



BOSTON CITY COUNCIL

Committee on Government Operations
Ricardo Arroyo, Chair

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REPORT OF COMMITTEE CHAIR

August 31, 2022

Dear Councilors:

Docket #0458, Petition for a Special Law Re: An Act Regarding the Disability Pension for Elaina McAlister, was referred to Committee on March 30, 2022, and sponsored by Ed Flynn; and ***Docket #0510, petition for a special law re: Petition for a Special Law re: An Act regarding the Disability Pension for Kurt Stokinger***, was referred to Committee on April 13, 2022, and sponsored by Councilors Ed Flynn, Erin Murphy, Michael Flaherty. The Committee held a hearing on July 6, 2022 and a working session on August 24, 2022. ***Docket #0955, Petition for a Special Law Re: An Act Regarding the Disability Pension for Matthew Morris; Docket #0956, Petition for a Special Law Re: An Act Regarding the Disability Pension for Harry Jean; Docket #0957, Petition for a Special Law Re: An Act Regarding the Disability Pension for Terry Cotton; Docket #0958, Petition for a Special Law Re: An Act Regarding the Disability Pension for Ryan Lenane; Docket #0959, Petition for a Special Law Re: An Act Regarding the Disability Pension for Scott O'Brien; and, Docket #0960, Petition for a Special Law Re: An Act Regarding the Disability Pension for Richard Cintolo***, sponsored by Erin Murphy and referred to the Committee on August 10, 2022. The Committee held a working session on August 24, 2022. Dockets #0955-#0960 are refiles from 2020-2021. The Committee held a hearing on these matters on September 24, 2020 and heard testimony from the police officers. The Committee also held a working session on February 2, 2021.

Summary of Legislation As Filed:

Dockets #0458 and #0510

These home rule petitions will increase the accidental disability retirement allowance payable to the police officer and emergency medical technician named individually in each proposal. Massachusetts General Laws Chapter 32, section 7 governs the accidental disability retirement allowance and currently allows for a yearly amount of pension equal to 72 per cent of the annual rate of his regular compensation. These proposals will increase the retirement allowance to the rate of compensation that the officer would have received had such officer continued service as a police officer. All other provisions of Chapter 32 will apply except for section 8 and section 91A. The home rule petitions also provide for the surviving spouse as follows: an annuity in the amount of three-fourths of the amount of the pension payable to the officer, per month, at the time of death, if the surviving spouse remains unmarried; and, if said surviving spouse remarries, the City shall pay, in lieu of the aforesaid annuity, an annuity of \$550.00 dollars per month.

The statutory standard for accidental disability retirement is: “physically unable to perform the essential duties and responsibilities of the job and that such inability is likely or deemed permanent before attaining the maximum age for the member’s group by reason of a personal injury or violent act injury sustained by a hazard undergone as a result of, and while in the performance of, his duties.” See MGL chapter 32, section 7.

Dockets #0955-#0960

These home rule petitions will increase the accidental retirement allowance payable to these officers who as a result of injuries sustained while performing their duties are totally and permanently incapacitated from performing the essential duties of the job. The retirement allowance will be increased to the regular rate of compensation which they would have been paid had they continued in service as a police officer. Under the proposals, the individuals will be able to annually earn up to one-half the amount of their retirement allowance without refund penalty. When the individuals reach the mandatory retirement age for police officers in the city of Boston, they will receive a pension equal to 80 percent of the annual rate of their compensation. The effective date of the legislation is January 31, 2022. All of these dockets were previously passed by the City Council and approved by the Mayor.

