

ENROLLMENT(S)

(5)

kwiktag®

062 327 991



COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-152

"Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-386 on first and second readings, April 7, 1998 and May 5, 1998, respectively. Following the signature of the Mayor on May 22, 1998, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-369 and published in the June 26, 1998, edition of the D.C. Register (Vol. 45 page 4045) and transmitted to Congress on June 16, 1998 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 12-152, effective September 18, 1998.



LINDA W. CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

June	16,17,18,19,22,23,24,25
July	14,15,16,17,20,21,22,23,24,27,28,29,30,31,
Sept.	8,9,10,11,14,15,16,17

AN ACT

D.C. ACT 12-369

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 22, 1998

*Codification
District of
Columbia
Code
1999 Supp.*

To establish an actuarially sound retirement replacement plan for pension benefits accrued after June 30, 1997, for police officers, fire fighters, and teachers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998".

**New Chapter
7B,
Title 1**

TABLE OF CONTENTS

TITLE I—MANAGEMENT AND FINANCING OF RETIREMENT BENEFITS

Part A— Findings and Definitions

- Sec. 101. Findings and purpose.
- Sec. 102. Definitions.

Part B—Retirement Funds

- Sec. 111. Retirement fund for police officers and fire fighters.
- Sec. 112. Retirement fund for teachers.
- Sec. 113. Management of the Funds.
- Sec. 114. Payments from retirement funds.
- Sec. 115. Interim federal benefit payments.
- Sec. 116. Annual audit.

Part C—Establishment of Replacement Retirement and Disability Benefits Plans

- Sec. 121. Replacement program for covered District employees.
- Sec. 122. Eligibility and benefits determinations.
- Sec. 123. Tax treatment of plan.

ENROLLED ORIGINAL

Part D—Financing of Retirement Benefits

- Sec. 131. Limitation on investment of retirement funds.
- Sec. 132. District of Columbia payment to the Funds.
- Sec. 133. Calculation of District of Columbia payment to the Funds.
- Sec. 134. Actuarial statement and opinion.
- Sec. 135. Information about retirement programs.

Part E—Reporting and Disclosure Requirements; Bonding

- Sec. 141. Personal financial disclosure by Retirement Board.
- Sec. 142. Annual report.
- Sec. 143. Summary plan description.
- Sec. 144. Reports and disclosure to participants and beneficiaries.
- Sec. 145. Disclosure to the public.
- Sec. 146. Reporting of participants' benefit rights.
- Sec. 147. Retention of records.
- Sec. 148. Criminal penalties.
- Sec. 149. Bonding.

TITLE II—MISCELLANEOUS

- Sec. 201. Civil enforcement.
- Sec. 202. Limitations on actions.
- Sec. 203. Alienation of benefits.
- Sec. 204. Effect on other laws.
- Sec. 205. Interim administration.

- Sec. 206. Technical correction to Retirement Board composition.
- Sec. 207. Establishment of single annual cost-of-living adjustment for retirement programs for police, fire fighters, and teachers.
- Sec. 208. Fiscal impact statement.
- Sec. 209. Applicability.
- Sec. 210. Effective date.

TITLE I—MANAGEMENT AND FINANCING OF RETIREMENT BENEFITS

**Note, Section
1-781.1**

Part A— Findings and Definitions

**New
Subchapter I**

- Sec. 101. Findings and purpose.
 - (a) The Council of the District of Columbia finds the following:

**New Section
1-781.1**

(1) When the federal government established separate retirement funds for police officers, fire fighters, and teachers, and established a retirement board with responsibility for managing these retirement funds, it significantly unfunded the liabilities of the retirement funds in an amount totaling approximately \$2,600,000,000.

(2) The approximate \$2,600,000,000 unfunded liability has increased to nearly \$4,800,000,000 due primarily to the accumulation of interest on the initial balance, not because of any action taken or any failure to act on the part of the District government or the District of Columbia Retirement Board.

(3) Because the unfunded liability is a legal obligation of the District government and exceeds the total General Obligation debt of the District, the presence of the unfunded pension liability has had a significant negative impact on the District's credit rating.

(4) The costs associated with the liability have been a contributing cause to the District's ongoing financial crisis.

(5) Pursuant to the Retirement Protection Act, the federal government will relieve the District government of the responsibility for the unfunded pension liabilities transferred to the District in 1979, and will assume the legal responsibility for payment of retirement benefits accrued by police officers, fire fighters, and teachers prior to July 1, 1997.

(6) The Retirement Protection Act requires the establishment by the District government of a replacement plan for the current pension benefits for police officers, fire fighters, and teachers.

(b) It is the purpose of this act to accomplish the following:

(1) Establishment of replacement retirement plans for pension benefits accrued after June 30, 1997, for police officers, fire fighters, and teachers; and

(2) Provision for full funding and management on an actuarially sound basis of all retirement funds entrusted to the District government for the benefit of teachers, members and officers of the Metropolitan Police Department, and employees of the Fire and Emergency Medical Services Department.

Sec. 102. Definitions.

For the purposes of this act, the term:

(1) "Covered District employee" or "participant" means a teacher of the District of Columbia public schools, a member of the Metropolitan Police Department, or a member of the Fire and Emergency Medical Services Department. It does not include an officer or member of the United States Park Police force, the United States Secret Service Uniformed Division, or the United States Secret Service, to whom the Police and Firemen's Retirement Act applies.

(2) "Current value" means the fair market value, where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Retirement Board), or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Retirement Board), assuming an orderly liquidation when so

determined.

(3) "Employee contribution" means amounts deducted and withheld from the salaries of covered District employees and paid to the Funds (and in the case of teachers, amounts of additional deposits paid to the Funds), pursuant to this act.

(4) "Employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by the Retirement Program participate and which exists for the purpose, in whole or in part, of dealing with the District government concerning the Retirement Program.

(5) "Enrolled actuary" means an actuary enrolled under subtitle C of Title III of the Employee Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 1002; 29 U.S.C. § 3041 *et seq.*).

(6) "Federal Benefit Payment" means any benefit payment to which an individual is entitled under the Retirement Program, in an amount and under terms and conditions as may apply under the Retirement Program.

