

CHATTANOOGA FIRE
AND
POLICE DEPARTMENT

Pension Legislation

CHATTANOOGA, TENNESSEE



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PREFACE

This booklet contains the legislative and city charter authority for the Firemen's and Policemen's Insurance and Pension Fund of the City of Chattanooga, Tennessee. The Act creating this fund is Chapter 165, Private Acts of Tennessee, 1949. This Act, with all amendments, have been made thereto through the 1988 Legislative Session of the General Assembly of the State of Tennessee. The Private Acts are a part of the Charter of the City of Chattanooga, being sections 13.63-13.84.

This booklet also contains the legislative authority for Firemen, Policemen, Emergency Medical Technicians, and Paramedics with reference from Tennessee Code Annotated (TCA) 7-51-201.

TCA 7-51-201

LOCAL GOVERNMENT FUNCTIONS

CHAPTER 51

MISCELLANEOUS GOVERNMENTAL
AND PROPRIETARY FUNCTIONS

PART 2 – EMPLOYEE COMPENSATION
AND INDEMNIFICATION

7-51-201. Law enforcement officers and firemen – Compensation for injury or death – Certain disabilities presumed to have been suffered in course of employment.

(a)(1) Whenever the state of Tennessee, or any municipal corporation or other political subdivision thereof that maintains a regular law enforcement department manned by regular and full-time employees and has established or hereafter establishes any form of compensation to be paid to such law enforcement officers for any condition or impairment of health which shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such law enforcement officers caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed (unless the contrary be shown by competent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of his position, or the sustaining of personal injuries by

external and violent means or by accident in the course of employment and in the line of duty. Provided, however, that such law enforcement officers shall have successfully passed a physical examination prior to such claimed disability, or upon entering his governmental employment and such examination fails to reveal any evidence of the condition of hypertension or heart disease.

(2) For purposes of this subsection, the term "law enforcement officer" includes correctional security job classification employees of the department of correction and full-time county law enforcement officers including county deputy sheriffs employed in correctional security positions; provided, however, that if such inclusion of full-time county law enforcement officers including county deputy sheriffs employed in correctional security positions in the definition of "law enforcement officer" mandates increased liability to a county under the Tennessee consolidated retirement system or a local retirement system then such full-time county law enforcement officers including county deputy sheriffs employed in correctional security positions in such county shall not be included in such definition for purposes of the Tennessee consolidated retirement system or a local retirement system unless the county legislative body of such county advises the retirement division of its desire to apply such definition to such personnel within four (4) months of March 24, 1986.

(b)(1) Whenever the state of Tennessee, or any municipal corporation or other political subdivision thereof maintains a regular fire department manned by regular and full-time employees and has established or hereafter establishes any form of compensation, other than workers' compensation, to be paid to such firemen or fire fighters for any condition or impairment of health which shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such firemen caused by disease of the lungs, hyperten-

sion or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed (unless the contrary be shown by competent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of his position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Provided, however, that such firemen shall have successfully passed a physical examination prior to such claimed disability, or upon entering upon his governmental employment and such examination fails to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

(2) It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any municipal corporation maintaining any permanent fire department to be covered by its provisions.

(c)(1) Whenever any county having a population greater than four hundred thousand (400,000) according to the 1980 federal census or any subsequent federal census or any municipal corporation within such county maintains within its fire department, and has established or hereafter establishes any form of compensation, other than workers' compensation, to be paid to a person employed by such division as an emergency medical technician or emergency medical technician advanced or paramedic, for any condition or impairment of health which shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such person caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability,

shall be presumed (unless the contrary be shown by competent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of his position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Provided, however, that such person shall have successfully passed a physical examination prior to such claimed disability, or upon entering his governmental employment and such examination fails to reveal any evidence of the condition of hypertension or heart disease.

(2) It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any such municipal corporation or political subdivision of the state maintaining such division to be covered by its provisions. [Acts 1965, ch. 299, § 1; 1970, ch. 593, § 1; modified; T.C.A., § 6-639; Acts 1982, ch. 599, § 1; 1985 (1st E.S.), ch. 5, § 18; 1986, ch. 590, § 1.]

Amendments. The 1985 amendment added (a)(2) as it existed prior to the 1986 amendment. See the 1986 amendment note.

