General Fund" whenever used in this Act shall mean the General

Fund of the City of Portland. All payments to all beneficiaries under this Act shall be made from the Fire and Police Disability and Retirement Fund unless it is specifically provided that they shall be made from said General Fund.

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The ballot title adopted for the foregoing measure is as follows:

AN ACT to amend Portland's city charter to provide a firemen's and policemen's retirement, disability and death benefit plan; creating a benefit fund consisting of six per cent contributions from salaries of firemen and policemen, of moneys in present firemen's and policemen's pension funds, gifts and proceeds from existing and authorized tax levies; directing levying of a special tax each year in excess of constitutional limitations of not over two and one-half mills or less than one mill on each dollar of assessed valuation; providing for payment to members and their families of certain retirement, disability and death benefits from such fund, and limited service connected disability payments from the city's general fund; creating a board and rules for administration of the plan; and repealing present charter provisions concerning firemen's and policemen's pension plans.

Shall the Charter be so amended?

500 Yes. I vote for the amendment.

501 No. I vote against the amendment .