(7)(A) "Fiduciary" means, except as otherwise provided in subparagraph (B) of this paragraph, any individual who, with respect to the Funds:

(i) Exercises any discretionary authority or discretionary control respecting management of the Funds or exercises any discretionary authority or discretionary control respecting management or disposition of its assets;

(ii) Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Funds, or has any authority or responsibility to do so; or

(iii) Has any discretionary authority or discretionary responsibility in the administration of the Funds.

(B) If any money or other property of the Funds is invested in securities issued by an investment company registered under title I of An Act To provide for the registration and regulation of investment companies and investment advisers, and for other purposes, approved August 22, 1940 (54 Stat. 789; 15 U.S.C. § 80a-1 *et seq.*), that investment shall not by itself cause the investment company or the investment company's adviser or principal underwriter to be deemed to be a fiduciary or a party in interest as those terms are defined in this section. Nothing contained in this subparagraph shall limit the duties imposed on that investment company, investment adviser, or principal underwriter by any other law.

(8) "Funds" means collectively the Police Officers and Fire Fighters' Retirement Fund, the Teachers' Retirement Fund, or the Judges' Retirement Fund, but only until the Judges' Retirement Fund is transferred pursuant to section 11252 of the Retirement Protection Act, approved August 5, 1997 (P.L. 105-33; 111 Stat. 758).

(9) "Judge" means a judge as defined in D.C. Code § 11-1561(1).

(10) "Judges' Retirement Fund" means the District of Columbia Judges' Retirement Fund, established under section 124(a) of the District of Columbia Retirement

Reform Act, approved November 17, 1979 (93 Stat. 875; D.C. Code § 1-714(a)).

(11) "Party in interest" means:

(A) Any person (including a member of the Retirement Board) having fiduciary responsibilities for the administration of assets in the Funds;

(B) Any person providing services to the Funds;

(C) The government of the District of Columbia;

(D) An employee organization; or

(E) A spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B) of this paragraph.

(12) "Police and Firemen's Retirement Act" means the Policemen and Firemen's Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 391; D.C. Code § 4-607 *et seq.*).

(13) "Police Officers and Fire Fighters' Retirement Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established under section 122(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 872; D.C. Code § 1-712(a)).

(14) "Qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a state.

(15) "Retirement Board" means the District of Columbia Retirement Board established by section 121(a) of the Retirement Reform Act, approved November 17, 1979 (93 Stat. 872; D.C. Code § 1-711(a)).

(16) "Retirement Program" means:

(A) The program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police Department and the Fire and Emergency Medical Services Department;

(B) The program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under D.C. Code § 11-1561 *et seq.*, but only until section 124 of the Judges' Retirement Fund is terminated and transferred pursuant to section 11252 of the Retirement Protection Act, approved August 5, 1997 (P.L. 105-33; 111 Stat. 758); and

(C) The program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(17) "Retirement Protection Act" means the District of Columbia Retirement Protection Act of 1997, Subtitle A of Title XI of the Balanced Budget Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 715) ("Retirement Protection Act").

(18) "Retirement Reform Act" means the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Code § 1-701 *et seq.*) ("Retirement Reform Act").

(19) "Security" means a security as defined in section 2(1) of the Securities Act

of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77b(1)).

(20) "State" means any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(21) "Teacher" means a teacher as defined in section 13 of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 88; D.C. Code § 31-1235).

(22) "Teachers' Retirement Fund" means the District of Columbia Teachers' Retirement Fund established under section 123(a) and (c) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 873; D.C. Code § 1-713).

(23) "Trust" means the \$1.275 billion in assets in the possession or control of the Retirement Board for post June 30, 1997, benefits and any contributions made to the Funds after June 30, 1997, for benefits accrued after June 30, 1997.

Part B—Retirement Funds

New
Subchapter II

Sec. 111. Retirement fund for police officers and fire fighters.

New Section
1-782.1

(a) The Police Officers and Fire Fighters' Retirement Fund shall continue in existence and shall be the fund into which the following deposits shall be made, which shall constitute the assets of the fund:

(1) Any employee contribution amount paid after June 30, 1997, to the Retirement Board pursuant to section 1 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Code § 4-601) or section 12(c) or (d)(1) of An Act Making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirteenth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Code §§ 4-610(e)(1) or 4-612(a), respectively);

(2) Any amount appropriated by the District government for the fund in accordance with section 122;

(3) Any return on investment of the assets of the fund; and

(4) The amount derived from the \$1.275 billion of designated assets provided for pursuant to section 11033 of the Retirement Protection Act.

(b) After the 30-day period following October 1, 1997, or after the end of the 30-day period beginning on the date on which funds are first appropriated to the Police Officers and Fire Fighters' Retirement Fund for Fiscal Year 1998, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Police and Firemen's Retirement Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the United States

ENROLLED ORIGINAL

Secret Service Uniformed Division, or the United States Secret Service, or to a beneficiary of any such officer or member).

Sec. 112. Retirement fund for teachers.

**New Section
1-782.2**

(a) The Teachers' Retirement Fund shall continue in existence and shall be the fund into which the following deposits shall be made, which shall constitute the assets of the fund:

(1) Any employee contribution amount paid to the Retirement Board pursuant to An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Code § 31-1221 *et seq.*) ("Teacher Retirement Act"), or pursuant to An Act To authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes, approved June 27, 1960 (74 Stat. 222; D.C. Code § 31-1251);

(2) Any asset transferred to the fund under subsection (b) of this section;

(3) Any amount appropriated by the District government for the fund in accordance with section 122; and

(4) Any return on investment of assets of the fund.

(b) After June 30, 1997, annuities and other retirement and disability benefits (including refunds and lump-sum payments) for the benefits of covered teachers shall become assets of the fund.

Sec. 113. Management of the Funds.

**New Section
1-782.3**

(a) The Retirement Board shall be the custodian of the assets of the Funds and shall manage and invest the assets in accordance with the Retirement Reform Act and this act.

(b) The assets of the Funds shall be kept separate from other moneys that may be under the control of the Retirement Board, but need not be kept separate from the assets of the separate funds comprising the Funds if the Retirement Board determines that commingling of those assets is advisable for investment purposes.

(c) The Retirement Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Retirement Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from the Funds.

Sec. 114. Payments from retirement funds.