The 1986 amendment substituted the present provisions in (a)(2) for those which read: "(2) For purposes of this subsection, the term 'law enforcement officer' shall include correctional security job classification employees of the department of correction and county correctional personnel employed in security positions and full-time correctional personnel employed by local governments in administrative security and counseling service positions; provided, however, that if such inclusion of county correctional personnel in the definition of 'law enforcement officer' mandates increased liability to a county under the Tennessee consolidated retirement system, then such county correctional personnel in such county shall not be included in such definition for purposes of the Tennessee consolidated retirement system unless the county legislative body

of such county advises the retirement division of its desire to apply such definition to such personnel within four (4) months of December 11, 1985."

Effective Dates. Acts 1985 (1st E.S.), ch. 5, § 58. December 11, 1985.

Acts 1986, ch. 590, § 2. March 24, 1986.

Cross-References. Accidental disability retirement allowances, § 8-36-502.

Section to Section References. This section is referred to in § 8-36-502.

CHATTANOOGA CODE

CHAPTER IV. PENSIONS

Sec. 13.63 ["Firemen's and policemen's insurance and pension fund" established.]

The Charter of the City of Chattanooga, Tennessee and all acts heretofore passed by the General Assembly of the State of Tennessee amendatory thereof, be and the same are, hereby amended so as to authorize and require the board of commissioners of the said city to create a fund, in the manner hereinafter provided, to be known as the "firemen's and policemen's insurance and pension fund," which fund shall be for the benefit of the employees of the fire and police department of said city, and their beneficiaries, as provided by this. (Priv. Acts 1949, Ch. 165, § 1)

The board of commissioners of said city, after it has adopted a budget for the salaries of the department of fire and police each year, shall add a sum to be fixed by a majority vote of the board of commissioners of said city, which shall not be less than ten per cent (10%) of each monthly payroll of those persons who are participants in the pension system, which sum so added shall be placed in the Firemen's and Policemen's Insurance and Pension Fund. Said pension and trust fund from all sources herein provided shall be paid to the trustee. The trustee shall be a national bank, under a suitable bond, designated, from time to time, as the trustee of this fund by the board of directors. The trustee shall hold said funds for the purpose stated in this Act. The funds coming into the hands of the trustee shall be under the direction and control of the board of directors of the Firemen's and Policemen's Insurance and Pension Fund. Any and all investments made under the direction and control of the board of directors, and all other acts done in the administration of the plan in good faith, shall be without liability on their part. (Priv. Acts 1949, Ch. 165, § 2; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1; Ord. No. 8688, § 1(7), 8-1986)

Sec. 1365. [Tax levy for pensions.]

The board of commissioners of said city be and is hereby required to levy a sufficient annual tax upon all taxable property and taxable privileges within the City of Chattanooga for the purposes of raising revenue for the payment of pensions to members of said department of fire and police and appropriate same for such purpose. (Priv. Acts 1949, Ch. 165, § 3)

Sec. 13.66. [Assessment of employees.]

Each and every employee of the department of fire and police, except those employees of the department who are not now contributing to the pension fund, shall be assessed a sum to be fixed by a majority vote of the board of directors of the firemen's and policemen's insurance and pension fund, which shall not be less than five per cent (5%) of the actual salary paid by the City of Chattanooga to regular firemen and policemen in the grade of private or such other comparable starting grade after any probationary period. If the actual salary of the employee is less than this amount, then the deduction shall be on the total salary. Said amounts shall be deducted from pay and so shown on the payroll, and the total amount of deduction shall be made by the proper official and paid to the firemen's and policemen's insurance and pension fund, and shall be kept by said trustee as part of the firemen's and policemen's insurance and pension fund in accordance and as provided by Section 2 [section 13-64 hereof] of this Act.

The words "salary" and "basic salary" whenever used in this Act shall mean the actual salary paid by the City of Chattanooga to regular firemen and policemen in the grade of private or such other comparable starting grade after any probationary period. (Priv. Acts 1949, Ch. 165 § 4; Priv. Acts 1953, Ch. 90, § 1; Priv. Acts 1961, Ch. 222, § 1; Priv. Acts 1969, Ch. 165, § 1; Priv. Acts 1972, Ch. 406, § 1; Ord. No. 8688, § (8), 8-19-86)

Sec. 13.67. [Sum to be collected, paid over to trustee when employee contribution deducted.]

