



BOSTON CITY COUNCIL

Committee on Government Operations
Gabriela Coletta Zapata, Chair

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REPORT OF COMMITTEE CHAIR

August 7, 2024

Dear Councilors,

Docket #0995, Petition For A Special Law Re: An Act Regarding The Disability Pension For Richard Lopez, was sponsored by Councilor Enrique Pepén and referred to the Committee on June 12, 2024. This docket was filed on behalf of Richard Lopez (petitioner).

The Committee held a hearing on July 18, 2024. The Chair was joined by Councilors Enrique Pepén and Ed Flynn. The Committee received the following documentation from the Petitioner: Petitioner Summary; Incident Reports; Application for Retirement to the Boston Retirement Board; Physician Statement; PERAC Regional Medical Panel Certification; Employer Statement; and Relevant Medical Records.

Petitioner Summary:

Richard Lopez began his firefighting career in 1996 in Rhode Island while awaiting the opportunity to join the Boston Fire Department, which he successfully did in July 2000. The Petitioner's career took a turn on June 10, 2006, during a rescue operation at a building fire where he sustained a shoulder and neck injury while carrying an incapacitated individual. Despite undergoing right shoulder arthroscopic surgery, and completing multiple rounds of physical therapy, Petitioner continued to experience pain, stiffness and weakness in his shoulder, prompting him to apply for Disability Retirement in 2007. Petitioner's application for accidental disability retirement was approved in 2008. Petitioner testified that he is seeking an increase in his pension payments as his persistent pain, decreased range of motion and unpredictable migraines are debilitating and have left him unable to take on the commitments of a job of any kind.

Summary of Legislation:

Docket #0995 is a Home Rule Petition (HRP) seeking to increase Richard Lopez's accidental disability retirement benefits. Petitioner is a retired City of Boston Firefighter.

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

Section 1. (b)

This section of the HRP seeks to increase the annual amount of pension payable to Petitioner from the regular rate of compensation he was paid in 2007, to the regular rate of compensation he would have been paid had he not been injured. Currently, the annual amount of pension payable to Petitioner is based on the rate of compensation he earned in 2007 when he was injured.

Section 1. (c)

This section of the HRP seeks to increase the annual amount that Petitioner may earn in addition to his annual pension payments. Currently, **M.G.L. c.32, s.91A** 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 HRP would revise this provision for Petitioner 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 HRP increases the yearly amount of pension payable to Petitioner upon attaining the mandatory retirement age to 80%, as opposed to 72% as stipulated in **M.G.L. c.32 s.7**. Under **M.G.L. c. 32 § 5 (2) (c)**, the maximum pension payable is limited to 80% of the member's final average salary

Section 2.

This section of the HRP provides for reimbursement compensation, in accordance with **M.G.L. c.41 s.100 and 100B**, which would authorize indemnification for Petitioner, 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 HRP requires the Boston Retirement Board to pay Petitioner 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 **M.G.L. c.32 s.12**, 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. These sections of the 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 Lopez until the spouse's death subject to **M.G.L. c.32 s.103** which allows for cost of living increases for any county employee or their widow/next of kin. Further, In the event that both Petitioner 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 Petitioner 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 aligns with other "allowance" provisions under **M.G.L. c.32 s.7**.

Recommended Action:

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

Docket #0995, Petition For A Special Law Re: An Act Regarding The Disability Pension For Richard Lopez,

submits a report recommending that this docket **ought to pass**.

A handwritten signature in black ink, appearing to read 'Gabriela Coletta', with a stylized flourish at the end.

Gabriela Coletta Zapata, Chair
Committee on Government Operations