**New Section
1-782.4**

(a) The Mayor shall notify the Retirement Board of any payments for annuities or other retirement or disability benefits (including refunds and lump-sum payments) required to be made from the trust assets of the Police Officers and Fire Fighters' Retirement Fund or the Teachers' Retirement Fund. The Retirement Board shall make the payments from the appropriate fund.

(b) Once authorized pursuant to the appropriation process, the Retirement Board may

ENROLLED ORIGINAL

make payments from the Funds sufficient to cover the cost of the management of the assets and the reasonable and necessary administrative expenses of the Retirement Board, including trustee and staff compensation, and liability insurance.

Sec. 115. Interim federal benefit payments.

**New Section
1-782.5**

(a) Effective October 1, 1997, until the transfer of the assets required by the Retirement Protection Act is implemented, the Retirement Board shall make disbursements to the District government, or other entity as may be directed by the Secretary of the Treasury, from the trust assets of the Funds to make the Federal Benefit Payment obligation created pursuant to section 11011 of the Retirement Protection Act (P.L. 105-33; 111 Stat. 717) for benefits accrued by the covered District employees until June 30, 1997.

(b) No part of the employee contributions of the covered District employees after June 30, 1997, or the \$1.275 billion of designated assets provided for pursuant to section 11033 of the Retirement Protection Act (P.L. 105-33; 111 Stat. 723), may be used to make the Federal Benefit Payment obligation.

Sec. 116. Annual audit.

**New Section
1-782.6**

(a) The examination performed by the independent qualified public accountant engaged pursuant to section 162(a)(3)(A) of the Retirement Reform Act (93 Stat. 886; D.C. Code § 1-732(a)(3)(A)) shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Funds and the Retirement Program as are considered necessary by the accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules required by subsection (b) of this section and the summary material required under section 133 present fairly, in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report required pursuant to section 132. In offering his opinion, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(b)(1) The financial statement shall contain a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: a description of the Retirement Program, including any significant changes in the Retirement Program made during the period and the impact of the changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in the policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be

parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Funds.

(2) The statement required under paragraph (1) of this subsection shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Funds, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year;

(B) A statement of receipts in and disbursements from the Funds during the preceding 12-month period, aggregated by general source and application;

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether the party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value;

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of the party in interest and his relationship, or that of any other party in interest, to the Funds, and a description of each asset to which the transaction relates; the purchase or selling price if a sale or purchase, the rental rate if a lease, or the interest rate and maturity date if a loan; expenses incurred in connection with the transaction; and the cost of the asset, the current value of the asset, and the net gain or loss on each transaction;

(E) A schedule of all loans or fixed income obligations that were in default as of the close of the fiscal year or were classified during the year as uncollectible and the following information with respect to each loan on the schedule (including a notation as to whether parties involved are known to be parties in interest): the original principal amount of the loan; the amount of principal and interest received during the reporting year; the unpaid balance; the identity and address of the obligor; a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms); and the amount of principal and interest overdue (if any) and an explanation thereof;

(F) A list of all leases that were in default or were classified during the year as uncollectible, and the following information with respect to each lease on the list (including a notation as to whether parties involved are known to be parties in interest): the type of property leased (and, if fixed assets such as land, buildings, and leaseholds, then the location of the property); the identity of the lessor or lessee from or to whom the Funds are leasing; the relationship of the lessors and lessees, if any, to the Funds, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at that date; the gross rental receipts during the reporting period; expenses paid for the leased property during the reporting period; the net receipts from the lease; the amounts in arrears; and a statement as to what steps have been taken to collect amounts due or otherwise remedy the

default;

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Funds are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Funds are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Funds are held, and for each separate account or a separate trust, such other information as may be required by the Retirement Board to comply with this subsection; and

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, for an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold), and a description of each asset to which the transaction applies; the purchase or selling price if a sale or purchase, the rental rate if a lease, or the interest rate and maturity date if a loan; expenses incurred in connection with the transaction; and the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of paragraph (2)(H) of this subsection, the term "reportable transaction" means a transaction to which the Funds is a party and which is:

(A) A transaction involving an amount in excess of 5% (or other percentage that may be established from time to time by the United State Department of Labor for "reportable transactions") of the current value of the assets of the Funds;

(B) Any transaction (other than a transaction respecting a security) that is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of the transactions exceeds 5% (or other percentage that may be established from time to time by the United States Department of Labor for reportable transactions) of the current value of the assets of the Funds;

(C) A transaction that is part of a series of transactions respecting 1 or more securities of the same issuer, if the aggregate amount of the transactions in the fiscal year exceeds 5% (or other percentage that may be established from time to time by the United States Department of Labor for reportable transactions) of the current value of the assets of the Funds; or

(D) A transaction with, or in conjunction with, a person respecting a security, if any other transaction with or in conjunction with the person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A) of this paragraph.

Part C—Establishment of Replacement Retirement and Disability Benefits Plans

Sec. 121. Replacement program for covered District employees.

The replacement plan governing retirement and disability for service and benefits accrued after June 30, 1997, for covered District employees shall be the retirement program in effect for

New
Subchapter
III

New Section
1-783.1

covered District employees as of June 30, 1997.

Sec. 122. Eligibility and benefits determinations.

**New Section
1-783.2**

Eligibility and the calculation of the amount of the benefit payment for covered District employees for service accrued after June 30, 1997, shall be determined in accordance with the retirement program applicable to covered District employees in effect as of June 30, 1997 (except as otherwise amended by Title XI of the Balanced Budget Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 963)).

Sec. 123. Tax Treatment of Plan.

**New Section
1-783.3**

The replacement plan described in section 122 shall be deemed a "governmental plan" as defined in section 414(d) of the Internal Revenue Code of 1954, approved September 2, 1974 (88 Stat. 926; 26 U.S.C. § 414(d)), and all benefits provided therefrom shall be deemed governmental plan benefits maintained by the District of Columbia.

Part D—Financing of Retirement Benefits

**New
Subchapter
IV**

Sec. 131. Limitation on investment of retirement funds.