An amount equal to the sum fixed by the board of commissioners, as provided in Section 2 of this Act [section 13.64 hereof], shall be collected by the tax collector and treasurer and paid over to said trustee each month when the contribution by the employees as provided in Section 4 [section 13.66 hereof] is deducted from the payroll. (Priv. Acts 1949, Ch. 165, § 7; Priv. Acts 1969, Ch. 82, § 6; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1)

Sec. 13.68. [Proceeds from sale of unclaimed property to be placed in pension fund.]

If any personal property comes into the possession of the department of fire and police, if the owner cannot be found, or if no person shall claim such property after six (6) months, the property shall be sold, the net proceeds derived from the sale thereof shall be turned over to said trustee to be placed in said special firemen's and policemen's insurance and pension fund, as provided in section 2 and 4 of this Act [sections 13.64 and 13.66 hereof]. (Priv. Acts 1949, Ch. 165, § 6)

Sec. 13.69. Reserved.

Editor's note — Former § 13.69, which pertained to the transfer of certain funds under the prior Act, was repealed by § 1(12) of Ord. No. 8688, enacted Aug. 19, 1968. The repealed provisions derived from Priv. Acts 1949, Ch. 165 § 9.

Sec. 13.70. [Board of directors of pension fund — Created; membership; term of office; vacancies.]

There is hereby created a board to be known as the board of directors of the firemen's and policemen's insurance and pension fund, consisting of six (6) members, three (3) of which shall be from the fire department and three (3) from the police department. The present board of directors as

elected under the provisions of section 7, chapter 509, of the Private Acts of Tennessee for the year 1935, shall continue in office until their respective terms expire. Each year after the passage of this Act on the first Tuesday of September there shall be held an election for the purpose of electing one member of said board from the fire department, and one from the police department, for a term of three (3) years.

Said election shall be held at each of the different firehalls and at police headquarters between the hours of 7:00 a.m. and 7:00 p.m. The votes shall be counted openly and publicly and the firemen and policemen receiving the highest number of votes shall be elected for a term of three (3) years. At no time shall more than one member of any one rank of the fire department be elected to serve as a member of said board, and at no time shall more than one member of any one rank of the police department be elected to serve as a member of said board. If a vacancy should occur in said board for any reason such vacancy shall be filled by the remaining members of said board for the unexpired term. In addition to six (6) members hereinbefore provided for, the mayor, by virtue of this office, shall be a member of said board. (Priv. Acts 1949, Ch. 165, § 10; Priv. Acts 1972, Ch. 406, § 1; Ord. No. 8688, § 1(14), 8-19-86)

Sec. 13.71. [Same — Organization; officers; compensation of secretary.]

As soon as may be following such election the board shall meet and organize. There shall be elected for a term of one year from the membership a president, vice-president and secretary, who shall respectively discharge the customary duties of such office. The secretary shall receive pay for his services, amount of such pay to be fixed by the board, commensurate with the amount of time and work required of him to fulfill his duties. The compensation of each of the members of the board of directors, except the secretary,

shall be fixed from time to time by the board of commissioners, City of Chattanooga, and paid from the fund. The directors shall pay from the fund the fees, charges or expenses for consultants, actuary or legal services as well as such expenses as may be necessary for the administration of the fund. (Priv. Acts 1949, Ch. 165, § 11; Ord. No. 8688, § 1(15), 8-19-87)

Sec. 13.72 [Same – To hear and decide applications for pensions and benefits.]

The said board of directors shall hear and decide all applications for pensions and death benefits under this Act [chapter], and its decision on such applications shall be final and conclusive. (Priv. Acts 1949, Ch. 165 § 12)

Sec. 13.73. [Same – Supervision of retired, disabled, etc., employees.]

