

PHILADELPHIA BOARD OF PENSIONS AND RETIREMENT

REGULATION NO. 4

PAYMENT OF CONTRIBUTIONS FOR PRIOR OVERTIME EARNINGS

WHEREAS, The Board of Pensions and Retirement is empowered by Section 8-407 of the Home Rule Charter and Section 22-107 of the City of Philadelphia Public Employees Retirement Code ("Retirement Code") to make all necessary regulations to carry into effect the provisions of the Retirement Code; and

WHEREAS, The Retirement Code as enacted January 13, 1999 now makes it possible for certain members to have overtime earnings included as part of their average final compensation where such members were not able to have their overtime earnings included in their average final compensation previously; and

WHEREAS, Inclusion of overtime earnings in compensation for pension purposes are not available to a member unless the member has made employee contributions on overtime earnings for that period; and

WHEREAS, The Board has determined it appropriate to adopt a regulation in order to allow certain members (current employees and retirees who retired since the legislative change) who have earned overtime in the past which they were not previously eligible to include as part of their average final compensation and for which employee contributions were not deducted to pay the appropriate pension contribution;

NOW THEREFORE, The Board of Pensions and Retirement hereby adopts this Regulation No. 4, relating to overtime earnings.

4.1 Overtime for Nonrepresented Employees and for Employees formerly in “Plan M”.

4.1.0 Background and Eligibility. Upon the adoption of the Retirement Code through the Ordinance approved January 13, 1999 (Bill No. 980843), which incorporated a change previously made by the Ordinance approved January 8, 1999 (Bill No. 960598), a change was made in the calculation of “average final compensation” for employees in Plan J and Plan Y. See Code §§22-105(6)(a) and 22-105(9)(a)(.3). Formerly, nonrepresented employees in Plan J and municipal employees in Plan Y who were hired between January 8, 1987 and October 1, 1992 (who were formerly in Plan M) and some others could not count overtime toward “average final compensation.” Accordingly, employee contributions were not deducted from any overtime earnings for such employees, and such overtime earnings did not count in the calculation of those employees’ average final compensation, on which the pension is calculated. Also, formerly, when any employee transferred from a represented position to a nonrepresented position and retired from the nonrepresented position, that employee’s overtime earnings were excluded when calculating the employee’s average final compensation, even if the employee had earned overtime during that part of the period in which the employee was in a represented position, because, upon retirement, average final compensation was determined based on the position in which the employee was at the time of retirement.

With the approval of the Retirement Code, however, overtime was no longer excluded from “average final compensation” for the above employees. Accordingly, employees in Plan J and Plan Y who were active as of January 8, 1999 who had not had employee contributions deducted from their paychecks for such prior overtime service, may now pay pension contributions, as follows:

4.1.1. Calculation. Any member in Plan J or Plan Y who so desires and who is currently active or, if retired, has a retirement effective date on or after January 8, 1999, may have their overtime earnings for any prior year considered as pensionable earnings for the purpose of calculating “average final compensation.” Such member must file an application with the Board and provide the Board with documentation--if not otherwise available through City records--of overtime earned for the earliest year desired and each subsequent year through the last pay period in 1999 for which the member had

overtime earnings on which no pension contributions were deducted. Once the employee selects the earliest year for which overtime earnings are to be considered as pensionable earnings, such employee must make the appropriate pension contributions for each subsequent year thereafter through the last pay period in 1999 for which the member had overtime earnings on which no pension contributions were deducted. The Board will then bill the employee for the amount calculated as the total of (a) and (b), as follows:

(a) the difference between

(1) the amount of contributions paid by the employee during that period of employment and

(2) the amount of contributions he or she would have paid during that period of employment if overtime was included as part of the employee's pensionable earnings; plus

(b) interest at the rate of nine (9) per cent per annum compounded annually, for each year's pension contributions, calculated from the first day of the next calendar year for the previous year's pension contributions to the date of application under Subsection (a); provided that for any application filed with the Board within 180 days of the effective date of this regulation, the interest under this subsection shall be waived. Any installment interest under Code §22-806 shall not be waived.

Approved by the Board September 16, 1999

Became effective October 20, 1999