**New Section
1-784.1**

(a) The assets of the Funds shall not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments;

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments;

(3) Real property in the District of Columbia, Virginia, or Maryland; or

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b)(1) Any assets of the Funds invested after March 16, 1993, in stocks, securities, or other obligations of any institution or company doing business in or with Northern Ireland or with agencies or instrumentalities of Northern Ireland shall be invested to reflect advances to eliminate discrimination made by these institutions and companies pursuant to paragraph (2) of this subsection.

(2) The Mayor shall consider the following criteria, referred to as the MacBride Principles, to determine the advances to eliminate discrimination made by companies and

ENROLLED ORIGINAL

institutions doing business in or with Northern Ireland or with agencies or instrumentalities of Northern Ireland:

- (A) Increasing the representation of individuals from under-represented religious groups in the work force, including managerial, supervisory, administrative, clerical, and technical jobs;
- (B) Providing adequate security for the protection of minority employees both at the work place and while traveling to and from work;
- (C) Banning provocative religious or political emblems from the work place;
- (D) Publicly advertising all job openings and making special recruitment efforts to attract applicants from under-represented religious groups;
- (E) Providing that layoff, recall, and termination procedures should not in practice favor particular religious groups;
- (F) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion or ethnic origin;
- (G) Developing training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees;
- (H) Establishing procedures to assess, identify, and actively recruit minority employees with potential for further advancement; and
- (I) Appointing senior management staff members to oversee affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

(3)(A) On or before the 1st day of October of each year, the Mayor shall determine the existence of affirmative action taken by all institutions and companies doing business in or with Northern Ireland, in which funds are or will be invested (in conformance with the MacBride Principles as enumerated in paragraph (2) of this subsection), and provide an annual report of his findings for presentation to the Council, which report shall be made available for public inspection.

(B) In making the determination pursuant to subparagraph (A) of this paragraph, the Mayor may rely on reference sources, such as the Investor Responsibility Research Center, in making a determination with respect to the affirmative action taken by the institutions and companies.

Sec. 132. District of Columbia payment to the Funds.

(a) Each fiscal year, the District shall insure that a sufficient amount is appropriated for each separate fund comprising the Funds, as the District of Columbia payment to the appropriate separate fund comprising the Funds, which shall be equal to, or greater than, the amount calculated as provided for in section 133, as determined by the enrolled actuary, engaged pursuant to section 133(a).

**New Section
1-784.2**

(b) The amount appropriated as the District of Columbia payment shall be deposited in the appropriate separate fund comprising the Funds not more than 30 days after it is appropriated or 30 days after the beginning of the fiscal year for which it is appropriated, whichever is later.

(c) At the end of each fiscal year, the District shall provide to the enrolled actuary the actual aggregate amount of earnable compensation ("covered payroll") paid to each participant group covered by the Retirement Program. The enrolled actuary shall determine whether the amount appropriated for the applicable fiscal year resulted in an overpayment or a shortfall based upon the actual covered payroll.

(1) If a shortfall exists, the Mayor and the Council shall include within the ensuing budget cycle a line item that requests funding equal to the full amount of shortfall for the appropriate separate fund comprising the Funds.

(2) If an overpayment exists, the Mayor and the Council shall include within the ensuing budget cycle a line item that requests a reduction in the amount appropriated as the District of Columbia payment to the Funds equal to the full amount of the overpayment.

(3) Overpayments or shortfall reductions shall be made in addition to, and notwithstanding, any other payment required herein.

(d) If at any time the balance of any separate fund comprising the Funds is not sufficient to meet all obligations against the Funds, the Funds shall have claims on the revenues of the District of Columbia to the extent necessary to meet the obligation.

Sec. 133. Calculation of District of Columbia payment to the Funds.

New Section
1-784.3

(a)(1) The Retirement Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A) of the Retirement Reform Act (93 Stat. 886; D.C. Code § 1-732(a)(4)(A)), who shall, in accordance with generally accepted actuarial principles and practices, make the following determinations with respect to each separate fund comprising the Funds:

(A) When specified in paragraph (2) of this subsection, the actuary shall determine the level percentage of covered payroll, expressed as a percentage (hereinafter in this title referred to as the "normal contribution rate"), which shall be the percentage which if paid annually into the Funds from the date of the actuarial determination until the date of death, retirement, or other withdrawal from employment for all participants covered by the retirement program and added to (i) all future employee contributions to the Funds, (ii) the assets in the Funds, and (iii) projected future investment earnings of the Funds, are projected to be sufficient to pay for the future benefits payable from the Funds to that group. If deemed appropriate by the Retirement Board, separate normal contribution rates may be determined for different classifications of employees.

(B) When specified in paragraph (2) of this subsection, the enrolled actuary shall determine the current value of the assets in the Funds as of the actuarial

determination date.

(C) The actuary shall also determine such additional information as the Retirement Board may require to make the determinations specified in paragraph (4) of this subsection and in subsection (b) of this section.

(2) Unless the actuary engaged by the Retirement Board pursuant to paragraph (1) of this subsection determines that a more frequent valuation is necessary to support the actuary's opinion, the actuary shall make the determinations described in paragraph (1)(A) and (B) of this subsection:

- (A) Not later than 60 days after the effective date of this act; and
- (B) Upon a request by the Retirement Board; or
- (C) At least once every 2 years.

(3) On the basis of the most recent determinations made under paragraph (1) of this subsection, the enrolled actuary shall certify to the Retirement Board each year, at a time specified by the Retirement Board, the following information with respect to each separate fund comprising the Funds for the next fiscal year:

- (A) The normal contribution rate;
- (B) The present value of future benefits payable from the Funds for covered employees as of the valuation date;
- (C) The current value of assets in the Funds as of the actuarial determination date; and
- (E) The value of assets, as determined by the actuary, for use in development of the normal contribution rate.

(4) On the basis of the most recent certification submitted by the enrolled actuary under paragraph (3) of this subsection, the Retirement Board shall certify the normal contribution rate applicable for the next fiscal year for each separate fund comprising the Funds.