Upon organization of the board of directors, the board shall assume supervision of all members of the department of fire and police who have heretofore been placed on the existing pension roll, including the ones placed thereon as the result of a disability or injuries causing disability, and said board, on the advice of two (2) competent physicians, shall determine whether or not such members have again become able to perform their duties and are eligible for reinstatement. In the event the board of directors shall determine, on the advice of competent physicians, that an employee retired on disability is again able to work, then such employee shall be re-employed and placed on active duty. (Priv. Acts 1949, Ch. 165, § 14; Ord. No. 8688, § 1(11), 8-19-86)

Sec. 1374. Pensions for employees disabled not in discharge of duties; death benefits; benefits upon re-employment and final termination.

After an employee of the department of fire and police

has served not less than twenty (20) years and becomes disabled from causes other than those service connected, or as a result of employment elsewhere, he or she may, at the discretion of the board of directors be retired on a pension and paid a sum equal to fifty percent (50%) of the average monthly private's pay as computed over the highest three (3) years of pay during the employee's years of service. After any employee of the department of fire and police has served not less than three (3) years nor more than ten (10) years and becomes disabled, from any causes other than those service connected, or occur as a result of employment elsewhere, and has been dropped from the payroll of the city, such employee may be retired on a partial pension at a sum equal to thirty percent (30%) of the above defined actual salary. If any employee of said department retires on disability from any causes other than those service connected or occur as a result of employment elsewhere, after serving more than ten (10) years and less than twenty (20) years, his pension shall be increased over the thirty percent (30%) for ten (10) years' service the sum of two percent (2%) for each additional year of service over then (10) years and up to twenty (20) years' service.

The term "disabled" or "disability" shall mean a medically determinable impairment which in the opinion of the board prevents such member from meeting the normal and reasonable demands of his regularly assigned job or any other job which the city may offer him for which he is reasonably qualified by experience, training or education.

A plan member will not be eligible for disability retirement benefits if disability is a result of any of the following:

1. Excessive and habitual use by the plan member of drugs, intoxicating liquors or narcotics unless such member is actively and continuously undergoing treatment at an approved clinic or treatment center

for drug addicts and alcoholics.

2. Injury or disease sustained by the plan member while willfully and illegally participating in acts of violence, riots, civil insurrections, or while committing a felony.
3. Injury or disease sustained by the plan member while serving in any Armed Forces or as the result of warfare.
4. Injury or disease sustained by the plan member after his employment has terminated.
5. Injury or disease sustained by the plan member while working for anyone other than the city and arising out of such employment.
6. Intentional, self-inflicted injury.

Before approving any disability retirement request, the board may request proof of disability based on the verification by one or more licensed physicians selected by the board that the member has become disabled in accordance with the pension fund provisions. The board may require continued medical examinations of disabled plan member from time to time thereafter at its discretion.

At the death, hereafter, of any retired employee of the department of fire and police, who was a participant in the Firemen's and Policemen's Insurance and Pension Fund, there shall be paid to his or her beneficiary or beneficiaries the sum of ten thousand dollars (\$10,000.00).

Upon re-employment by the city of any person who is receiving benefits under this or a former plan, such person shall be removed from the pension rolls and not be paid any benefit until such employment ceases when, at such time, he shall again be placed on the pension rolls and receive, if eligible, the benefit theretofore being paid or such greater benefit to which he may then be entitled by reason of participation hereunder during the period of such re-employment in the fire and police department. (Priv. Acts 1949, Ch. 165, § 13; Priv. Acts 1963, Ch. 153, § 1; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1; Ord.

No. 8348, § 1(2), 8-14-84; Ord. No. 8688, § 1(13), 8-19-86)

Sec. 13.75. [Maximum pension benefits.]*

The full amount of pension any employee shall be entitled to receive shall be three hundred seventy-five dollars (\$375.00) per month, or sixty percent (60% of the average monthly private's pay as computed over the highest three (3) years of pay during employee's years of service, whichever is greater. In computing the time served by an applicant for a pension, if such applicant has been employed in other departments of the City of Chattanooga, and has been employed as much as eight (8) years in the department of fire and police, such applicant shall be given credit for the time served in such other departments; provided, however, that such member shall pay into the pension fund the necessary amount to cover the years for which he is given credit, and if he fails to pay such amount into the fund he shall be treated as a new employee when he entered the fire and police department. If such employee has contributed to another pension fund, upon such employee transferring to the department of fire and police, the municipal pension fund to which he has contributed shall pay over to the Chattanooga firemen's and policemen's insurance and pension fund the total contribution by both the employee and the city to said other municipal pension fund, and the employee shall be entitled to credit for the time served in such other department represented by the contributions so transferred.

