

EMERGENCY

City of Cincinnati

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An Ordinance No. 275

- 2024

MODIFYING the provisions of Chapter 203, "Employees' Retirement System," of the Cincinnati Municipal Code by **AMENDING** Sections 203-0, "Legislative Finding," and 203-44, "Health Care Benefits for Membership Dates On and After January 9, 1997," to clarify that subsequent court orders in the case of Sunyak, et al. v. City of Cincinnati, et al., Case: 1:11-cv-00445-MRB, in the United States District Court, Southern District of Ohio, Western Division, supersede the provisions of Chapter 203 of the Cincinnati Municipal Code and to implement the new points system for health care premiums for certain retirees as agreed to by the parties to the collaborative settlement agreement.

WHEREAS, in 2015 the City of Cincinnati entered into a collaborative settlement agreement ("CSA") to resolve claims made by members of the Cincinnati Retirement System in the case of Sunyak, et al. v. City of Cincinnati, et al. ("Pension Litigation"), Case: 1:11-cv-00445-MRB, in the United States District Court, Southern District of Ohio, Western Division; and

WHEREAS, the CSA required the parties to the Pension Litigation to continue to negotiate several remaining issues after the execution of the CSA, including changes to the percentages of healthcare premiums that certain retired members are required to pay for healthcare coverage ("Points System"); and

WHEREAS, the parties to the Pension Litigation have agreed on changes to the Points System and the Court has entered an order in the Pension Litigation requiring that the agreed upon changes be implemented; and

WHEREAS, the Cincinnati Retirement System desires to revise the Cincinnati Municipal Code to conform with the Court order and to make clear that subsequent orders from the Court related to the Pension Litigation supersede the provisions of the Municipal Code; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That existing Sections 203-0, "Legislative Finding," and 203-44, "Health Care Benefits for Membership Dates On and After January 9, 1997," of the Cincinnati Municipal Code are amended to read as follows:

Sec. 203-0. Legislative Finding.

The Council established a Retirement System for employees of the City of Cincinnati by the passage of Ordinance No. 412-1931 on June 22, 1931, and the Retirement System became operational on August 1, 1931. This system was established as a defined benefit plan and provides for retirement benefits, including survivor benefits, based on age, years of service and

wages. The system has been continuously maintained since its establishment, and has been modified from time to time in order to define and modify, as appropriate, benefits provided to its Members. The system is overseen by a Board of Trustees, which operates under the provisions of Article XV of the Adm. Code of the City. The trustees administer the system and invest its assets. Trustee duties are to be performed solely in the interests of the Members and their Optionees and Beneficiaries, for the exclusive purpose of providing benefits to Members and their Optionees and Beneficiaries and defraying the reasonable expenses of administering the system. Such duties are to be performed with the care, skill, prudence, and diligence more particularly described in this Chapter. The system is recognized by the State of Ohio. The system is a qualified benefit plan under the laws and regulations set forth in the U.S. Internal Revenue Code.

There are some Members of the system who are current or former employees of the University of Cincinnati and University Hospital, which institutions were formerly, in whole or in part, under the jurisdiction of the City. There are also some Members of the system who are current or former employees of Hamilton County, which employee functions were transferred from the jurisdiction of the City of Cincinnati to Hamilton County over the years. There are specific Ohio Revised Code provisions that recognize the Membership of these non-City employees in the Cincinnati Retirement System.

On May 7, 2015, a Collaborative Settlement Agreement was entered in the case of Sunyak, et al. v. City of Cincinnati, et al. (the City of Cincinnati Pension Litigation), Case: 1:11-cv-00445-MRB, in the United States District Court, Southern District of Ohio, Western Division. To the extent that there is any conflict between the provisions of Chapter 203 and the terms of the Collaborative Settlement Agreement or any subsequent court orders in the City of Cincinnati Pension Litigation, the terms of the Collaborative Settlement Agreement and any subsequent Pension Litigation court orders shall govern.

Sec. 203-44. Health Care Benefits For Membership Dates On and After January 9, 1997.

- (a) In addition to other benefits provided in this chapter, the Retiree health care benefits described in this Section shall be provided to the following persons:
 - (i) A Member whose most recent membership enrollment date is on or after January 9, 1997 and on or before December 31, 2015, and who:
 - (A) Retired on or after August 1, 2011 and on or before January 1, 2016 with 15 years of Membership Service and who is not entitled to benefits under Section 203-42 or 203-43, or
 - (B) Retires on or after February 1, 2016 and who is at least 60 years of age with a minimum of 20 years of Membership Service and who is not otherwise eligible for health care benefits under Section 203-42 or Section 203-43, or