(b)(1) On the basis of the most recent determinations made under subsection (a)(4) of this section, the Retirement Board shall, not less than 30 days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council, pursuant to section 442(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Code § 47-301) ("Home Rule Act"), certify to the Mayor and the Council the normal contribution rate for each separate fund comprising the Funds.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the Home Rule Act (D.C. Code § 47-301), and the Council, in adopting each annual budget in accordance with section 446 of the Home Rule Act (D.C. Code § 47-304) shall, for each separate fund comprising the Funds, include in the budget not less than the product of: (A) the normal contribution rate certified by the Retirement Board under paragraph (1) of this subsection; and (B) an estimate of the applicable payroll, as determined by the Mayor, as the estimate of the District payment for the next fiscal year. The Mayor and the

Council may comment and make recommendations concerning any such amount certified by the Retirement Board.

(c) Prior to the enactment of any law producing any change in benefits under the Retirement Program, the Mayor shall engage, and pay for, an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A) of the Retirement Reform Act (93 Stat. 886; D.C. Code § 1-732(a)(4)(A)), to estimate the effect of that change in benefits over the next 5 fiscal years on:

- (1) the normal contribution rate; and
- (2) the estimated level of District payments.

(d) The Mayor shall transmit the estimates of the actuary to the Retirement Board, the Secretary of the Treasury, and the Council, and during a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; D.C. Code § 47-393(4)), to the District of Columbia Financial Responsibility and Management Assistance Authority. In no event may such change in benefits go into effect until the end of the 30-day period beginning on the date the transmittals required herein have been completed.

Sec. 134. Actuarial statement and opinion.

New Section
1-784.4

(a) As a part of the actuarial report presented to the Retirement Board, the actuary shall prepare an actuarial statement. The statement shall contain:

- (1) The dates of the fiscal year and the most recent actuarial valuation;
- (2) The total amount of the contributions made by participants and the total amount of all other contributions, including the District payment, received for the fiscal year and for each preceding fiscal year for which the information was not previously reported;
- (3) The number of participants, whether or not retired, and beneficiaries receiving benefits covered as of the last day of the fiscal year;
- (4) The following information as of the date of the most recent actuarial valuation and, if available and sufficiently comparable so as not to be misleading, for at least the 2 preceding actuarial valuations:

- (A) The aggregate annual compensation of participants;
- (B) The actuarial value of assets of each separate fund comprising the Funds;
- (C) The actuarial accrued liability, if applicable;
- (D) The difference between the actuarial value of assets of the system and actuarial accrued liability, if applicable;
- (E) The actuarial value of assets of the system expressed as a percentage of actuarial accrued liability, if applicable;
- (F) The difference between the actuarial liability expressed as a percentage of the aggregate annual compensation of participants, if applicable; and

(C) The actuarial assumptions and methods used in determining the information described in this paragraph and other factors that significantly affect the information described in this paragraph; and

(5) Other information necessary to disclose fully and fairly the actuarial condition of the retirement plans.

(b)(1) The actuarial report shall also contain an opinion of the enrolled actuary on the actuarial statement attesting that:

(A) To the best of the actuary's knowledge the statement is complete and accurate;

(B) Each assumption and method used in preparing the statement is reasonable, and the assumptions and methods in the aggregate are reasonable, taking into account the experience of the retirement system; and

(C) The assumptions and methods in combination offer the actuary's best estimate of anticipated experience.

(2) In formulating an opinion, the actuary may rely on the correctness of any accounting matter as to which any qualified public accountant has expressed an opinion, if the actuary so indicates.

(c) The actuarial statement and opinion required herein shall be included as part of the annual report required pursuant to section 142.

Sec. 135. Information about retirement programs.

**New Section
1-784.5**

Upon a request of the Retirement Board, the Mayor shall furnish to the Retirement Board information with respect to retirement programs to which this act applies as the Retirement Board considers necessary to enable it to carry out its responsibilities under this act and to enable the enrolled actuary engaged pursuant to section 133(a) to carry out the responsibilities of the enrolled actuary under this act.

Part E—Reporting and Disclosure Requirements; Bonding.

**New
Subchapter V**

Sec. 141. Personal financial disclosure by the Retirement Board.

**New Section
1-785.1**

(a)(1) Effective October 1, 1997, each member of the Retirement Board shall, within 90 days of his election or appointment, as the case may be, and not later than April 30th of each year thereafter, submit, as a member of the Retirement Board, to the Mayor and the Council a personal financial disclosure statement with respect to the preceding calendar year.

(2) The statement shall be in such form as the Council may require and shall contain information with respect to the member's financial condition as the Council may require, including the following information:

(A) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat 17; 26 U.S.C. § 61))

ENROLLED ORIGINAL

received during the year;

(B) The identity and category of value of each liability owned, directly or indirectly, that exceeds \$2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of the member);

(C) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than \$1,000 as of the last day of the year;

(D) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of \$1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds \$1,000 at the time of the purchase or sale (excluding any purchase or sale of any property that is the principal residence of the member or that is used as furnishings for the principal residence);

(E) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company; and

(F) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

(b) For purposes of subsection (a)(2)(B), (C), and (D) of this section, the member reporting need not specify the actual amount or value of each item required to be reported under that subsection, but shall indicate which of the following categories the amount or value is within:

- (1) Not more than \$5,000;
- (2) Greater than \$5,000, but not more than \$15,000;
- (3) Greater than \$15,000, but not more than \$50,000;
- (4) Greater than \$50,000, but not more than \$100,000; or
- (5) Greater than \$100,000.

(c) Consistent with section 145, the information required by this section shall be public information

Sec. 142. Annual report.

(a) The Retirement Board shall publish an annual report for each fiscal year with respect to each retirement program and separate fund comprising the Funds to which this act applies. The report shall be filed with the Mayor and the Council in accordance with subsection (c) of this section and shall be made available and furnished to participants and beneficiaries in accordance with section 144(c).