Information Gathered at the July 6th Hearing on Dockets #0458 and #0510

Larry Calderone, President of the BPPA; Jamie Kenneally, Legislative Director, BPPA; Matt Anderson, BEMS-BPPA President; Kurt Stokinger; and, Elaina McAlister participated. The Committee discussed the statutory standard for accidental disability. Mr. Stokinger and Ms. McAlister described the circumstances surrounding their injuries and the impact of their injuries. The Committee discussed the impact and the trauma the officers deal with as a result of being injured in the line of duty and in service to and protecting the City. The Committee also discussed similar home rule petitions that were approved in the past. The following individuals participated on behalf of the Administration: Christine Weir, Interim Executive Officer at the Boston Retirement Board and Ellen McCarthy, Comptroller at the City of Boston.

Information Gathered at the August 24th Working Session on Dockets #0458, #0510, #0955-#0960

The Committee held a working session to review the language of the dockets. There was not a consensus for the language as previously passed at the local level. The state desires consistency with language for these types of dockets. Because of the concerns at the state level, Dockets #0955-#0969 are before the Council again because local approval of the new language is required. The substantive changes include allowing annual earnings up to one-half the amount of retirement allowance without refund penalty and 80% compensation upon attaining the mandatory retirement age. Changes were also made to Elaina McAlister’s home rule petition, Docket #0458 to reflect that Chapter 152 applies to EMTs. The substantive language changes from previously approved legislation include allowing annual earnings up to one-half the amount of retirement allowance without refund penalty and 80% compensation upon attaining the mandatory retirement age. Changes were also made to Elaina McAlister’s home rule petition, Docket #0458 to reflect that chapter 152 applies to EMTs. The following individuals participated on behalf of the administration: Kerry G. Nero, Esq., Compensation Agent for the City of Boston and Christine Weir, Interim Executive Officer, for the Boston Retirement Board. Attorney Nero stated that the language concerning the workers compensation and reference to chapter 152 was accurate.

Summary of Amendments

Based upon the information gathered at the hearings and working sessions, the dockets are amended as follows:

- Docket #0458, changes were made to reflect that chapter 152 of the General Laws applies. The following language was also added: "Notwithstanding any general or special law to the contrary, all of Elaina McAlister's reasonable, necessary* and related medical treatment arising out the July 10, 2019 work injury shall be paid for by the City of Boston pursuant to chapter 152 of the General Laws. This includes treatment that may be incurred after the date of her retirement."
- Docket #0458 and Docket #0510, was amended from its initial filing to allow annual earnings up to one-half the amount of retirement allowance without refund penalty and 80% compensation upon attaining the mandatory retirement age.
- Minor changes were made to Dockets #0955-#0960 to change date of injury to "upon retirement in certain clauses.

Rationale and Recommended Action:

Passage of these dockets will ensure that the police officers and emergency medical technician are allowed to receive their full compensation had they continued serving as first responders. These individuals were injured in the line of duty while protecting the public and are not able to continue as first responders because of injuries sustained on the job through no fault of their own. Passage of these dockets allow these individuals to receive their full compensation and will provide security and stability to them and their families. The language ensures that the officers will receive their full compensation while adhering to the other applicable sections of chapter 32 and will allow the officers to earn additional income subject to certain limits.

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

Docket #0458, Petition for a Special Law Re: An Act Regarding the Disability Pension for Elaina McAlister, Docket #0510, petition for a special law re: Petition for a Special Law re: An Act regarding the Disability Pension for Kurt Stokinger, Docket #0955, Petition for a Special Law Re: An Act Regarding the Disability Pension for Matthew Morris; Docket #0956, Petition for a Special Law Re: An Act Regarding the Disability Pension for Harry Jean; Docket #0957, Petition for a Special Law Re: An Act Regarding the Disability Pension for Terry Cotton; Docket #0958, Petition for a Special Law Re: An Act Regarding the Disability Pension for Ryan Lenane; Docket #0959, Petition for a Special Law Re: An Act Regarding the Disability Pension for Scott O'Brien; and, Docket #0960, Petition for a Special Law Re: An Act Regarding the Disability Pension for Richard Cintolo,

submits a report recommending that these dockets ought to pass in new drafts.

For the Chair:



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