Notwithstanding any other provisions hereof, any participant, otherwise eligible for retirement, who elects to retire within ninety (90) days of the date on which this Act is approved by resolution of the Board of Commissioners of the City of Chattanooga, shall receive pension of four hundred ten dollars (\$410.00) per month. Notwithstanding any other provisions hereof, there is hereby established a minimum pension of three hundred dollars (\$300.00) for retired firemen and policemen who have heretofore retired

with a minimum of twenty-five (25) years' service. (Priv. Acts 1949, Ch. 165, § 15; Priv. Acts 1953, Ch. 90, § 2; Priv. Acts 1961, Ch. 222, § 2; Priv. Acts 1963, Ch. 153, § 2; Priv. Acts 1967, Ch. 300, § 1; Priv. Acts 1969, Ch. 165, § 1; Priv. Acts 1971, Ch. 149, § 1; Priv. Acts 1972, Ch. 406, § 1; Priv. Acts 1972, Ch. 407, § 1; Ord. No. 8348, § 1(4), 8-14-84)

***Editor's note** — This section was retained as it existed prior to amendment by Ordinance No. 8688, enacted Aug. 19, 1986 and approved at referendum on Nov. 4, 1986. Inasmuch as Item 10 and Item 22 of § 1 of Ord. No. 8688 both purported to amend Section 13.75, at the request of the city both such amendments are set forth herein immediately following this section. The city attorney has advised that a declaratory judgement suit or a further amendment to the Charter will probably be required to resolve the legal questions resulting from such amendments.

[Sec. 13.75. Maximum pension benefits. As amended by Ordinance No. 8688, Section 1, Item 10.]*

Item 10. The Private Acts 1949, Chapter 165, Section 15, shall be deleted in its entirety and replaced by the following:

"The amount of a full pension any employee who has served at least twenty-five (25) years shall be entitled to receive shall be Three Hundred Seventy-Five Dollars (\$375.00) per month, or sixty per cent (60%) of the average monthly private's pay as computed over the highest three (3) years of pay during employee's years of service, whichever is greater.

In the event an employee postpones retirement after becoming eligible following twenty-five (25) years of service, he or she shall receive an increased pension benefit of one point eight per cent (1.8%) for each additional year not to exceed five (5) years but, after a member has reached age fifty-five (55), and completed thirty (30) years of service, his or her benefits shall be based on the amount of the basic salary in effect at the time the employee has reached age fifty-five (55) and completed thirty (30) years

of service and notwithstanding any provisions to the contrary, employee deductions from those who have reached age fifty-five (55) and completed thirty (30) years of service, shall be no more than the fixed percentage of the employee's basic salary in effect at the aforementioned age fifty-five (55) and completion of thirty (30) years of service.

In computing the time served by an applicant for a pension, those applicants who were employed as much as eight (8) years in the police of fire departments on the date on which this Act is approved may receive credit for the time served in such other departments of the City of Chattanooga; provided, however, that any such person who elects to receive credit for time served in such other departments of the City, shall pay into the Firemen's and Policemen's Pension Fund before June 1, 1987, such amounts that would have been contributed by both the employee and the City into the Firemen's and Policemen's Insurance and Pension Fund for the years served in such other department at six per cent (6%) interest, compounded annually from the end of each year of such uncredited service.

The Board of Commissioners, City of Chattanooga, in its discretion, only after a recommendation has been received by the Board of Directors of the Firemen's and Policemen's Insurance and Pension Fund, may, by ordinance passed on three separate readings, increase such pension benefits in this section or any section of the Private Acts of 1949, Chapter 165, as amended; provided that such increase is not inconsistent with sound actuarial principles, methods and actuarial assumptions." (Ord. No. 8688, § 1(10), 8-19-87)

[Sec. 13.75. Maximum pension benefits, As amended by Ordinance No. 8688, Section 1, Item 22.]*

Item 22. That Private Acts 1949, Ch. 165, as amended, be amended by deleting from the last sentence of Section

15, the words and figures "Three Hundred Dollars (\$300.00)" and substituting in lieu thereof the words and figures "Three Hundred Thirty Dollars (\$330.00)". (Ord. 8688, § 1,(22), 8-19-87)

Sec. 13.76. [Pension for employees disabled in discharge of duties.]