(b) The annual report shall include the following information:

New Section
1-785.2

ENROLLED ORIGINAL

- (1) The name and business address of each Retirement Board member;
- (2) The name and business address of the agent for service of process;
- (3) The name and business address of each fiduciary;
- (4) The name of each person or entity (including any consultant, broker, trustee, accountant, insurance carrier, actuary, investment counsel, or custodial trustee), who received compensation from the Retirement Board during the preceding year for services rendered to the Retirement Board or the participants or beneficiaries of the retirement program for which a separate fund comprising the Funds was established, the amount of the compensation, the nature of the services, the relationship of the person or entity, if any, to the District of Columbia government or employee organization, and any other office, position, or employment the person or entity holds with any party in interest;
- (5) The description of each of the retirement plans and the number of employees covered by the retirement plans, including any significant change in the retirement program made during the period and the impact of the change on benefits;
- (6) The current statement of investment objectives and policies, which shall include:
 - (A) The desired rates of return on assets overall;
 - (E) The desired rates of return and acceptable levels of risk for each asset class;
 - (C) Asset allocation goals;
 - (D) Guidelines for the delegation of authority to investment managers;and
 - (E) Information on the benchmarks used to evaluate investment performance;
- (7) Financial statements and notes to the financial statements in conformity with generally accepted accounting principles;
- (8) An opinion on the financial statements by the qualified public accountant, engaged pursuant to section 133, in conformity with generally accepted auditing standards;
- (9) The actuarial statement and opinion required by section 134;
- (10) A description of any material interest, held by any trustee, or employee who is a fiduciary with respect to the investment management of assets of the Funds, or by a related person, in any material transaction with the system within the last 3 years;
- (11) A schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent 1-year, 3-year, 5-year, and 10-year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period; and
- (12) A schedule of the sum of total investment expenses and total general administrative expense for the fiscal year expressed as a percentage of the fair market value of assets of the Funds on the last day of the fiscal year.

(c) The annual report shall be filed with the Mayor and the Council within 210 days after the end of the fiscal year for which it is prepared.

Sec. 143. Summary plan description.

New Section
1-785.3

(a)(1) A summary plan description of the Retirement Program, for service and benefits accrued after June 30, 1997, shall be furnished to participants and beneficiaries, pursuant to section 144(b). The summary plan description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise the participants and beneficiaries of their rights and obligations under the Retirement Program.

(2) A summary of any material modification in the terms of the retirement program benefits accrued after June 30, 1997, and any change in the information required under subsection (b) of this section, written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 144(b).

(b) Each summary plan description of an individual retirement program shall contain the following information:

(1) The name of the individual retirement program and system and type of administration of the individual retirement program;

(2) The name and address of the Chairman of the Retirement Board, who shall be the agent of the Retirement Board for the service of legal process;

(3) The name, title, and business address of each member of the Retirement Board;

(4) A description of the relevant provisions of applicable collective-bargaining agreements;

(5) Citations to the governing laws of the retirement program;

(6) The individual retirement program's requirements respecting eligibility for participation and benefits;

(7) A description of benefits provided by the program, including the manner of calculating benefits and any benefits provided for spouses and survivors;

(8) The source of financing of the program;

(9) A description of the provisions providing for nonforfeitable pension benefits;

(10) Circumstances which may result in disqualification, ineligibility, or denial or loss of benefits;

(11) The identity of any organization through which benefits are provided;

(12) The procedures to be followed in presenting claims for benefits under the retirement program;

(13) The remedies available under the retirement program for the redress of claims that are denied in whole or in part; and

(14) The location of the Retirement Board's offices and the function of the Retirement Board.

(c) Copies of the summary plan descriptions shall be provided to the Mayor, the Council, and the employee organizations representing employees covered by the retirement plans.

(d) Summary plan descriptions for service and benefits accrued prior to July 1, 1997, are under the jurisdiction and control of the United States Secretary of the Treasury pursuant to the Retirement Protection Act.

Sec. 144. Reports and disclosure to participants and beneficiaries.

New Section
1-785.4

(a) The Retirement Board shall furnish the Mayor and the Council, upon request, any documents relating to the retirement program or the Funds, including trust agreements, contracts, or other instruments under which the Funds are operated.

(b) A copy of the summary plan description and all modifications and changes referred to in section 143(a) shall be provided to a participant within 90 days after he becomes a participant, or to a beneficiary within 90 days after he first receives benefits. The Retirement Board shall furnish to each participant, and to each beneficiary receiving benefits under the Retirement Program, every 5th year an updated summary plan description described in section 143 that integrates all Retirement Program amendments made within the 5-year period, except where no amendments have been made to a retirement program during the 5-year period, this sentence shall not apply. Notwithstanding the foregoing sentence, the Retirement Board shall furnish to each participant, and to each beneficiary receiving benefits under the Retirement Program, the summary plan description described in section 143 every 10th year. If there is a modification or change described in subsection 143(a), a summary plan description of the modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the Retirement Program not later than 210 days after the end of the fiscal year in which the change is adopted.

(c) Within 210 days after the close of the fiscal year, the Retirement Board shall furnish to each participant, and to each beneficiary receiving benefits under the Retirement Program, a statement that fairly summarizes the annual report. The statement shall contain a disclosure of the financial and actuarial status of the applicable retirement plan.

(d) The Board shall permit any accountant or actuary retained by the Mayor or the Council to inspect whatever books and records of the Funds as are necessary to conduct the District's annual audit, or if the Mayor or the Council rejects the annual report or the summary plan description upon a finding that the document is incomplete for purposes of this act, or upon a determination that there is any material qualification by an accountant or actuary contained in an opinion submitted as part of the annual report.

(e) The Council may require that the Retirement Board furnish to each participant and to each beneficiary receiving benefits under an individual retirement program a statement of the rights of participants and beneficiaries under this title.

ENROLLED ORIGINAL

Sec. 145. Disclosure to the public.

New Section
1-785.5

(a) The Retirement Board and the Mayor shall make copies of the summary plan descriptions and annual reports available for public inspection in an appropriate location.

(b) The Retirement Board shall make reasonably available to participants for public examination in the Retirement Board's Office, and in other places if necessary, the following information:

- (1) The governing law of the retirement program;
- (2) Summary descriptions of modifications or changes that have been provided to participants and beneficiaries but not yet integrated into the summary plan description;
- (3) The most recent annual disclosure of financial and actuarial status; and
- (4) The most recent annual report.

(c) Upon written request by a participant, beneficiary, or member of the public, copies of any publication described in subsection (b) of this section shall be provided. A reasonable fee to cover the cost of providing copies may be charged. Copies shall be provided within 30 days after receiving payment.

(d) Information described in section 146(a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under Title II of the Social Security Act, approved August 14, 1935 (49 Stat. 622; 42 U.S.C. § 401 *et seq.*), may be disclosed under that act.