- (C) Retires on or after February 1, 2016 with 30 or more years of Creditable Service consisting of a minimum of 20 years of Membership Service and who is not otherwise entitled to benefits under Section 203-42 or Section 203-43.
- (ii) Persons receiving the benefits of a retirement optional allowance under Section 203-63 of this Chapter, and who are eligible for benefits under Section 203-48 of this Chapter, provided that the Member satisfied the requirements of paragraph (i) above at the time the Member retired and who is not otherwise entitled to benefits under Section 203-42 or Section 203-43.
- (iii) Members whose most recent membership enrollment date is on or after January 9, 1997 and who are not covered by the provisions of the Collaborative Settlement Agreement and who retire on or after February 1, 2016 and on or before January 1, 2017 and who have at least 15 years of Membership Service.
- (iv) Each surviving spouse, and each eligible dependent child or orphan of a deceased Active Member who would have been eligible for benefits under this section, who is receiving survivor benefits as provided in Section 203-49 of this Chapter, provided that:
 - (A) the deceased Active Member's most recent membership enrollment date is on or after January 9, 1997 and on or before December 31, 2015; and
 - (B) a surviving spouse may only obtain benefits if the surviving spouse possessed a valid marriage certificate or other proof of marriage recognized by the State of Ohio, dated prior to the date of the Active Member's death. However, if the deceased Active Member dies on or after January 1, 2019, the surviving spouse is eligible for coverage only if the spouse was not legally separated from the deceased Active Member at the time of the deceased Active Member's death.

Accordingly, the provisions of Section 203-33 of this Chapter, which provide for Service Retirement Allowances after vesting, shall not entitle Members who are so vested to health care benefits under the provisions of this Section unless such Members also qualify for health care benefits under the provisions of this Section.

- (b) The benefits to be provided under this Section are:
 - (i) Medical and prescription drug coverage similar to the most favorable plan available to active Employees, excluding Police, Fire, and Building & Trade unions; and subject to Member premium contributions described in (c) below; and

- (ii) Dental and vision insurance coverage shall be purchased and fully paid for by the Retiree, their surviving spouse, and their eligible dependents or orphans.
- (iii) Any person eligible to receive healthcare coverage under this Chapter who is eligible for coverage under Medicare shall apply for Medicare coverage and provide documentation to the Retirement System that is acceptable to the Retirement System that confirms either acceptance or denial for such coverage. To the extent allowable under applicable federal law, coverage under this Section for any person who is eligible to be covered under Medicare shall be secondary to coverage of such person under Medicare. The benefit payable under this Section shall be reduced by the greater of: (a) the amount actually paid by Medicare Part A and Part B; or (b) the amount Medicare would pay if the person were enrolled in Medicare Part A and/or Part B. A person is considered eligible for Medicare for these purposes during any period such person has coverage under Medicare Part A or Part B or, while otherwise qualifying for coverage under Medicare Part A or Part B, does not have such coverage under Medicare Part A (premium free) or Part B solely because such person has refused, discontinued, or failed to make any necessary application or applicable payment for Medicare Part A or Part B coverage.
- (c) Except for dental and vision insurance coverage, the percentage of the full funding rates, or premiums, for medical and prescription drug coverage to be paid by the Retirement System on behalf of persons entitled to benefits under this Section shall be based on a formula consisting of the sum of (i) the number of the Member's full years of Creditable Service, and (ii) the Member's age at the earlier of the Member's Retirement date or the date that the Member ceased to be an Active Member, with each such full year of Membership Service and each such year of age at Retirement date counting as one point each. Years of age at Retirement shall mean years of age at the birthday immediately preceding the earlier of the Member's Retirement date or the date that the Member ceased to be an Active Member. The number of full years of Creditable Service and the years of age at Retirement date shall be added together and shall result in the payment of medical and prescription drug coverage in the following percentage amounts:

~~95~~90% of full cost or full premiums for ~~90~~ 85 points

~~75~~80% of full cost or full premiums for 80 to ~~89~~84 points

~~50~~60% of full cost or full premiums for 70 to 79 points

~~25~~40% of full cost or full premiums for 60 to 69 points

If a Member's total points are less than 60, the Member is only eligible for individual medical and prescription drug coverage. The Retirement System will pay 25% of the premium for individual medical and prescription drug coverage. No spouse or family coverage is available.

A Member's years of Creditable Service shall be used for the purpose of determining the points of a Member under this subsection (c); but will not include years of Creditable Service credited under a previous Service Retirement Allowance provided under this Chapter.

- (d) If a Member leaves the City service prior to Retirement and is entitled to a deferred Service Retirement Allowance and such Member is entitled to benefits under this Section, no benefits shall be provided to the Member until the Member reaches the later of their normal retirement date, or their Medicare eligibility age.
- (e) Any Inactive Member who is rehired on or after January 1, 2016 shall not be eligible for benefits under this Section.
- (f) The director of retirement shall adopt rules and procedures necessary to implement this Section.

Section 2. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to implement the changes to the health points system as agreed to by the parties to the Collaborative Settlement Agreement.

Passed: August 7, 2024

Jan Michele Lennear
Vice Mayor

Attest: [Signature]
Clerk

New language underscored. Deletions struck through.

I HEREBY CERTIFY THAT ORDINANCE NO. 275-2024
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 8/20/2024
Melissa Antley
CLERK OF COUNCIL