If any employee of the department of fire and police while engaged in the discharge of his duties shall receive injuries resulting in such employee becoming disabled from performing his duties, he shall be placed on a full pension and paid the amount heretofore provided, regardless of the length of time served; provided, however, that before such injured employee shall be retired on a pension the board of directors shall have him examined by competent physicians to determine whether or not such disabled employee is unable to discharge his regular or any other duty that may be required of him by officials of the department of fire and police; provided, further, that no disabled employee shall be retired on a pension because of injury until six (6) months after such injury was received. Any employee retired on a pension because of an injury, in event of recovery to the extent that he is again able to perform any duty required of him, shall be removed from the pension roll and reinstated in service. If such employee who has been placed upon the pension roll refuses to allow himself to be examined by physicians selected by the board, the board shall have the right to suspend his pension until such time as he may permit an examination by the physicians selected by the board.

In the event any employee now contributing to the firemen's and policemen's insurance and pension fund dies after the passage of this amendment from any causes other than those service connected leaving a widow surviving, said widow shall receive two hundred dollars (\$200.00) per month so long as she remains his widow provided she is not receiving any other benefits under this pension plan.

A widow of a participant who was either (a) retired under this pension system, or (b) employed in the department at the time of his death, regardless of the date of his death, shall, hereafter, until her death or re-marriage, receive two hundred dollars (\$200.00) per month, provided that she is not receiving any other benefits under this pension system.

A widow of a participant who, after 1959, is killed, receives or has received injuries while engaged in the performance of his duties resulting in his death within six (6) months thereafter, shall receive the pension to which such deceased participant would have been entitled at the time of his death, had he then been eligible for retirement, until her death or re-marriage; if said participant is not survived by a widow but is survived by a child or children under eighteen (18) years of age, or if the widow of such deceased participant should thereafter die leaving a surviving child or children shall receive fifty dollars (\$50.00) per month until the age of eighteen (18) years is reached. Provided that the total amount payable to all of such children shall not exceed the maximum amount the deceased participant would have received as a pension; if such participant is not survived by a widow or child or children under eighteen (18) years of age but is survived by a mother solely dependent upon the deceased participant, the mother shall, so long as she has no other means of support, receive the same benefits which a widow would receive under this provision. (Priv. Acts 1949, Ch. 165, § 16; Priv. Acts 1969, Ch. 165, §1; Priv. Acts 1971, Ch. 149, §1; Priv. Acts 1972, Ch. 406, §1; Ord. No. 8348, § 1(3), 8-14-84; Ord. No. 8688, § 1(20), 8-19-86)

Sec. 13.77. [Portion of employee's contributions to be returned when service of employee terminated for causes beyond his control or death where no benefits provided by law.]

If an employee of the department of fire and police participating in this pension fund shall cease to be

employed for any reason, including death, and neither he or his beneficiaries shall be entitled to any pension provided by law, then such employee or his beneficiaries, shall be entitled to receive from said fund the entire amount of money which said employee has contributed to the firemen's and policemen's insurance and pension fund, provided, however, that such employee shall not be paid such money until after a period of ninety (90) days from said termination or at such earlier date approved by the board. Any such employee withdrawing monies from the pension fund pursuant to the provisions hereof shall not be eligible for reinstatement or rehiring in the department of fire and police as a policeman, fireman or detective after such money has been paid to him, either directly, or by transfer from another department of municipal government, until he shall have paid back into said pension, however, that, as to any employee of the department of fire and police employed as a policeman, fireman, or a detective, at the date of the passage of this Act, who has heretofore withdrawn monies from the pension fund under the authority of previous provisions of the Act, and who had not repaid said money to the pension fund prior to the passage hereof, such employees shall have ninety (90) days after the approval of this Act by the Board of Commissioners of the City of Chattanooga, within which to refund such monies to the pension fund. Should any such employee not refund such monies to the pension fund within the time allowed, such employee shall cease to be eligible for employment by the department of fire and police, and his employment shall thereupon cease and terminate. (Priv. Acts 1949, Ch. 165, § 17; Priv. Acts 1965, Ch. 161, § 1; Priv. Acts 1967, Ch. 298, §1; Ord. No. 8688, § 1(17), 8-19-86)

Sec. 13.78. [Benefits exempt from debts of employee, may not be garnished, etc.]