(e) All meetings of the Retirement Board shall be open to the public, except to the extent that information discussed in any meeting relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, or the deliberations or tentative or final decisions on investments or other financial matter would jeopardize the ability of the Retirement Board to implement an investment decision or to achieve investment objectives.

(f) A record of the disclosed deliberations that may occur pursuant to subsection (e) of this section, or a tentative or final decision on investments or other financial matter, shall not be a public record pursuant to section 2 of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Code § 1-1521 *et seq.*), to the extent its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

Sec. 146. Reporting of participants' benefit rights.

New Section
1-785.6

(a) The Retirement Board shall furnish to any participant or beneficiary who so requests in writing a statement indicating, on the basis of the latest available information:

- (1) The total benefits accrued; and
- (2) The nonforfeitable retirement benefits, if any, that have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary shall not be entitled to receive more than 1 report under subsection (a) of this section during any 12-month period.

Sec. 147. Retention of records.

New Section
1-785.7

The Retirement Board shall maintain records on the matters required to be disclosed under Title I, Part D of this act, which shall provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness. These records shall include minutes of the meetings of the Retirement Board, vouchers, worksheets, receipts, and applicable resolutions. The Retirement Board shall keep the records available for examination for a period of not less than 6 years after the filing date of the documents based on the information which they contain. Except to the extent that the records involve matters protected from public disclosure under section 145, all records shall be available for inspection by the public.

Sec. 148. Criminal penalties.

New Section
1-785.8

Whoever willfully violates any provision of any section of Part D of Title I (other than section 136), or any regulation or order issued under those provisions, shall be fined not more than \$5,000, or imprisoned not more than 1 year, or both, except that for a violation by a person not an individual, the person shall be fined not more than \$100,000.

Sec. 149. Bonding.

New Section
1-785.9

(a)(1)(A) Each fiduciary of a separate fund comprising the Funds established by this title and each person who handles funds or other property of the Funds ("Funds Official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of the fiduciary) if the fiduciary:

(i) Is a corporation organized and doing business under the laws of the United States or of any state;

(ii) Is authorized under those laws to exercise trust powers or to conduct an insurance business;

(iii) Is subject to supervision or examination by federal or state authority; and

(iv) Has at all times a combined capital and surplus in excess of a minimum amount as may be established by regulations issued by the Council, which amount shall be at least \$1,000,000.

(B) Subparagraph (A)(iv) of this paragraph shall apply to a bank or other financial institution that is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if the bank or institution meets bonding or similar requirements under state law that the Retirement Board determines are at least equivalent to those imposed on banks by federal law.

(2)(A) The amount of the bond shall be the lesser of 10% of the amount of the funds handled by the fiduciary and \$500,000, except that the amount of the bond shall be at least

\$1,000.

(B) The Retirement Board, after notice and opportunity for hearing to the fiduciary and all other parties in interest to the Funds, may waive the \$500,000 additional requirement.

(C) The amount of the bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of the bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by the bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Funds have no preceding reporting year under this act, the amount of funds to be handled during the current reporting year by person, group, or class, estimated as provided in regulations to be prescribed by the Retirement Board.

(4) The bond shall provide protection to the Funds against loss by reason of acts of fraud or dishonesty by the Fund Official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on federal bonds under authority granted by the Secretary of the Treasury. Any bond shall be in a form or of a type approved by the Retirement Board, including individual bonds or schedule or blanket forms of bonds that cover a group or class.

(b) It shall be unlawful for any Funds official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any fund without being bonded as required by subsection (a) of this section, and it shall be unlawful for any Funds Official or any other person having authority to direct the performance of those functions or to permit the functions, or any of them, to be performed by any Funds Official with respect to whom the requirements of subsection (a) of this section have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) of this section from any surety or other company or through any agent or broker in whose business operations the Funds or any party in interest in the Funds has any control or significant financial interest, direct or indirect.

(d) A person who is required to be bonded under subsection (a) of this subsection because he handles property of a separate fund comprising the Funds, shall not be required to obtain additional bonding with regard to the Funds.

(e) The Retirement Board may prescribe such regulations, which shall be subject to Council review, as may be necessary to carry out the provisions of this section.

TITLE II - MISCELLANEOUS

Sec. 201. Civil enforcement.

(a) A civil action may be brought:

(1) By a participant or beneficiary:

New
Subchapter
VI

New Section
1-786.1

(A) For the relief provided for in subsection (b) of this section; or
(B) To recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the Retirement Program;

(2) By a participant or beneficiary, the District of Columbia, or the Retirement Board for appropriate relief under section 182 of the Retirement Reform Act (93 Stat. 896; D.C. Code § 1-742); or

(3) By a participant or beneficiary, the District of Columbia, and the Retirement Board:

(A) To enjoin any act or practice that violates any provision of this act or the terms of the Retirement Program; or

(B) To obtain other appropriate equitable relief:

(i) To redress any violation; or

(ii) To enforce any provision of this act or the terms of an individual retirement program.

(b) If the Retirement Board fails or refuses to comply with a request for any information that the Retirement Board is required by this act to furnish to a participant or beneficiary (unless the failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within 30 days after the request, then the Retirement Board may, in the court's discretion, be liable to the participant or beneficiary in an amount of up to \$100 a day from the date of the failure or refusal, and the court may order the Retirement Board to provide the required information and may in its discretion order other relief as it considers proper.

(c) The Retirement Board may sue and be sued under this act as an entity. Service of summons, subpoena, or other legal process of a court upon the Chairman of the Retirement Board in that capacity shall constitute service upon the Retirement Board.

(d) In any action under this act by a participant, beneficiary, fiduciary, or the Retirement Board, the court in its discretion, may grant reasonable attorneys fees and costs of action to either party.

Sec. 202. Limitations on actions.

For fraud or concealment, an action may be commenced under this act not later than 6 years after the date of discovery of a breach or violation. Otherwise, no action may be commenced under this act with respect to a fiduciary's breach of any responsibility, duty, or obligation under this act, or with respect to a violation of this act, after the earlier of:

(1) Six years after:

(A) The date of the last action that constituted a part of the breach or violation; or

(B) For an omission, the latest date on which the fiduciary could have

cured the breach or violation; or

(2) Three years after the earliest date:

(A) On which the plaintiff had actual knowledge of the breach or violation; or

(B) On which a report from which he could reasonably be expected to have obtained knowledge of the breach or violation was filed with the Mayor or the Council.

