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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE COUNCIL COMMITTEE ON LABOR & CIVIL SERVICE

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- - -
Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, 1/23/2001
2:25 p.m.
- - -

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BILL 000642 - Amending Title 22 of the
Philadelphia Code, entitled "Public Employees
Retirement Code," by adding new provisions to
restrict the ability of civilian members of Plan J
and Plan Y to transfer to Plans B or D and retire
immediately, all under certain terms and
conditions

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Bill 000656 - Amending Title 2 of the Philadelphia
Code, entitled "Public Employees Retirement Code,"
by adding new provisions to restrict the ability
of civilian members of Plan J and Plan Y to
transfer to Plans A and or X and retire
immediately, all under certain terms and
conditions

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PRESENT: COUNCILMAN DARRELL L. CLARKE, Chair
COUNCILMAN FRANK DICICCO
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN FRANK RIZZO

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I N D E X

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Linda Seyda, Personnel Director. 4
City of Philadelphia

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Joe Herkness, Executive Director 13
Board of Pensions and Retirement
City of Philadelphia

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P R O C E E D I N G S

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COUNCILMAN CLARKE: Good afternoon.

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Given the number of people that we have here today, we're going to move as quickly as possible because we have a lot of testimony. That was a joke.

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This is the hearing of the Council Committee on Labor and Civil Service. We will be hearing Bills No. 000642 and Bill No. 000656. Will the clerk please read the title of the bills.

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THE CLERK: Bill No. 000642, an ordinance amending Title 22 of the Philadelphia Code, entitled "Public Employees Retirement Code," by adding new provisions to restrict the ability of civilian members of Plan J and Plan Y to transfer to Plans B or D and retire immediately, all under certain terms and conditions.

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And Bill No. 000656, an ordinance amending Title 2 of the Philadelphia Code, entitled "Public Employees Retirement Code," by adding new provisions to restrict the ability of civilian members of Plan J and Plan Y to transfer to Plans A and or X and retire immediately, all

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2 under certain terms and conditions.

3 COUNCILMAN CLARKE: For the record, I'd
4 like to report that Councilman DiCicco, Councilman
5 Rizzo, Councilwoman Krajewski, Councilman Kenney,
6 and Councilman Goode are present.

7 Are there any individuals to testify on
8 this particular bill?

9 Please come forward.

10 (Witness comes forward.)

11 COUNCILMAN CLARKE: Good afternoon.
12 Would you please state your name for the record.

13 MS. SEYDA: My name is Linda Seyda, and
14 I am the Personnel Director for the City of
15 Philadelphia.

16 COUNCILMAN CLARKE: Please proceed.

17 MS. SEYDA: As you know, there is
18 renewed interest concerning the appointment of
19 uniformed personnel who have prior City service as
20 civilians but seek law enforcement positions solely
21 for the purpose of enhancing their pensions. This
22 is possible because at the time of appointment,
23 the pension ordinance permits an employee to
24 immediately transfer service time accrued for
25 pension purposes as a civilian to one of the

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2 uniformed plans. To the best of my knowledge,
3 this did not occur when the City had a maximum
4 hiring age of 35 for law enforcement officers
5 because a new officer would be required to serve a
6 minimum of 10 years before reaching normal
7 retirement age.

8 Since the City does not currently have
9 the ability to impose a maximum hiring age, a
10 45-year-old civilian with 25 years of service
11 becomes eligible for a pension of approximately 62
12 percent of a police officer recruit's salary
13 immediately upon appointment. As a civilian, the
14 same employee would not be eligible for a pension
15 for an additional ten years, and the average final
16 compensation formula would be less than that of a
17 uniformed officer.

18 As background for the committee, the
19 City lost the ability to impose a maximum hiring
20 age when the police and fire exemption to the Age
21 Discrimination and Employment Act expired in the
22 early '90s. When Congress reauthorized the
23 exemption in 1996, we intended to reinstitute our
24 previous policy. However, litigation in the
25 Commonwealth court precluded us from doing so.

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2 The amendment of Title 22 of the
3 Philadelphia Code, "Public Employees Retirement
4 Code," would eliminate the pension issue by
5 requiring that the transferred employee remain in
6 the civilian plan before becoming eligible for the
7 uniform pension plan. The eligibility for
8 disability benefits, however, would not be
9 affected by passage of the proposed amendments.

10 I am here today along with my colleague
11 Joe Herkness to support the passage of Bills 642
12 and 656.

13 This concludes my prepared testimony,
14 and I am prepared to answer any questions that the
15 committee may have at this time.

16 COUNCILMAN CLARKE: Thank you, Miss
17 Seyda.

18 Are there any questions of this witness
19 by members of the committee?

20 Councilman Kenney?

21 COUNCILMAN KENNEY: Thank you very
22 much, Miss Seyda, and I want to thank you and
23 Mr. Herkness and all of the departments involved
24 for their cooperation and the creation of these
25 bills and in the amendments which I am going to

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2 talk about here for a moment.