The insurance or pension fund, either before or after its distribution by the trustee to disabled or retired employees

of said fire and police department, and their widows, or the beneficiary of any deceased employee, shall not be subject to attachment, garnishment, execution or other legal process, but the same shall be received by such employee or beneficiary, free from debts, judgements and demands of such employee or beneficiary. (Priv. Acts 1949, Ch. 165, § 18)

Sec. 13.79. Reduced deferred pension for employees with at least ten years of service.]

A participant who has at least ten (10) years of service and whose employment is terminated for whatever reason, may elect not to receive a refund and be eligible to receive a reduced deferred pension.

Such employee shall receive at age fifty-five (55), if he or she has served not less than ten (10) years on the date of termination, twenty-five per cent (25%) of the pension he or she could have received if employed for twenty-five (25) years at the time of termination, and if any employee is terminated after after serving more than ten (10) years and less than twenty-five (25) years, the vested per cent of the pension he or she could have received if employed for twenty-five (25) years at the time of termination shall be increased by five (5%) percent for each additional year of service, up to twenty-five (25) years of service. (Priv. Acts 1949, Ch. 165, § 19; Ord. No. 8688, § 1(18), 8-19-87)

Sec. 13.80. Service required of new employees.]

All participants, regardless of when they were employed or became participants, shall be required to serve twenty-five (25) years before they are eligible for retirement, except as provided for in sections 13 and 16 [sections 13.74 and 13.76 hereof]. (Priv. Acts 1961, Ch. 222, § 3; Priv. Acts 1971, Ch. 149, § 1)

Sec. 13.81. [Records of retired employees to be kept by secretary.]

There shall be kept by the secretary of the said board a record or document to be known as the list of retired firemen and policemen and their widows. This record or document shall give full and complete record of all pensions being paid at the time of the organization of the board of directors and of the action of the board of directors in the future in retiring any and all persons under this Act. Such records shall give names, dates of employment in the department, date of retirement, and the reasons therefor as to all persons retired. All employees seeking retirement or pension for permanent disability shall make application to the board of directors on a form to be provided by the said board, which application shall be accompanied by proof of facts entitling retirement, or proper medical proof of disability; all applications and proof shall be retained in the custody of the board of directors. Due notice of application shall be recorded by the secretary and the applicant shall be notified five (5) days in advance of the hearing by the board on his application. (Priv. Acts 1949, Ch. 165, § 22; Ord. No. 8688, § 1(19), 8-19-87)

Sec. 13.82. [Designation of beneficiaries.]

Every employee of the department of fire and police having beneficiaries who, in the event of their death, may be entitled to any benefits of this Act shall file with the board the names of his beneficiaries in the order of their precedence, stating the relationship of each to said employee; provided, however, the failure to file the names required by this section shall not deprive the employee or his legal beneficiaries of any rights under this Act. (Priv. Acts 1949, Ch. 165, § 23)

Sec. 13.82.1. Cost-of-living adjustments to pension benefits.

Any benefits payable under this plan to or on account

of a Participant who retires on or after January 1, 1981, shall be subject to a cost-of-living increase in the amount otherwise payable, starting January 1, 1982, and each January 1, thereafter. The monthly amount of each cost-of-living increase shall be determined as the "cost-of-living percentage" multiplied by the benefit payable in the month preceding such increase. The "cost-of-living percentage" shall be the percentage increase in the Consumer Price Index as of the most recent September 30 over said index one year before that date, subject however to a 3% maximum. If said percentage increase is negative for any year, it shall be deemed to be zero for purposes of this section. Once a cost-of-living increase has been added to a benefit, it shall never be reduced thereafter.

