



BOSTON CITY COUNCIL

Committee on Government Operations

Gabriela Coletta, Chair

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REPORT OF COMMITTEE CHAIR

May 8, 2024

Dear Councilors,

Docket #0263, Petition For A Special Law Re: An Act Regarding The Disability Pension For Brian Mcpherson, was sponsored by Councilor Flynn and referred to the Committee on January 31, 2024.

Summary of Legislation:

Docket #0263 is a Home Rule Petition (HRP) seeking to increase Brian McPherson's accidental disability retirement benefits. McPherson is a retired Lieutenant Deputy Sheriff of the Suffolk County Sheriff's Department.

The petition seeks to revise McPherson's disability benefits by increasing the annual amount of pension payable, the annual amount that may be earned in addition to McPherson's annual pension allowance, reimbursement compensation, and benefits allowance and disbursement for his beneficiaries.

Section 1. (b)

This section of the proposed HRP seeks to increase the annual amount of pension payable to McPherson from the regular rate of compensation he was paid in 2008, to the regular rate of compensation he would have been paid had he not been injured. Currently, the annual amount of pension payable to McPherson is based on the rate of compensation he earned in 2008 when he was injured.

Section 1. (c)

This section of the proposed HRP seeks to increase the annual amount that McPherson may earn in addition to his annual pension payments. Currently, Chapter 32, section 91A of the General Laws states, "If such earnings exceed an amount which when added to the member's retirement allowance is greater than the amount of regular compensation which would have been payable to such member if such member had continued in service in the grade held by him at the time he was retired plus \$15,000, said member shall refund the portion of his retirement allowance for such preceding year equal to such excess and until such refund is made, his pension or retirement allowance shall be held as security therefor." The proposed HRP would revise this provision for McPherson to allow him to earn up to one-half the amount of his retirement allowance without refund penalty.

Section 1. (d)

This section of the proposed HRP increases the yearly amount of pension payable to McPherson upon attaining the mandatory retirement age to 100%, as opposed to 72% as stipulated in Chapter 32, section 7 of the General Laws.

Section 2.

This section of the proposed HRP provides for reimbursement compensation, in accordance with sections 100 and 100B of Chapter 41 of the General Laws, which would authorize indemnification for McPherson, or, in the event of his death, his widow, or if he leaves no widow, his next of kin for all reasonable hospital, medical, surgical, chiropractic, nursing, pharmaceutical, prosthetic and related expenses and reasonable charges for chiropody (podiatry) incurred as the natural and proximate result of an accident occurring or of undergoing a hazard peculiar to his employment, while acting in the performance and within the scope of his duty without fault of his own.

Section 3.

This section of the proposed HRP requires the Boston Retirement Board to pay McPherson the amount credited to him as accumulated total deductions in the annuity savings fund of the Boston Retirement Board as of the effective date of the Special Act if passed by the Legislature.

Section 4. and Section 5.

Under section 12 of Chapter 32 of the General Laws, retirement allowance shall be payable during the lifetime of the member and shall cease upon his death except as otherwise provided for in the option elected. The General Laws describe multiple options to choose from. Sections 3 and 4 of the proposed HRP request to elect the following plan instead: that the Retirement Board of the City of Boston pay to the spouse an annuity in the amount of 75 % of the amount of the pension which otherwise would have been payable to McPherson until the spouse's death subject to section 103 which allows for cost of living increases for any county employee or their widow/next of kin. Further, In the event that both Brian McPherson and his spouse, to whom he was married on the date upon retirement, die before their children reach the age of eighteen, under this proposed HRP, the payments that would otherwise have been made to his spouse shall be payable, in equal shares, to each surviving children under the age of 18; provided, however, that payments shall continue for the benefit of a surviving child 18 years or older who, on or before the date of death of Brian McPherson or his spouse to whom he was married on the date upon retirement, whichever is later, had been medically determined to be permanently physically or mentally incapacitated from earning or for the benefit of a child under the age of 22 who is enrolled as a full-time student as determined by the criteria of the educational institution. This language falls in line with other "allowance" provisions under section 7 of Chapter 32, Conditions for Accidental Disability Allowance.

Information Gathered at the Hearing:

The Committee held a hearing on April 18, 2024. The Chair was joined by Councilors Louijeune, Flynn, and Murphy.

The Committee heard testimony from the petitioner Brian McPherson, who testified as to the incident that led to his injury, his efforts to recover and return to work, his eventual application for disability retirement benefits in 2009, which was approved retroactively in 2011, and the resulting financial impact which has motivated him to seek the requested increase described in Docket #0263. While in the performance of his duties on May 13, 2008, McPherson sustained serious injuries and testified that he was forced to retire at age 37. McPherson explained that he had a successful career in the Suffolk County Sheriff's Department, holding various positions. However, in 2008, while responding to a fight between inmates, he stated he was violently attacked and suffered permanent injuries. As a result, he was medically discharged and stated that medically, he was forced to retire as physicians advised him that the injuries he sustained were permanent. McPherson emphasized the financial impact this has had on his family, as his capped salary has led to the loss of overtime pay and the inability to work part-time jobs. He also mentioned the strain

on his children, who have witnessed his medical struggles and the financial challenges the family continues to face.

With regard to the request for an increase to 100% of his yearly annual pension allowance, the Committee discussed potentially including language that allowed for flexibility in the percentage increase. The Committee expressed support for landing on language that would ensure the HRP aligns with the goals of providing McPherson with a fair and adequate disability pension.

Summary of Amendments

Pursuant to M.G.L c. 32 § 5 (2) (c), which limits the maximum pension payable to 80% of the member's final average salary (the average of three consecutive years of the members highest annual salary), I recommend the following amendments:

SECTION 1.

(d) Upon attaining the mandatory retirement age for a Lieutenant Deputy Sheriff of the Suffolk County Sheriff's Department, Brian McPherson shall receive a pension pursuant to Section 7 of said Chapter 32, a yearly amount of pension equal to ~~100 percent~~ **80%** of the annual rate of the compensation he was receiving on the day before he reaches the mandatory retirement age for a Lieutenant Deputy Sheriff of the Suffolk County Sheriff's Department.

Recommended Action:

The Chair of the Committee on Government Operations, to which the following was referred:

Docket #0263, Petition For A Special Law Re: An Act Regarding The Disability Pension For Brian Mcpherson,

submits a report recommending that this docket **ought to pass in an amended draft.**



Gabriela Coletta, Chair
Committee on Government Operations