Sec. 203. Alienation of benefits.

**New Section
1-786.3**

Benefits of the retirement programs provided for herein shall not be assigned or alienated, except to the extent expressly permitted by this act or by another applicable law.

Sec. 204. Effect on other laws.

**New Section
1-786.4**

(a) The provisions of this act supersede any provisions of other law which are inconsistent with this act and the regulations thereunder.

(b) Nothing in this act shall be deemed to alter or amend in any way the provisions of existing laws relating to the program of annuities, other retirement benefits, or medical benefits for members and officers, retired members and officers, and survivors thereof, of the United States Park Police force, the United States Secret Service, or the United States Secret Service Uniformed Division.

Sec. 205. Interim administration.

Section 121 of the Retirement Reform Act (93 Stat. 869; D.C. Code § 1-711) is amended by adding a new subsection (j) to read as follows:

**Section
1-711**

"(j) In accordance with section 11041 of the Retirement Protection Act, Subtitle A of Title XI of the Balanced Budget Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 725), after enactment of that Act, the Board shall continue to discharge its duties and responsibilities under the retirement program and to the Funds (as the duties and responsibilities are modified by the Retirement Protection Act), including the responsibility for federal benefit payments provided in section 115 of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, until the Secretary of the U.S. Treasury provides notification to the District government as required under the Retirement Protection Act."

Sec. 206. Technical correction to Retirement Board composition.

Section 121(b)(1)(A) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Code § 1-711(b)(1)(A)), is amended as follows:

**Section
1-711**

(1) In the sentence immediately preceding sub-subparagraph (i), strike "11" and insert "13".

(2) Redesignate sub-subparagraphs (vii) and (viii) as sub-subparagraphs (viii) and (ix), respectively.

(3) Insert immediately before newly designated clause (viii) the following new sub-subparagraph (vii) to read as follows:

"(vii) One senior judge and an alternate senior judge appointed by the Joint Committee on Judicial Administration of the District of Columbia. For purposes of calculating the total number of members of the Board, the senior judge and the alternate senior judge combined shall constitute one member of the Board."

(4) After subparagraph (B), add the following new subparagraph (C) to read as follows:

"(C) Upon transfer of the assets of the Judges' Retirement Fund to the U.S. Secretary of the Treasury pursuant to Title XI of the Balanced Budget Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 963), the senior judge and the alternative senior judge shall no longer serve on the Board. Thereafter, the Board shall consist of 12 members."

Sec. 207. Establishment of single annual cost-of-living adjustment for retirement programs for police, fire fighters, and teachers.

(a) Section 12(m) of the Police and Firemen's Retirement Act (71 Stat. 397; D.C. Code § 4-624), is amended as follows:

Section
4-624

(1) Paragraph (2) is amended as follows:

(A) The lead-in language is amended by striking the phrase "the Mayor shall" and inserting in its place the phrase "for the payments of benefits accrued by police officers and fire fighters after June 30, 1997, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year."

(B) Subparagraphs (A) and (B) are repealed.

(2) Paragraph (3) is amended to read as follows:

"(3)(A) If, in accordance with paragraph (2) of this subsection, the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

"(i) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (2) of this subsection, adjusted to the nearest 1/10 of 1 per centum; or

"(ii) in the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under paragraph (2) of this subsection, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which

ENROLLED ORIGINAL

the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

"(B) On January 1, 1998, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998:

"(i) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and

"(ii) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of 1/6 of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum."

(b) Section 21(b) of An Act for the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (76 Stat. 1236; D.C. Code § 31-1241(b)), is amended as follows:

Section
31-1241

(1) Paragraph (1) is amended to read as follows:

"(1) For the payments of benefits accrued by teachers after June 30, 1997, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year."

(2) Paragraph (2) is amended to read as follows:

"(2)(A) If, in accordance with paragraph (1) of this subsection, the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

"(i) in the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (1) of this subsection, adjusted to the nearest 1/10 of 1 per centum; or

"(ii) in the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under paragraph (1) of this subsection, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

"(3) On January 1, 1998, or within a reasonable time thereafter, the

ENROLLED ORIGINAL

Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998:

"(i) each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest $\frac{1}{10}$ of 1 per centum; and

"(ii) each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of $\frac{1}{6}$ of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest $\frac{1}{10}$ of 1 per centum."

Sec. 208. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 209. Applicability.

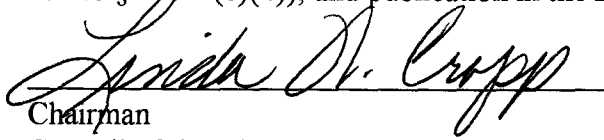
This act shall apply as of October 1, 1997.

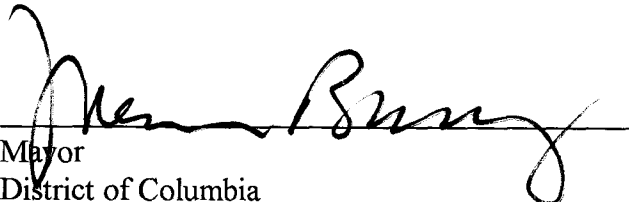
Sec. 210. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in

ENROLLED ORIGINAL

section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: May 22, 1998



COUNCIL PERIOD TWELVE
RECORD OF OFFICIAL COUNCIL VOTE

B12-386

Docket No. _____

- ITEM ON CONSENT CALENDAR
- ACTION & DATE _____
- VOICE VOTE
- RECORDED VOTE ON REQUEST _____

ADOPTED FIRST READING, 4-7-98

APPROVED

ALL PRESENT

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

May 13, 1998
Date

- ITEM ON CONSENT CALENDAR
- ACTION & DATE _____
- VOICE VOTE
- RECORDED VOTE ON REQUEST _____

ADOPTED FINAL READING, 5-5-98

APPROVED

ALL PRESENT

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

May 13, 1998
Date

- ITEM ON CONSENT CALENDAR
- ACTION & DATE _____
- VOICE VOTE
- RECORDED VOTE ON REQUEST _____

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date