Notwithstanding any provision in this section to the contrary, cost of living increases to or on account of a participant who retires after January 1, 1988, except those who are totally disabled to perform the duties of any occupation for which he is reasonably capable by means of training, education or experience, shall not be paid until the recipient reaches the age of fifty-five (55). (Ord. No. 7714, § 1(2), 8-19-80; Ord. No. 8688, § 1(16), 8-19-87)

Editor's note — Ordinance No. 7714 added an unnumbered section to Priv. Acts 1949, chapter 165; thus, codification herein as section 13.82.1, was at the discretion of the editors.

Sec. 13.82.2 Optional retirement benefits.

(1) *Election of optional retirement benefits.* A participant entitled to a retirement benefit may elect, subject to written notice of his election filed with or prior to his application for retirement to which the participant may be entitled and subject to such requirements as the board may establish, to have a retirement benefit payable under one of the options hereinafter set forth in lieu of all other benefits he is otherwise entitled to receive. The benefits shall be paid in accordance with the terms of the option elected. The participant may revoke his election of an

option and make a new election, subject to written notice of his new election, subject to written notice of his new election filled with or prior to his application for retirement and subject to such requirements as the trustee may establish. Election of any optional retirement benefit shall be approved by the board and must be made by the participant in writing in such manner and form as the board may require.

(2) *Description of optional retirement benefits.* The amount of any optional retirement benefit set forth below shall be the actuarial equivalent of the amount of benefit that would otherwise be payable to the retired participant.

Option A: 120 Payments Certain and Life Option. A decreased retirement benefit payable for life with the first one hundred twenty (120) payments guaranteed. Any guaranteed payments due after the death of the retired participant shall be payable to his designated beneficiary, if any, who survives the retired participant, or to the estate of the retired participant if there is no surviving designated beneficiary.

Option B: Joint and Survivor Option. A decreased retirement benefit payable to the retired participant for life which shall continue after his death to his surviving beneficiary in the same amount as that payable to the retired participant.

Option C: Modified Joint and Survivor Option. A decreased retirement benefit payable to the retired participant for life, fifty (50) percent (or some other percent that is less than one hundred (100) percent) of which shall continue after his death to his surviving beneficiary for life.

(3) [*Payment to beneficiaries.*] If a participant who is an employee of the fire and police department on and after the date on which this amendment is approved dies after he has completed twenty-five (25) years of credited service in the fire and police department, any option he may have

elected, in lieu of his otherwise retirement benefit, shall be payable as though he had been entitled to have such optional benefit commence on his date of death; and, in the event such a participant has not elected any option prior to his death, a benefit shall be payable to the deceased participant's surviving spouse, if any, as though he had elected Option A. However, a beneficiary entitled to receive any optional benefits in accordance with the provision of Ordinance 8348, shall not receive any other periodic benefits under this pension system. (Ord. No. 8348, § 1(5), 8-14-84; Ord. No. 8688, § 1(21), 8-19-86)

Editor's note — Ordinance No. 8348 added an unnumbered section to Priv. Acts 1949, chapter 165; thus, codification herein as section 13.82.2, was at the discretion of the editors.

Sec.13.83. [InclusionofemployeesexcludedbythisAct.]

All employees of the department of fire and police who are not contributing to the insurance and pension fund and excluded from provisions of this Act, may if they so elect become members of the salaried employee's pension system of said city and have all the rights and benefits and subject to all the objections imposed upon other members of said system. All persons hereafter employed to fill the positions now held by the employees excluded from the fireman's and policeman's insurance and pension fund shall become members of the salaried employee's pension system, all persons hereinafter employed in said department including safety-lane employees, to fill the positions now held. All persons hereafter employed by the fire and police department except regular firemen and policeman shall become members of the salaried employee's pension system. (Priv. Acts 1961, Ch. 222, § 4)

Sec. 13.84. [City court costs for benefit of firemen's and policemen's insurance and pension fund.]

The sum of five dollars (\$5.00) [shall] be added as and in the nature of court cost to the cost incurred in the City

Court of the City of Chattanooga on all forfeitures of fines or monies for or on conviction for violation of any city ordinances and that said increase in court cost for the City Court of the City of Chattanooga be collected by the clerk of said court and paid over to the treasurer of the City of Chattanooga who will account for said funds and pay same over to the trustees of the firemen's and policemen's insurance and pension fund together with all other monies properly collected for credit to said fund as herein before set out. (Priv. Acts 1969, Ch. 165, § 1)

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