3 You had mentioned in your testimony
4 that the initial desire of this bill was to create
5 a five-year retirement for those people moving
6 from non-uniformed to uniformed employment in the
7 City of Philadelphia prior to their ability to
8 collect the uniform pension and the benefits that
9 accrue to uniformed officer, which have been more
10 generous, obviously, because of the rigors and
11 dangers of those positions as compared to working
12 in white-collar or blue-collar positions elsewhere
13 in the City.

14 You mentioned the issue of five years,
15 and one of the -- the amendment that I would like
16 to offer -- the amendments I would like to offer
17 at this point in time, if it's okay with the
18 Chair, deal with the issue of disability benefits
19 or hero provision.

20 What we didn't want to have was someone
21 who legitimately wanted to become a police officer
22 or firefighter, entered into the service, and then
23 was hurt, injured, or killed prior to five years
24 of service. We didn't want to eliminate their
25 ability to legitimately to take advantage of that

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2 pension, or their family to take advantage of that
3 pension.

4 So what we're looking to do is on Bill
5 No. 642, on Section 22-202, paragraph f. -- and
6 each member of the committee has a copy of this.
7 It's the bold lettering which is added to the
8 existing bill, or is being asked to be added to
9 the existing bill, which says at the bottom of the
10 first page, "Nothing in this subsection, however,
11 shall prevent a uniformed or investigatory
12 employee in the Police Department or in the
13 District Attorney's Office from being considered a
14 Police employee for the purposes of disability
15 benefits under Chapter 22-400 or death benefits
16 under Chapter 22-500."

17 Bill 642 would further be amended, in
18 accordance with this effort. On Page 3, we would
19 be removing under j. the words "former police
20 employees and. . . "

21 And then in Section 3 -- I'm sorry.
22 Section 2 would become Section 3, which would be
23 added, "Effective date, Section 1 of this
24 ordinance." And then, "Additionally, Section 2 of
25 this ordinance shall apply to any police member

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2 who's separated or separates from City employment
3 on or after March 30, 1993, provided that the
4 City's Medical Director did not make a
5 determination prior to March 30, 1993 that such
6 member was permanently and partially disabled."

7 Additionally, an amendment to -- hold
8 on. Just give me one moment, Mr. Chairman.

9 (Councilman Kenney confers off the
10 record with staff person.)

11 COUNCILMAN KENNEY: There is an
12 additional amendment to Section 22-202, paragraph
13 f., which deals with the DROP Program, which was
14 instituted by Council recently and has been a very
15 successful and popular provision that we've
16 instituted. The last line would also read: "Such
17 retained membership in the prior plan shall
18 include remaining in the prior plan for
19 eligibility and benefit calculations for any DROP
20 participation and all other purposes of Section
21 22-310 of this title."

22 Moving forward, Bill No. 656, which
23 deals with the same issue we've been discussing as
24 it relates to the fire service employees, that
25 bill would be amended on Page 3, paragraph f., and

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2 the bold letters would be inserted: "Such
3 retained membership in the prior plan shall
4 include remaining in the prior plan for
5 eligibility and benefits calculations for any DROP
6 participation and all other purposes of Section
7 22-310 of this title."

8 Additionally. . . there are no
9 additional amendments to Bill No. 642 or to 656,
10 and I would ask the Chairman to allow the witness
11 to make some comment for the record as to the --
12 if you are able, for the need for these
13 amendments.

14 COUNCILMAN CLARKE: Miss Seyda?

15 MS. SEYDA: I did have an opportunity
16 to review the proposed amendments, and I certainly
17 find, you know, no reason at all not to support
18 them.

19 I guess the one comment I would like to
20 add for the record is that I would hope that
21 Council moves forward with this legislation as
22 quickly as they can, because we do have another
23 police class scheduled to go on at the end of
24 February -- I believe the date is February the
25 20th, and if this legislation could become

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2 effective prior to that date, it would preclude
3 the possibility of there being any further
4 instances of the kind of activity that we've seen
5 in the past.

6 COUNCILMAN CLARKE: Thank you, Miss
7 Seyda.

8 Any other questions?

9 Councilman Rizzo?

10 COUNCILMAN RIZZO: Is there anything we
11 can do to make that retroactive?

12 MS. SEYDA: That is a legal question,
13 and I would have to defer to the attorneys on
14 that. It's my understanding that it is not, but I
15 would defer to --

16 COUNCILMAN RIZZO: Could you check?

17 MS. SEYDA: I would be happy to do so,
18 but I believe that -- I don't think it's possible.

19 But I will follow up.

20 COUNCILMAN KENNEY: Mr. Chairman, if I
21 may. I do understand the purposes of
22 Councilmember Rizzo's question. I share similar
23 concerns, I believe, with the Personnel Director
24 and probably the Law Department that once a
25 benefit had been granted in a legal way, it would

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2 be difficult to take away, but I -- and I do
3 believe the Chairman's question is whether or not
4 within the scope of the current title of this
5 ordinance, or these ordinances, would we be able
6 in fact to do that, and I don't believe that's the
7 case, but certainly we'd be able to entertain, at
8 Councilmember Rizzo's suggestion, with guidance
9 from Personnel and Legal, whether or not there's
10 something we can do on a retroactive basis.

11 But I think the main purpose of this
12 today is to try to plug the hole going forward,
13 especially in light of the class that's being
14 organized now.

15 MS. SEYDA: I will follow up with the
16 Law Department on your question.

17 COUNCILMAN CLARKE: Thank you, Miss
18 Seyda.

19 Any other questions?

20 (No further questions.)

21 COUNCILMAN CLARKE: Thank you.

22 Are there any other witnesses to
23 testify?

24 MS. SEYDA: Thank you.

25 (Witness comes forward.)

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2 MR. HERKNESS: I just bent my glasses,
3 I'm sorry.

4 Good afternoon, Mr. Chairman and
5 members of the committee. I'm Joe Herkness,
6 Executive Director of the Board of Pensions and
7 Retirement, and I'm present to deliver testimony
8 on behalf of Janice Davis, the Chairperson of the
9 Board of Trustees of the Pension System. And my
10 testimony will be in support of Council Bills 642
11 and 656.

12 Chairperson Davis has always emphasized
13 recently to keep our testimony in times like this
14 as short as possible, and I really have to get
15 that done myself. I just have one paragraph or so
16 with comments on these pieces of legislation.

17 Mr. Chairman, these two pieces of
18 legislation close a loophole in the present
19 ordinance and enables a non-uniform employee
20 vested in a non-uniform division of the pension
21 system to transfer to the Uniform Division by
22 simply completing hiring process for uniformed
23 employees.

24 Upon appointment to the Uniform
25 Division, the employee is immediately eligible to

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2 retire if he or she has attained the normal
3 retirement age of the Uniform Division. Such
4 employees are now immediately eligible, after
5 appointment to the respective training classes of
6 the Uniform Divisions. They're eligible for
7 retirement after they're immediately reappointed
8 to the respective training classes of Fire or the
9 Police Division.

10 This legislation establishes a
11 five-year minimum service requirement upon
12 non-uniform employees and after they transfer into
13 that Uniform Division and prevents retirement
14 immediately after appointment to those uniform
15 classes.

16 This legislation is supported by the
17 Board of Pensions and Retirement, and I would
18 strongly urge your passage of Bill No. 642 and
19 656. And I thank you for the opportunity to
20 present testimony and will certainly be available
21 for any questions and further research.

22 COUNCILMAN CLARKE: Thank you.

23 Any questions of this witness by
24 members of the committee?

25 (No questions.)

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2 COUNCILMAN CLARKE: Thank you, sir.

3 MR. HERKNESS: Thank you.

4 COUNCILMAN CLARKE: Are there any other
5 witnesses to testify on these two bills?

6 (No response.)

7 COUNCILMAN CLARKE: There being none --

8 MR. HERKNESS: Just one.

9 COUNCILMAN CLARKE: Certainly.

10 MR. HERKNESS: I don't know if it's
11 appropriate, but are we the ones to request the
12 waiver of the rules, or do we just ask the
13 committee to waive the rules? We would like, if
14 at all possible, to waive the rules and expedite
15 this legislation.

16 Thank you.

17 COUNCILMAN CLARKE: You're welcome.

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19 COUNCILMAN CLARKE: We will now move
20 from the public hearing to the public meeting.

21 Councilman Kenney, would you like to
22 offer a motion on the amendments that you read
23 into the record in the hearing?

24 COUNCILMAN KENNEY: Thank you, Mr.
25 Chairman.

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2 I move that the amendments to Bill No.
3 642 and 656, as read into the record during our
4 public hearing, be approved.

5 (Duly seconded.)

6 COUNCILMAN CLARKE: All in favor?

7 All opposed?

8 (None opposed.)

9 COUNCILMAN CLARKE: Can you please --
10 offer a motion on the other bill?

11 COUNCILMAN KENNEY: Thank you,
12 Mr. Chairman. I move that Bill No. 642, as
13 amended, be reported out of this committee with a
14 favorable recommendation and a request made for a
15 rules suspension to allow for first reading at our
16 next Council session.

17 (Duly seconded.)

18 COUNCILMAN CLARKE: All in favor?

19 Opposed?

20 (None opposed.)

21 COUNCILMAN CLARKE: I'd like to ask for
22 a motion on Bill 642, as amended, with a request
23 for a suspension of the rules.

24 That's 656, I'm sorry.

25 COUNCILMAN KENNEY: So moved.

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2 COUNCILMAN CLARKE: Is there a second?

3 (Duly seconded.)

4 COUNCILMAN CLARKE: I'd like to ask for
5 a motion on Bill No. 656 as amended.

6 COUNCILMAN KENNEY: Thank you,
7 Mr. Chairman. I move that Bill No. 656, as
8 amended, be reported out of this committee with a
9 favorable recommendation and a request made for a
10 rules suspension to allow for first reading at our
11 next Council session.

12 (Duly seconded.)

13 COUNCILMAN CLARKE: All in favor?

14 All opposed?

15 (None opposed.)

16 COUNCILMAN CLARKE: There being none,
17 that ends our public meetings on Bills No. 642 and
18 656.

19 (Adjourned at 2:43 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Tuesday, January 23, 2001, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON LABOR AND CIVIL SERVICE
BILL NO.'S 000642, 000656

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter